CHAPTER-IV

WOMEN AND HUMAN RIGHTS
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India is a country where women have been worshipped and crucified at the same time. The gender bias surrounds them all through their lives, making them virtually lesser human species and second class citizens. Bulk of our women are denied basic human rights just because they happen to be women. It has been observed that “The concept of human rights is one of the few moral visions ascribed to internationally.”

WHAT IS DOMESTIC VIOLENCE

Domestic violence has been generally defined as “the infliction of any bodily injury or harmful physical contact or the destruction of property or threat thereof as a method of coercion, control, revenge or punishment upon a person with whom the actor is involved in an ongoing intimate relationship”. It violates the principles that like at the heart of this moral vision: the inherent dignity and worth of all members of the human family, the inalienable right to freedom from fear and want, and the equal rights of men and women. Domestic violence does not only mean harassment or cruelty at the hands of the husband or the in-laws-it includes offences like incest, mutilation of private organs, rape, abortion of female foetus, molestation, unnatural sex, assault or battery and the like.

Domestic violence is essentially perpetrated by persons in intimate family relationships. Research from several parts of the world indicates that perpetrators of domestic violence are predominantly male and that the violence is usually perpetrated by the male on his female sexual partner. The acts of violence include physical and sexual attacks and threats. Sociological studies indicate that the acts are a means of controlling the
victim's thoughts, feelings and behaviour. Domestic violence does not subside in individual relationships unless there are external interventions which protect both the women and simultaneously encourage behaviour modification in the perpetrator.

REASONS FOR DOMESTIC VIOLENCE

1. Many believe that children who experience violence during childhood are likely to indulge in it later in life.

2. Dowry related violence is very common in India and it has been recognized by the laws in Section 304-B and 498-A of Indian Penal Code.

3. Alcohol and drug related violence.

4. Frustration due to unemployment etc.

WHY WOMEN TOLERATE VIOLENCE

Several reasons have been offered why women tolerate violence. Some of them are:

a) To preserve the marriage as their status outside, marriage is marginal.

b) Due to lack of education, the livelihood opportunities are poor.

c) Lack of shelter, or an alternative, if they leave the home.

d) Fear of unwelcome advances from the men outside.

e) Attachment to children and fear of losing custody of children.

f) Society has failed to evolve a strong social sanction against a man who uses force.
g) It is regrettable that women accept injustice rather than admit failure in marital relationship.

h) Expensive legal system for getting justice.

DOMESTIC VIOLENCE—INTERNATIONAL POSITION

The prohibition against sex discrimination was first articulated in the United Nations Charter, 1945 and later retreated in the Universal Declaration of Human Rights. 'All human beings are born free and equal in dignity and rights'. Article 2 of the Declaration stipulates 'Everyone is entitled to the rights and freedoms set forth in the Declaration, without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. But women's freedom, dignity and equality are constantly denied all over the world on the basis of custom, tradition, culture and religion in ways that men's rights are not. Advances in the recognition of this factor and women's advocacy to establish that women are indeed human beings and therefore entitled to the enjoyment of rights accorded to all 'human beings' has a long history that encompasses almost a century of struggle.

PROTECT AND PROMOTION OF WOMEN'S RIGHTS

Over the years, there have been three overlapping and interactive developments. During the first stage of development, specific legal rights of particular concern to women were promoted through specialized Conventions relating to employment, maternity, trafficking in persons, nationality, civil and political rights, marriage, education and violence against women to which states at the local level contribute by acceding to them.

During the second stage of development, states succeeded in including sex as prohibited grounds of discrimination in such agreements as the Universal Declaration of Human Rights and its two implementing
Covenants, the International Covenant on civil and political rights and the international covenant on Economic, Social and Cultural Rights, collectively called the Bill of Rights as well as in the Regional Human Rights.

The third stage of development addresses the pervasive and structural violations of women's rights, through the Convention on the Elimination of All Forms of Discrimination Against Women.

In the last two decades, in particular, many other global initiatives had been taken to promote women's rights. They include the declaration of the Decade for women (1975-1985), four World Conferences on Women, the adoption by consensus of the Nairobi Forward looking strategies (1985), the Beijing Declaration and Platform for Action and the special session of the UN General Assembly on Women 2000 held in New York (also known as "Beijing Plus Five") Other World conferences, in particular, the Vienna Conference on Human Rights and the International Conference on Population and Development have advanced the understanding and global commitment of women's rights.

Joan Fitzpatrick of the University of Washington School of Law, Seattle, following in a study of strategies to combat violence against women, that: "while the legal and cultural embodiments of patriarchal thinking vary among different cultures, there is an astounding convergence of cultures in regard to the basic tenets of patriarchy and the legitimacy, if not necessity, of violence as a mechanism of enforcing that system".

Several countries all over the world has already acknowledged domestic violence as a separate class of abuse.

The London Coordinating Committee on Family Violence, based in London, Ontario, is an established community-wide coordinating committee. The Committee continues to serve as a point of liaison for the local agencies dealing with the problem of domestic violence.
The famous ‘Duluth Model’ (Domestic Abuse Intervention Project) in Duluth, Minnesota in the United States is operated by a Domestic Violence Project coordinator. In several other American states, like in New York, multi-disciplinary Government task forces have examined the problem of domestic violence and offered recommendations for improving system responses to it.

Likewise in Australia, “The Australian Domestic Violence Act” was enacted in 1986. The office of Domestic Violence prevention council was established under this Act. The main function of the council is to promote collaboration between government agencies and the NGOs involved in health, education and other crisis intervention and welfare services.


DOMESTIC VIOLENCE – INDIAN SCENARIO

According to the National Commission for Women (NCW), the crime graph against women continues to be on the upswing. While Bihar leads in dowry harassment cases, Tamil Nadu is way ahead in trafficking of girls and women, Madhya Pradesh leads in molestation while Uttar Pradesh and Rajasthan share the dubious distinction in kidnapping and abduction. It is true that we find a few cases of women trafficking etc. In North-East Region, but the question is why this happens in our society.

A multi-sartorial survey done by the International Clinical Epidemiologists Network (INCLEN) has found that contrary to popular belief, domestic violence in India cuts across social and educational status. The study found
that women educated or illiterate, from rural or urban areas, engaged in paid or unpaid labour suffer varying degrees of physical and psychological violence by their husbands. Two out of every five married women reported being hit, kicked, beaten or slapped by their husbands. Fifty percent of the women experiencing physical violence also reported physical abuse during pregnancy. In a similar vein, the recent National Family Health Survey found that women working for money are more likely to have been beaten in the last 12 months.

A 1998 UN Report will illustrate the point. A study taken up in five districts of western U.P. showed that more than 60% of the urban housewives experienced domestic violence but only 20% cases were reported to the police and 15% of the reported cases were taken up by the police for investigation. 10% of the uninvestigated cases fall in the category of “accused not traced and 5% were withdrawn within a fortnight of filing the FIR. Police claim that they have solved more than half of the reported cases through mutual consent. Only 5% of the cases were dealt with according to the formal legal system and all are awaiting justice.

The paramount charter governing the country namely, the Constitution of India solemnly enjoins on every citizen the obligation to renounce practices derogatory to the dignity of women [Art. 51 - A(c)]. It also guarantees certain rights for the protection and welfare of women. The same are quoted below:

**Art.14:** The state shall not discriminate against any citizen on grounds only of sex.

**Art.15:** The state shall not discriminate against any citizen on grounds only of sex.

**Art 15(2) (a & b):** No citizen shall on grounds only of sex be subjected to any disability, liability, restriction or condition with regard to: (a) access to
shops, public restaurants, hotels and place of public entertainment; or (b) the
use of wells, tanks, bathing ghats, roads and places of public resort
maintained wholly or partly out of State funds or dedicated to the use of the
general public.

Art 15(3) : Nothing in this article shall prevent the State from making any
special provision for women and children.

Art.16(1) : There shall be equality of opportunity for all citizens in matters
relating to employment or appointment to any office under the state.

Art 16(2) : No citizen shall, on grounds only of sex be ineligible for, or
discriminated against in respect of, any employment or office under the
State.

Art 39 : The state shall, in particular, direct its policy towards securing ...
equal pay for equal work for both men and women.

Art.42 : The state shall make provision for securing just and humane
conditions of work and for maternity relief.

So far as statutory provisions regarding matrimonial rights of women
are concerned, they consists of the following Acts:

- The Hindu Marriage Act, 1955 ;
- The Child Marriage Restraint (Amendment) Act, 1976 ;
- The Special Marriage Act, 1954 ;
- The Maternity Benefits Act, 1961 ;
- The Medical Termination of Pregnancy Act, 1971;
- The Dowry Prohibition Act, 1961.
The Indian Penal Code (IPC) has attempted to prevent the problem of wife battering by inserting Section 498-A. Section 304-B was added to make dowry death as an offence. The legislature has also enacted the Dowry Prohibition (Amendment Act), 1984.

So far as Muslim women are concerned, Dissolution of Muslim Marriage Act, 1939 is another instance in the point.

SUPREME COURT ON THE RIGHTS OF WOMEN

In the case of Gita Hariharan (Mrs) and Anr-vs-Reserve Bank of India and Andrew wherein a three judge bench of the Supreme Court held that "even though father is the natural guardian of minor children under section 6(a) of the Hindu Minority and Guardianship Act, 1956, mother can also be treated as a natural guardian in the absence of the father."

In Vishaka-vs-State of Rajasthan, the Supreme Court held that "In the absence of a domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all work places", the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality of the right to work with human dignity in articles 14, 15, 19 (1) (g) and 21 of the Constitution of India.

Whereas 25th November, 2001 marks the beginning of a 'International fortnight to combat violence against women', according to a report of Amnesty International, 40 percent of married Indian women are reported being treated with cruelty by their husbands. Domestic violence continues to top the list of crimes committed against women, with Delhi reporting 7000 cases in the year 2000, out of which FIR was registered in only 10 percent of the cases.
In a significant step, in Pawan Kumar – vs – State of Haryana, where the deceased women had stated in her dying declaration that she caught fire accidentally and she was not put on fire by anyone else, the Supreme Court went into the circumstantial evidence and the statement of her relatives to hold that the presumption under section 113 A – of the Evident Act, 1972 will come into force and thereby convicted the accused persons under sections 306 and 498 A of the Indian Penal Code (IPC), 1860.

In another case of dowry death, Laxmi – vs – Om Prakash and others where there were five dying declarations by the deceased woman, all suggesting that she was put on fire by her husband and in-laws, the Supreme Court held that as the women was not certified by any doctor to be in a mental and physical fit condition, the dying declarations were not reliable. In that case, there was already a complaint made by the deceased under section 385, IPC and section 4 of the Dowry Prohibition Act, 1961, but ignoring these and other facts such as the deceased’s brother, corroborating that she was subjected to cruelty due to the demand of dowry by her husband and in-laws, on the infirmity of the investigating agency, the accused were acquitted. Here, mention can also be made of similar dowry death cases.

In the most significant decision in Daniel Latifi and Another –Vs- Union of India, where constitutional validity of the Muslim Women (Protection of Rights on Divorce) Act, 1986 was challenged and it was also challenged that the exclusion of Muslim Women from the applicability of Section 125, Cr PC is violative of their fundamental rights, the Supreme Court held that a Muslim husband is liable to make reasonable provision for the future of the divorced wife which includes her maintenance as well. Extend beyond the period of Iddat and also that the liability of a Muslim
husband towards his divorced wife arising out of section 3(1) (a) of the Act to pay maintenance is not confined to the Iddat period.

RAPE

Rape is considered to be the most hated crime, the worst form of violence against women. It is a crime against the basic human rights and is also violative of the victim's most cherished of the fundamental rights, namely, the right to life contained in Article 21 of the Constitution. In Delhi Domestic Working Women’s Forum – vs – Union of India, the public interest litigation (PIL) arose out of indecent sexual assault by seven army personnel against six domestic servants traveling in train from Ranchi to Delhi. The Supreme Court, with a view to assisting rape victims, has laid down various broad guidelines. These guidelines include the legal assistance, anonymity, compensation and rehabilitation to rape victims. The National Commission for Women was directed to evolve a scheme for providing adequate safeguards to these victims.

More news is seen relating to typical gender issues where one of the persons becomes a victims of interpersonal violence in the domestic circle; in which the offender and the victim were closely related to each other as members of the same family or knew each other as acquaintances. There are instances of domestic crimes due to an unresolved dispute resulting in a fit of fury caused by sexual jealousy or due to provocative irritation or such other acts by virtue of which the house wife, children, domestic servants, kith and kins suffer from homicidal or suicidal treatment by one or several members of the family who perpetrate the crime by defacing the basic values of tolerance and forget the spirit of "Live and Let Live."

DOWRY

One of the greatest atrocities women are facing today, despite legislation and the spread of education, is dowry, a social evil that has
come to stay. Female foeticide is perhaps one of the worst forms of violence against women where a woman is denied her most basic and fundamental right the right to life. Studies have shown 12% mortality rate among girls under a year old, and 8% mortality rate are among girls under five years old.

Bihar and Rajasthan have passed rules declaring pre-natal sex determination as a penal offence, attracting a minimum imprisonment of three years and a fine up to Rs.10,000/-. 

In a very significant order, in Centre for Enquiry Into Health and Allied Themes (CEHA) and others – vs – Union of India and others, the Supreme Court gave a set of directions to the Central and State Government for proper implementation of the Pre-natal Diagnostic Techniques (PNDT) Act, 1994, being amongst others "to create public awareness against the practice of pre-natal determination of sex and female foeticide, to implement the rules framed under the Act with all vigour and zeal".

It is true that the problem of domestic violence has already surfaced in the entire North-East region. But here, the cases relating to dowry deaths and trafficking of women have occurred in a moderate way. The women of the North – East still hold a better position at home and in the society as well. They still are in a position to express and preserve their likes and dislikes. They have the power to make bold decisions in the household activities. This does not mean that the women of the North-East do not face domestic violence. Yet there are several cases in which women are victims of family rivalry etc.

**ROLE OF NON-GOVERNMENTAL ORGANISATIONS**

The role of NGOs is very much needed to curb domestic violence. There should be encouragement in sponsoring preventive propaganda with
the help of NGOs so as to educate the erring husbands to compromise little differences with their wives. The role of NGOs with respect of offences against women and victim rehabilitation needs to be further developed.

The National Commission for Women (NCW) is carrying out a legal awareness programme and also maintain a complaint, pre-litigation and counseling cell. In order to provide speedy justice to women, the NCW conducts Parivarik Mahila Lok Adalats (PMLAs) with the help of NGOs and legal aid boards.

Women's empowerment is a task to be accomplished by the joint effort of the State and the NGOs activists. The NGOs can play an important role in (i) promoting human rights; and (ii) checking their violation. Such role of NGOs was appreciated by the World Conference on Human Rights in 1993. Here we can mention the famous case of Saheli-vs-Commissioner of Police. A Women Civil Rights Organisation known as "Saheli" filed a writ petition on behalf of the deceased's mother for the recovery of compensation consequent to police custodial death of her 9 years old son. The Supreme Court ordered, the State to pay Rs. 75,000/- as compensation to the deceased's mother. It has been given due recognition by Indian Parliament when it enacted the Protection of Human Rights Act, 1993. Section 12 (i) of the Act, creates an obligation on the Commission to encourage the activities of NGOs in the field of human rights. In this context, the introduction of some attractive incentives to make effective involvement of NGOs may be quite useful.

CONTRIBUTORY DIMENSION OF HUMAN RIGHTS TO ATTAIN GENDER JUSTICE: AN INTERNATIONAL PERSPECTIVE

The objects of human rights are to protect the inherent dignity, equality, freedom, justice and peace in the society. Dignity of human being is related to the worth of respect, high rank or position. Equality reflects the
status, opportunity, identity, same rights, similarity and uniformity. Freedom is directly related to the liberty of action, liberty of thought, expression, belief and faith. Justice denotes fairness, impartiality, natural, proper, reasonableness, unbiased action, unprejudiced mind and rightfulness. Peace is not root of prosperity. Ultimate goal of human rights is to provide prosperity in the society. This cannot be achieved without observing the principle of equality. Naturally all men, women, children and senior citizens are equal but strong men divided them in different categories. In this regard Rudyard Kipling rightly said —

"Oh, East is East and West is West and
never the twain shall meet,
Till Earth and sky stand presently at
God's great Judgment seat,
But there is neither East nor West, Border,
nor Breed nor birth,
When two strong men stand face to face
though they came from the ends of earth!²

The above thought of Rudyard Kipling up proves the discrimination created by the strong human beings in the society. The people of the United Nations have reaffirmed their faith in its charter for protecting fundamental human rights, dignity and worth of the human person and equal rights of men and women.³ The human rights are based on the natural phenomena of equality. However, this phenomena was violated by the human beings in their own self-interest. Anthony Trollope expressed his anxiety that "make all men equal today, and God has so created them that they shall all be unequal tommorrow".⁴ Discrimination between men and
women by the strongest persons of the society violates the fundamental principles of human rights. Discrimination against women violates the principles of equality of rights and aspect of human dignity and is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries and it hampers the growth and prosperity of the society and the family and makes more difficult the full development of the potentialities of women.\(^5\) The new dimension of human rights, therefore, are protecting the women from all kinds of discrimination. These rights are providing dignity, development and opportunities in every field of life to the women.

**HISTORICAL BACKGROUND OF WOMEN'S HUMAN RIGHTS**

Internationally the political, social and economic system of the ancient period was in favour of women. Ancient Indian culture also had a code of conduct giving dignified life to women. Narayana explained respect to the women in his famous work Hitopadesha. He said, "A person who regards every woman other than his wife as equal to his own mother —, is an educated man (Panditaha) in the real sense of the term".\(^5\) Katyayana also argued in favour of women in the matter of offence committed by them. He said, "In case of all offences only half of the punishment prescribed for man should be imposed on a woman".\(^7\) Kautilya recognized rape as a severe, serious and grave offence against women. He said, "Capital sentence should be imposed for offence of rape committed against an arrested woman by officer of the state".\(^6\) Manu also accepted right to maintenance of a woman from her husband. He enumerate this right in Manu Sanhita as "a husband who had to go abroad for business may depart after making arrangement for maintenance of his wife".\(^9\) Vasista explained that if the husband of a woman is engaged in war as soldier, in such circumstances the duty of the king is to provide maintenance to the wife of the soldier as substance allowance. He said, "Their (soldiers) wives,
who have no other means of livelihood, shall be given subsistence by the king.\textsuperscript{10}

Apart from the aforesaid principles of the ancient Indian culture, there were different fundamental truths or laws, in the vedic society showing that the position of women was quite satisfactory. Girl child was educated at that time. To impart education to all children, including girls, and to help them to settle in life were the twin duties of vedic parents and in this way there was initially no discrimination between a boy and a girl. Upanayana or ceremonial initiation into the vedic studies at par was the rule.\textsuperscript{11} It was held that brahmacharya discipline and training was as much necessary for girls as it was for boys.\textsuperscript{12} This system of vedic period shows the methods of protection of women from the sexual harassment. In the Rig-Veda infant marriage was unknown\textsuperscript{13} and the marriage hymn is a pointer to this.\textsuperscript{14}

The conclude, the position of the wife was honourable in the family.\textsuperscript{15} She was the centre of the domestic world and an empress or samrajni.\textsuperscript{16} In this way ancient culture, legal system and social environment was rich, wealthy and prosperous for the purpose of the protection of the human rights of women. These aspects of the ancient system were recognized by the civilized society. In India these customary behaviour and norms were inserted by the Constitution makers in the supreme lex and in lex.\textsuperscript{17} New dimensions of human rights of women are emerging for the protection, safeguarding, defense, safety and security of the women. These rights are right to take birth in free and favourable social environment, right to education, right to marry, right to nationality, right to participate in political life and protection from domestic violence, etc. These human rights are available to women in the international law as well as the domestic laws.

INTERNATIONAL NEW DIMENSION OF GENDER JUSTICE

Although every aspect of international law for the protection of women is relevant, germane, apt and essential, in the present context right
to take birth, right to education, right to marry, right to nationality, right to participate in political system and protection from domestic violence are more important, essential, cardinal and fundamental. These rights are mostly enumerated in Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All forms of Discrimination against Women, Refugee Women and International Protection, Nationality Convention for Married women, Political Rights Convention on Women and other international efforts of the United Nations. All these declarations, covenants, conventions and treaties provide for the protection to women. It is germane to discuss these provisions one by one.

PROVISIONS UNDER UDHR

The Universal Declaration of Human Rights declares that all human beings are born free and equal in dignity and rights. All rights declared by the UDHR are available to all human beings without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. As per the Declaration of Human Rights every one has the right to nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality. It means women have right to change their nationality any time or under any circumstances. Art 16 of UDHR provides that men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and have a family. They are entitled to equal rights to marriage, during marriage and at its dissolution. Marriage shall be entered into only with the free and full consent of the intending spouses. After the marriage the family is a natural and fundamental unit of the society. Thus the duty of the society and state is to protect the family. Women have equal rights to take part in the government of her country, either directly or through her chosen representatives.
children are protected from birth till the time of full education. Girl child is also covered under this protection. Art 25 (2) provides that motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection. It means every child whether he or she is legitimate or illegitimate has a right to special care and assistance.25 Every child has the right to free, elementary and fundamental education and it shall be compulsory. Technical and professional education shall be made generally available to all and higher education shall be accessible on the basis of merit.26 This provision of UDHR is equally available to the girl child. She is entitled to get free elementary and fundamental education.

Technical and professional education should be accessible to her and she is also entitled for higher education on the basis of merit.27

PROVISIONS OF ICCPR AND ICESCR

The United Nations General Assembly adopted the International Covenant on Civil and Political Rights for the Protection of human rights of the world community.28 These rights are available to all individuals without distinction of sex.29 In other words, the rights enumerated in ICCPR are available to the men and women equally and it is the duty of the state to ensure the application and implementation of these rights to the benefit of men and women both.30 It provides special protection to women at the time of state emergency so that these provisions are not discriminatory towards them.31 There is a provision in ICCPR for the safety of the life of pregnant woman. It provides that sentence of death shall not be imposed on pregnant woman.32 There are equal rights of marriage to men and women. No marriage shall be entered into without the free and full consent of the intending spouses.33 It is the duty of the state to recognize the age of the marriage of men and women.34 Equal rights and responsibilities have been given by the ICCPR to women and men as regard to marriage, during
marriage and at its dissolution. Equal rights have been given by the said covenant in regard to registration of birth and naming the children.36

Another Covenant on Economic, Social and Cultural Rights is also a milestone for the purpose of gender justice.36 These rights are available to women without any discrimination on the bases of sex, etc. Women have equal right to work and with an equal opportunity to be promoted in her employment.37 Mothers are entitled for special protection during a reasonable period before and after the birth of a child. During such period working mothers should be accorded paid leave with adequate social security benefits.38 According to the provisions of the ICESCR women and men both have the right to marry with the free consent of spouses.36

SIGNIFICANCE OF CEDAW

The most important, useful and fruitful piece of international law is the Convention on the Elimination of all forms of Discrimination Against Women. It is a milestone for the protection of human rights of women.40 The purpose of CEDAW is to reaffirm faith in fundamental human rights, the dignity and worth of human person and in the equal rights of men and women. Accordingly, all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms without distinction of any kind, including distinction based on sex. It was made by the United Nations for providing economic, social, cultural, civil and political rights to the women. The object of the CEDAW is to eradicate poverty among women and to provide them access to food, health, education, training and opportunities for employment.41 In CEDAW the term “discrimination against women” is defined as “any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or multiifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and

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women, of human rights and fundamental freedom in the political, economic, social, cultural, civil and other fields.42

The CEDAW imposes the responsibility on the states to legislate for eradicating all kinds of discrimination against women.43 There is a new provision in the Convention that parents are commonly responsible for the upbringing and development of their children.44 Women have a right to vote in all elections, eligible for selections to all publicly elected bodies45, to formulate government policy, hold public office, perform all public functions at all levels of government46 and participate in non-governmental organizations and associations concerned with the public and political life of the country.47 Women have special right to change, acquire and retain their nationality. Their nationality will not change automatically due to their marriage.48 Women are entitled to get every kind of education including information and advice on family planning.49

Article 11 of the CEDAW provides the right to employment to women. It includes the right to the opportunity of employment, right to free choice of profession, right to promotion, job security, right to receive vocational training, right to equal remuneration, right to paid leave, right to retirement, right to protection of health, right to marriage, right to maternity leave and right to safe working conditions during the time of pregnancy.50 There is a provision for special care of women during pregnancy. They have the right to get free services where necessary, as well as adequate nutrition during pregnancy51. Women have right to get family benefits, right to get bank loan, mortgage and other forms of financial credit.52

CEDAW lays down that it is the duty of the state to take appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular it shall ensure it on a basis of equality of men and women. It enumerates the right to enter into marriage with the free and full consent, right to dissolution of marriage, right
to protect the paramount interest of children, right to give education to the children according to own choice, right to choose family name, right to family, property and right to registration of the marriage. In this way the Convention on the Elimination of all forms of Discrimination against Women is a unique, universal and useful piece of international law. However, many provisions of this law have not been implemented by the states like India till date.

REFUGEE WOMEN AND INTERNATIONAL PROTECTION

There is a widespread problem of violations of the rights of refugee women. They are facing problem of food, work and education during the refugee period. Therefore, the United Nations made a Convention relating to the Status of Refugees for the protection of the human rights of all refugees. However, there is a non-discriminatory clause that the convention shall apply on the state parties without discrimination as to race, religion or country of origin. It is a lacuna that in this clause that there is no word like 'sex' for non-discrimination. It means the state parties can apply this convention on the male or female separately. It is suggested that the word "without discrimination as to sex" should be inserted in this clause.

The United Nations framed rules for the protection of refugee women through the executive committee of its agency of UNCHR in 1990. The objects of these rules are to protect the human rights of women, ensure their full participation in analyzing their needs and in designing and implementing programmes for their welfare. The aforesaid provisions provide that it will be the duty of the relevant state, United Nations organizations and non-governmental organizations to understand the needs of the refugee women and to promote their energetic capacity, monitor the refugee programmes, provide skilled female interviewers for the determination of refugee status, arrange for the women asylum, support the rights, needs and resources of refugee women, protect them from physical and sexual
abuse, arrange gender based councilor for the victims of physically and sexually abused refugee women, prosecute persons who have committed crimes against refugee women, issue identification and for registration documents to all refugee women, provide basic services including food, water, medicine, education, training and all essential requirements to the refugee women. 58

OTHER PROVISIONS OF INTERNATIONAL LAW FOR THE PROTECTION OF WOMEN

The growth of the women's movement, while recognizing the human rights link, has also sought to ensure the full enjoyment by women of their rights by the adoption of various international conventions having specific relevance to women. Many of these have been sponsored by the UN Commission on the Status of Women and included in the 1952 Convention on the Consent to Marriage, Minimum age for Marriage, and Registration of Marriage. Two additional instruments of particular relevance are the Convention for the Suppression of Traffic in persons and the Exploitation of the Prostitution of others of 1949, and the supplementary Convention on the Abolition of Slavery, the Slave Trade and Practices Similar to Slavery of 1956. 59

Apart from the above international conventions, declarations, covenants, agreements and treaties, the United Nations conducted many programmes for the development, progress and protection of the human rights of women 60. In 1946 a commission was constituted by the Economic and Social Council for the protection of women's status. The year 1975 was declared by the UN as being commemorate 1978-1985 as the UN Decade for women. In July 1985 a special fund was created by the United Nations for the development of women. On 6 May 1981 the Economic and Social Council of the UN constituted a research and training institute for the development of the women. A conference was organized by the UN at
Nairobi from 15 to 26 July 1985. Besides these programmes there are optional protocols to the Convention on Elimination of Discrimination Against Women, 1999 and Beijing Declaration of 1995. The Beijing Declaration was in consequence of the 4th Conference on women from 4th to 15th September at Beijing.  

PROBLEMS FOR WOMEN RIGHTS IN INDIA

In post Independent India changes have become more pronounced as a result of constitutional provisions, planned economic development, urbanization, industrialization, science and technology. Exposure of women to formal education and participation in paid labour force are the two key modernization forces responsible for bringing about change in the role and status of women. These factors have brought about a number of changes in the traditional society and have posed many problems of adjustment for women.

The present trend for participation in public life is observed generally among the educated women. These represent a microscopic minority. But rural women are still backward socially, educationally, politically and have hardly made themselves felt in activities that are directly related to their welfare and upliftment. Women of minority communities though groomed to assert their claims of equality of opportunity have shown no significant improvement in educational and other attainments. The problems of women are Sati, Female Infanticide, Dowry, Child marriage, the plight of Hindu widows, Rape, Sexual harassment, Prostitution etc.

SATI

Sati is the practice through which widows are voluntarily or forcibly burned alive on their husband’s funeral pyre. A widow’s status was looked upon as unwanted burden that prevented her from participating in the household work. Her touch, her voice, her very appearance was considered
unholy, impure and something that was to be shunned and abhorred. A woman was considered pure if she committed sati. Sati was prevented by legislative enactment in 1829 due to the previous efforts made by Raja Ram Mohan Roy. Sati was banned again in 1956 after resurgence. There was another revival of the practice of sati in 1981 with another Prevention Ordinance passed in 1987.

Two illustrations are given as follows: In 1987 an eighteen years old widow Roop Kanwar, committed sati in a village of Rajasthan. Roop Kanwar told her father-in-law that she wanted to commit sati. The case went to court, but no one was charged with her death. Sati is reported to be prevalent in North-India. In another incident a 65 year old Kuttu, who died of burn injuries was forced to enter the funeral pyre of her husband Mallunai. The Madhya Pradesh government ordered a magisterial inquiry in Penna district in 2005. The matter was also discussed in the Union Parliament. Meanwhile a four-member National Commission for women (NCW) delegation visited Panna district to look into the incident.

FEMALE INFANTICIDE

The phenomenon of female infanticide is as old as many cultures and has likely accounted for millions of gender-selective deaths throughout history. It remains a critical concern in a number of Third world countries today. In all cases specifically female infanticide reflects the low status accorded to women in most parts of the world. It is arguably the most brutal and destructive manifestation of the anti-female bias that pervades "Patriarchal" societies. It is closely linked to the phenomena of sex-selective abortion which targets female foetus almost exclusively and neglect of girl children. Female Infanticide is the intentional killing of baby girls due to the preference for male babies and from the low value associated with the birth of females.
In nearly 300 poor hamlets of Usilampatti area of Tamilnadu, as many as 196 girls died under suspicious circumstances in 1993. Some female children were fed dry, unhulled rice that punctured their wind pipes or were made to swallow poisonous powdered fertilizer. Others were smothered with a wet towel, strangled or allowed to starve to death. It is reported by a doctor who has been practicing in Usilampatti (Tamilnadu State) for over five years that on an average, 1200 delivery cases come to the hospital every year. Of these, “nearly half delivered female babies. Over 95% of the women who gave birth to daughters absconded immediately after the babies were born and we have this in our registers. We can come to our own conclusion about the motive for their absconding.” Nearly 800 female births in Kallar group are recorded in the Usilampatti Government Hospital every year and out of these, 570 babies vanish with their mothers no sooner than they can open their eyes to the world. Hospital sources estimate that nearly 80% of these vanishing babies—more than 450 became victims of infanticide.

A study by the Community Service Guild of Madras similarly found that “Female Infanticide is rampant in Tamilnadu” only among the Hindu families. “Of the 1250 families covered by the study 740 families had only one girl child, 249 agreed directly that they had done away with the unwanted girl child. More than 213 of the families had more than one male child whereas half the respondents had only one daughter.” India is also the heartland of sex-selective abortion. Amniocentesis was introduced in 1974 to ascertain birth defects in a sample population. But it was quickly appropriated by medical entrepreneurs. A spate of sex-selective abortions followed. Karlekar also points out “those women who undergo sex determination tests and abort on knowing that the foetus is female are actively taking a decision against equality and the right to life for girls”. In many cases the women are not independent agents but merely victims of a dominant family ideology based on preference for male children.
Statistics show that there is still a very high preference for male child in states like Uttar Pradesh, Maharashtra, Madhya Pradesh, Punjab etc. The male and female ratio in these states shows that the percentage of males to females is higher. Infanticide is still prevalent in some villages like Usilampatti, Thiruchengode, Mallasamudram, Kalayampatty, Dharmapuri and Kapilarmalai in Tamilnadu.

The Government of Tamilnadu had passed the Pre-Natal Diagnostic Techniques Act in 1994 to prevent Female Infanticide. Both the central and state Governments play an important role in the prevention of Female Infanticide. Section 302 on Indian Penal Code calls infanticide as culpable homicide amounting to murder. The Government of Tamilnadu introduced the Cradle Baby Scheme in 1994. The above scheme was implemented in 1996 and it has paved the way for the establishment of a Cradle Baby Centre in every place where Female Infanticide has been largely practiced. Besides these welfare schemes, the Government wanted to give punishments to those parents who committed female infanticide. Accordingly the Government passed an Act declaring sex determination tests during pregnancy as illegal.

DOWRY

Dowry is the payment in cash or kind by the bride’s family to the bridegroom’s family along with the giving away of the bride (called Kanyadanam). In Indian Hindu Marriage, Kanyadanam is an Important part of Hindu marital rites. Kanya means daughter and Dana means gift. Dowry originated in upper caste families as the wedding gift to the bride from her family. The dowry was later given to help with marriage expenses and it became a forum of insurance in the case that her in-laws mistreated her. In order to prohibit dowry in marriage, the Dowry Prohibition Act, 1961 was passed and amended in 1984 as well as in 1986. The Act prohibits taking
or abetting dowry which has been made a cognizable offence and provides for punishment. 81

Although the dowry was legally prohibited as mentioned above, it continues to be highly institutionalized. The bridegroom often demands a dowry consisting of a large sum of money, farm animals, furniture and electronic goods. The practice of dowry abuse is rising in India. The most severe of this fall-out is the "bride burning", the burning of women whose dowries were not considered sufficient by their husbands or in-laws. Most of these incidents are reported as accidental burns that there exist deep rooted prejudices against women in India. Cultural practices such as the payment of dowry tend to subordinate women in Indian society.

In Delhi, a woman is burned to death almost every twelve hours. It was estimated that 2209 women were killed in 1988 in dowry related incidents and 4835 women were killed in 1990 in Delhi. The lack of official registration of this crime is apparent in Delhi where 90% of cases of women burnt were recorded as accidents, 5% as suicide and only the remaining 5% were shown as murder. 82 According to the government statistics, there were a total of 5377 dowry deaths in 1993, an increase from 12% from 1992. Despite the existence of rigorous laws to prevent dowry deaths under the 1986 amendment to the Indian Penal Code (IPC), a conviction is rare. Recent Newspaper reports have focused on the alarming rate of deaths of married women in Hamirpur, Mandi and Bilaspur districts in Himachal Pradesh state. 83

Nisha Sharma from Uttar Pradesh refused to marry her bridegroom for demanding dowry. The Nation including the politicians and feminists applauded her courage and Nisha became a semi goddess overnight. Dowry once known as an exclusive Hindu and upper caste tradition has now become a truly universal phenomenon in the country. Figures show that while the prevalence of dowry in the 1970s was 22%, it rose to 36% in

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1980s and to a whopping 100% in the 1990s. And to top it the cases of
torture for dowry are the highest accounting to 32.4% of the total cases of
crime against women. In Assam and Tripura and among communities like
Muslims, Adivasis and Dalits in which dowry is uncommon and was never a
tradition, it has grown in the last 10 to 15 years replacing bride price and
the earlier tradition of expenditures being incurred by the bridegroom's
family. On the other hand dowry is responsible for various social evils like
female infanticide, sex, selection, selling of the girl child in all manifesting in
the skewing of sex ratios in the country as follows: In 1901, 972 females
were for 1000 males whereas in 2001 there were 933 females for 1000
males.

The Guardians and wards Act, 1890, the Special Marriage Act, 1954,
Hindu Marriage Act, 1955, the Hindu Succession Act, 1956 and the Hindu
Minority and Guardianship Act, 1956 do not in any way reflect the
aspirations of a woman trapped in a murderous marriage. At the same time
the pressure from her own family on the girl to "adjust" in the bridegroom's
family to any injustice and even violence against her is increasing sharply.
In a country where neither law enforcing Agencies nor the society has been
supportive of woman battling the dowry menace, it is really heartening to
see young bride like Nisha Sharma refusing to take the harassment quickly.
Many young women like Rehenna from Uttar Pradesh, Farzana and Savita
from Delhi have shown the way to women on how to stand up coercive
customs.

Mr. Justice Krishna Aiyer wrote in 1994 as follows: "Laws are made
with blood shot eyes to combat dowry deaths, but few killers face trial,
fever are punished and fewest finally sentenced. Judges mostly males,
invoke impossible rules against circumstantial evidence. The judiciary's
tendency to stick strictly to the technical rules of evidence proves a
veritable boon for dowry death devils. Fortunately there is now a welcome
change in the attitude of higher level judiciary in respect of dowry death cases. The apex courts in various cases has shown tendency towards imposing deterrent punishment including death penalty. The emphasis is more on adopting a positive and constructive approach in interpreting the provisions of the law and departing from the Colonial concepts of jurisprudence. The Supreme Court has upheld the constitutional validity of section 498-A of the Indian Penal Code which deals with dowry harassment of women by either her husband or his relatives. Further against the tendency of foisting false cases of abuse, the Supreme Court has also observed that provision is intended as a shield and not an assassin's weapon. The investigating agencies could not follow a straightjacket formula in matters of dowry torture deaths and cruelty. The role of the investigating agencies and courts is that of a watchdog and not of blood bound. It should be their effort to see that an innocent person is not made to suffer on account of unfounded, baseless and malicious allegations.

CHILD MARRIAGE

During British regime, Child Marriage was illegal in India and special acts were in force to safeguard it. Girls and Boys at the age of 7 and 9 were found married. It was and is mostly a voluntary practice. The Child Marriage Restraint Act (1929) and the Sharda Act did much to solve this problem. Yet it is disheartening to note that in some parts of India (Rajasthan and also Chidambaram in Tamilnadu) this customary habit is still lingering. Educated parents are no exception from this, as they prefer to conduct the marriage of their daughters put up at the high school level. This leads to the breakage of law in force. There are other incidents where the girl is given compulsorily to marriage due to certain family tie-ups as there was no escapism at all. So also the conditional marriages that take place in number of families where the girl has no role at all. She has to simply give up her personal right just to satisfy the elders in the family. The High Court in
Jaipur has restrained a father from marrying of his two daughters aged 3 and 6 in a Rajasthan village. The police failed to stop the marriages. Through press, it is attested that traces of "Child Marriage" is still prevalent in some places in North India.91

THE PLIGHT OF HINDU WIDOWS

A wife according to the Vedic texts is to be considered as a more material machine and domestic drudge. Not only that she is not having any role in the social life, but also she is denied of religious duties. It is interesting to note that a woman in the capacity of wife will be sitting near husband in certain religious ceremonies such as at the time of the marriage, at the marriage of her children and at some festivals. After the death of her husband, as a widow, her condition as regards religion becomes materially changed "Although the widow is precluded from taking any part whatever in the ordinary family rites and ceremonies and although she may be reckoned as dead to all social life, according to Hinduism, materially she assists her husband after his death and by her prayers and good deeds, hasten his final beatitude."92 Further separated or divorced women are socially unacceptable and re-marriage to such women is also quite impossible. No male comes forward to marry a widow. It is quite surprising to note that a 65 year old woman sought divorce and it could be understood the sort of harassment she could have faced. The Hindu widow Remarriage Act, 1956 works towards solving the problem of widows. The worst problem of the problems of women is widowhood.93

RAPE

As in other countries throughout the world, rape is common in India. Rape is a social disease. Hardly a day passes without a case of rape being reported in Indian Newspapers and Media. In India according to the official records, around 1000 women get raped every year, which generally
belonged to dalit groups in inhabited areas. Out of the total number of women kept in police custody, 70% had been subjected to physical and sexual abuse. Some years back, one Bhanwari Devi of Rajasthan was gang raped because she took up the risk of reporting an incident of child marriage in her place. In India especially in Calcutta, women are put into a number of atrocities during police interrogation.\textsuperscript{94}

The fear of rape or molestation is fairly widespread in both rural and urban areas, more particularly for women or girls of the poorer or disempowered sections of the society. The cases reported under the Scheduled Castes and Scheduled Tribes (Prevention) of Atrocities Act, 1989 reveal that women of dalits are subjected to rape.\textsuperscript{95} Thus women belonging to low castes and tribal women are more at risk. According to the National Crime Records Bureau, the number of women, subjected to rape has risen to 40% in the last five years. At least 2 girl children are raped in India every day is equally shocking. Establishment of special courts to deal with the rapists stringently merits consideration at this stage.\textsuperscript{96}

\textbf{SEXUAL HARASSMENT}

Physical or verbal harassment and molestation of women and young girls continues to be an old problem of growing dimensions. Eve-teasing at college and university campuses and bottom pinching in crowded public buses continue to haunt women and young girls in many cities.\textsuperscript{97} The problem of eve-teasing is existing especially in big cities like Bombay, Delhi and Chennai. Everyday thousands of women who go to work, colleges and other areas have to contend with this problem. This problem is not restricted to young women, but transcends women of all ages and all classes. Even older married women have been subjected to this kind of treatment. One College student and one working woman had been mortal victims of Eve-teasing in Tamilnadu two years back.\textsuperscript{98} There is also a need for strict enforcement of laws for the prevention of eve-teasing.
PROSTITUTION

Hailing from families below the poverty line, girls are sold and exported to foreign countries through rackets of agencies operating in Cuddapah, Vijayawada and largely in Hyderabad (In Andhra Pradesh State). By legislation and social persuasion this must be eradicated by employment of espionage that is women spies to spot them and then convert them into good citizens by educating them, offering employment and settle them by marriage alliances. Today about 15% of India's nearly 2 million prostitutes are believed to be inducted while as children in the trade. As revealed in report on Child Prostitution in 1994 by the Ministry of Human Resources Development, Government of India, about 30% of prostitutes in the major cities of India namely Kolkata, Bombay, Delhi, Chennai, Madras, Bangalore and Hyderabad were under 20 years of age. 39% of these women entered prostitution before they were 18 years old. Article 34 of the Convention on the Rights of the Child lays down that "the State Parties will undertake to protect the child from all forms of sexual abuse". Article 23 of the Indian Constitution bans trafficking in human beings. The Government of India also enacted Suppression of Immoral Traffic in Women and Girls Act, 1956. The Act was amended in 1986. The Act prescribes stringent action against those inducing children below 16 years in offence of procuring or taking a person for the sake of prostitution. The punishment is rigorous imprisonment for a term not less than 7 years which may extend to life.

Pandit Jawaharlal Nehru spoke on the uplift of women in India as follows:

"In order to awaken the people, it is the women who have to be wakened, once.

They are on the move, the household moves, the village moves and the country moves".
While the educated women have become conscious of their rights, the underprivileged and the uneducated women in India still face oppression, inequality and lack of relief. The All Women Police Stations exclusively for the redressal of women’s grievances set up in Tamilnadu is a welcome development. The National Commission for women in India seizes women’s cause only when it is brought to light. Unreported cases of oppression and suppression of women are not attended to. A separate legal cell in every Taluk / Firka exclusively dealing with the problems of women is a necessary forum for upholding the rights of women and bringing them due justice. Further the following measures should be implemented by the authorities.

1. Gender sensitization in schools right from the primary level.

2. Action against advertisements, books, media programmes that encourage dowry or preference for a son.

3. Fixing ceiling on marriage expenses and gifts exchanged during marriages as a percentage of annual income of the person (as suggested by a Joint Parliamentary Committee in 1980).

4. Giving equal property rights to women.

5. Encouraging inter-caste marriage and marriages of one’s own choice.

6. Stringent yet transparent laws that can bring the culprits to book.

The implementation of all the above measures vehemently will lead to better awakening of women folk in resolving their problems and in prevention of crimes against them. Special incentives both by the Government and the Private Sectors for widow remarriage, employment for the widows, women destitute, women orphans and aged women should be extended as a package of social reform and advancement.
SUGGESTIONS

All human rights are related to the dignity, equality and worth of human persons. However, liberty is the master key of the human rights. "It lies in the hearts of men and women; when it dies there, no Constitution, no law, no court can ever do much to help it. While it lies there, it needs no Constitution, no law, no Court to save". Thus for the purpose of the protection of women's human rights we should change our attitude, thinking, behaviour, action and mentality. We have our old values, 'Respect for Womanhood', still we are witnessing gender discrimination. Where lies the fault? Is it lack of communication or adjustment? Is it the victory of greed and materialistic needs over love, affection and human values? It is the duty of right thinking people to think over these questions and suggestions should be made for the welfare of women. The real remedies should be provided by the democratic government for the protection of the women. It is truth and universal that "all men's mind and hearts are made of women's blood". Thus the paramount duty of the society is to do work according to the legislation and morality for the welfare of the women. In this regard Martin Luther rightly said that "Morality cannot be legislated but behavior can be regulated". So we ourselves have to do something creative against the gender discrimination and bias.

To improve the dignified life of women (for which they are entitled) following suggestions be implemented in its full spirit.

1. A new Convention should be framed by the General Assembly of the United Nations for the protection of unborn female child as "Prevention of Pre-Natal Diagnosis Test Convention".

2. There is a provision in the ICCPR and other international laws to postpone capital punishment of pregnant women till the time of the
birth of the child. This provision is based on the principle of natural law because the unborn child has not committed any offence. However, the law makers ignored the psychological factor that the capital punishment to women after the birth of child will effect their psychology during pregnancy and certainly it will also effect the growth of the child who is in womb. Besides this, there is a need of mother for breast feeding and all round development of the child. Hence the capital punishment to the pregnant women should be converted into life imprisonment.

3. In law there are provisions related to word "He". It shows preference to the male but for the purpose of interpretation "He" includes "She". It should be changed by the word "S/he" so that it will reflect equality between women and men.

4. All provisions of the CEDAW from Art 1 to 30 should be implemented through appropriate state laws.

5. There are many laws for the protection and welfare of the women at the international level as human rights of the women, but due to lack of awareness these laws are only in the books. Thus it is germane to suggest that awareness programmes should be launched by the states and non-governmental organizations at the grassroots level.

6. Education about human rights related to women should be given to the children as a compulsory subject.

7. Training in human rights relating to women should be provided to the implementing authorities.
8. There should be a special provision in every human right of women for its implementation. If the implementing authority is negligent or unable to implement it without proper reason, he or she should be penalized according to the principle and procedure established by law.

9. The word "sex" is not included in the non-discriminatory clause in Article 3 of the Convention relating to the Status of Refugees. It is, therefore, suggested that the word "sex" should also be inserted in Article 3 of the said Convention.

10. International Declarations, Covenants, Conventions, Agreements and Treaties should be implemented by the states through the enactment of relevant state legislations.

11. India is a signatory in many international laws like CEDAW and other conventions, hence the Indian Parliament should also enact laws on similar lines for the protection of human rights of women.
REFERENCES


7. *Ibid*, at page no. 54 (Katyayana-487).


10. Vasista Ch. IX-20. The ideology given by the Vasista in his famous work has been implemented by the democratic welfare state of India by providing for compensation to the wives of the war victims of the soldiers.


13. Reg Veda, 10.27.12.


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17. 'Supreme lex' means supreme law of the land such as the Indian Constitution. 'Lex' means state made law. In Indian Constitution there are many provisions for the protection of human rights of women like the Preamble, Art 15 (2) & (3), 16 (2), 21, 39 (a), (d) & (e), 42, 51 A(e) and 243 D. On the basis of Constitutional Provisions the Indian Parliament has enacted a number of enactments as special laws for the benefit and protection of human rights of women.


19. *Ibid*, Art 2, There are 30 Articles in UDHR giving different rights. All these rights can be availed by the women without distinction of sex.


23. *Ibid*, Art 16 (2). This provision of UDHR is very clear in nature that the spouses are free to choose their life partners. There are no restrictions on the basis of race, colour, language, religion, political or national or social origin, property, birth or other status.

24. Art 21 (1) of UDHR provides political right to everyone in his country. It means that women have political right in their country. If there is absence of equal representation to women in comparison to men in the government, then reservation should be given to women.
25. Art 25 (2) of UDHR lays upon the society the duty to give special protection to children.

26. Art 26 (1) of UDHR.

27. It can be easily and without any hesitation said that girl child has a right to get every kind of education in the world. Education is essential for the development of girl child’s personality and strengthening the respect for her human rights and fundamental freedoms. It is the duty of parents to choose proper, useful and personality development education for children. According to the interpretation of Art 26 of UDHR technical and professional education is not a higher education, because the intention of the United Nations is very clear that these educations should be accessible and available to the children generally. However higher education shall be equally accessible to children on the basis of merit. Thus it can be said that technical and professional education is different from the higher education. It is neither a higher education nor a elementary fundamental education, but it is a special education of its kind.


29. ICCPR, Article 2 (1).


31. Ibid, Art 4 (1).

32. Ibid, Art 6(5). It did so by laying special protectory measure for the unborn child as well as pregnant woman. It is suggested that after the birth of child the capital punishment of the said woman should be
converted into life imprisonment, because the breast feeding is a natural right of the newly born child and he or she should not be deprived of this right. Another reason is that if capital punishment is to be postponed only till the time of pregnancy, it will adversely affect the woman mentally and unborn child too.

33. Ibid, Art 23 (3).

34. Ibid, Art 23 (2).

35. Ibid, Art 24 (2).


37. ICESCR, Art 7 (C).

38. Ibid, Art 10 (2).

39. Ibid, Art 10 (1).

40. CEDAW was adopted by the General Assembly of the United Nations on 18th December 1979 and it came into force on 3rd September 1981. India was a signatory to the convention on 3rd July 1980 and ratified it on 9.7.1993.

41. The Preamble and Object of CEDAW. The protection and welfare of the women is a necessary step for the progress of the family, development of the society and unity and integrity of the nation.

42. CEDAW, Art 1.

43. Ibid, Art 2 (f). Art 3 also lays down the duty of the state to enact laws for ensuring the full development and advancement of women.
44. *Ibid*, Art 5 (b).


47. *Ibid*, Art 7 (c).


49. *Ibid*, Art 10 (a), (b), (c), (d), (e), (f), (g) & (h).

50. *Ibid*, Art 11 [1] (a to f) [2] (a to d) and [3].


52. *Ibid*, Art 13; they have the right to participate in sports.

53. *Ibid*, Art 16 (1) (a to h). There is a compulsory provision in the CEDAW for the states to make law for the age of the marriage and its registration. If the states do not enact any law for registration of marriage, in such situation without the registration, the marriage shall stand nullified.

54. As per Art 51(c) of the Indian Constitution the duty of the state is to respect the international law and treaty obligations. Although India was a signatory to the convention on 30th July 1980 and it was ratified on 9th July 1993, it did not enact any legislation to implementing provisions of CEDAW. This action of the state is in violation of the constitutional provision as given in Art 253. It states that "Notwithstanding any thing in the forgoing provisions of this chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body".
55. The Convention was adopted by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons held at Geneva from 2 to 25 July, 1951. The Conference was convened pursuant to resolution 429 (V) adopted by the General Assembly of the United Nations on 14th December 1950.

56. Art 3 of the Convention relating to the Status of Refugees.

57. Refugee Women and International Protection, no. 64 (XLI), 1990.


60. The main objects of the conference were to discuss and highlight the issues of equality, peace and development. In the conference discrimination with women on the grounds of sex and psychology were also discussed. Also discussed was the right to vote, contest the election, to hold public office, property rights of women, right to domicile, right of unmarried women and the right of marriage, etc. These rights were recognized as International Declarations.


63. Lakshmi Raghu Ramaiah, Emergence of Modern Indian Womanhood-an article in Indian Womanhood through the Ages, Vol. IV, Vivekananda Prakash Kendra, Madras, 1975, p.213.


83. Ibid.
85. Ibid.
86. Ibid.
87. Ibid.
88. Ibid.
94. Ibid., p. 96.
99. Dr. V. Yasodadevi, Article in seminar on Uplift of Women in South India in 20th Century and Suggestions for 2000 A.D., Mother Teresa
Women's University, Department of Historical Studies, Kodalkanal, 1986, p. 88.

