CHAPTER-1
INTRODUCTION

“There is no chance for the welfare of the world unless the condition of the women is improved; it is not possible for the bird to fly on only one wing” Swami Vivekananda.

As women folk consist of almost half population of the world, Swami Vivekananda considers that the best thermometer to the progress of a nation is its treatment of its women. This is the very foundation for the research in the field of human rights in context of women’s rights.

“Human rights are moral principles or norms that describe certain standards of human behavior, and are regularly protected as legal rights in municipal and International law. They are inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being and which are inherent in all human beings regardless of their nation, location, language, religion, ethnic origin or any other status.”

The theory of human rights in history is not divided in phases but the said concept has been observed to be developed in three phases: the first phase shows the mass violation of human rights till the evolution of concept of human rights, the second phase shows the evolution of the concept till the enactment of human rights laws i.e. legal recognition of the concept and the third phase shows full realization and implementation of laws. The human right theory shows the ceaseless endeavor of international organizations, human rights activists, non-governmental organizations, various nations and their respective governments in narrowing down the gap between human rights and human rights law.

The office of the United Nations High Commissioner for Human Rights (OHCHR) represents the world’s commitment to universal ideas of human dignity. It has developed a universal human rights legal system which is virtually applicable to

1 http://en.wikipedia.org/wiki/Human_rights
every man, woman and child in the world. There are nine core international human rights instruments, and their monitoring bodies within United Nations Human Rights system, which monitors the implementation of treaties by the member nations. These treaties are:

2. International Covenant on Civil and Political Rights (ICCPR)
3. International Covenant on Economic, Social and Cultural Rights (ICESCR)
4. Convention on Elimination of All Forms of Discrimination against Women (CEDAW)
5. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)
6. Convention on Rights of Child (CRC)
7. International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMWF)
8. International Convention for the Protection of All persons from Enforced Disappearance (CPED)
9. Convention on the Rights of persons with Disabilities (CRPD)"^{2}

1.1 A SHORT HISTORY OF WORLDWIDE MOVEMENTS FOR HUMAN RIGHTS IN CONTEXT OF WOMEN’S RIGHTS:

The history of human rights shows the system of accepted standards of behaviour, morals and justice existing before 18\textsuperscript{th} century in various societies of the world. The Vedic literature of Hindus, the Quran, the Bible, the law code of Hammurabi, the Analects of Chinese philosopher Confucius are the oldest written sources of human rights. As per the western concept of human rights, the historians credit King Cyrus of Persia as the originator of the first charter of human rights in 539 BCE. Due to his generosity and kind heartedness, King Cyrus, brought slavery and dictatorial oppressions to an end and liberated 40,000 Jews who were imprisoned in

^{2} http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx
Babylonia and permitted them to go back to their homeland. This was indeed a remarkable step in the history of human rights.

Greek-Roman philosophers such as Plato, Ulpian, Aristotle, Cicero, Sophocles, St. Thomas Acquinas, etc believed that the conduct of human being should be in harmony with the law of nature i.e. natural law. Their endeavor had led to the most important human rights today such as right to vote, freedom of speech, equality before law, right to trade, right to be elected to public office, right of access to justice, etc. Judaism believed that every human being is the image of God and Christianity believed men and women to be equal. Thus all world religions provided a strong base for human rights.

The Great Charter of Liberties of England i.e. The Magna Carta of 1215, which gave new rights to people and made king subject to law; the major English constitutional document of 1628 i.e. The Petition of Rights, restricting the use of martial law and imprisonment without cause; The United States Declaration of Independence 1776, endowing inalienable rights of life, liberty and pursuit of happiness; The Declaration of the Rights of Man and of the Citizen 1789 (also known as French revolution), protecting all individuals equally under law; are the written precursors of many of today’s human rights documents. But many of these documents when translated into policy, sidelined women and certain members of social, political and economic groups.

The Great War in history i.e. World War I (1914-1918) brought humiliation for the warring countries as it killed roughly 17 million people. It was the deadliest war which brought mass violation of human rights due to malnutrition, epidemics and disrupted trade resulting into food shortage. There was unemployment on huge scale as men left their jobs to serve their country in war. Women were recruited on the posts vacated by men but with lesser pay for the same work and thus began the earliest demands for equal pay, which also resulted into the first ever women strike demanding equal pay. The post-World War I period saw the remarkable enlightenment of women’s rights and female suffrage all over the world. The world has also witnessed the most tragic episode i.e. World War II, which killed 50-70 million people including the holocaust, the deadliest genocide in history. World War II was also known as the tidal wave of rape as Red Army raped almost all women from 8-80
years of age, in almost all the countries they passed through. The Red Army used rape and other forms of sexual violence as a tool to control civilians.

Due to unprecedented scale of destruction, people were forced to think about permanent solution to promote international peace, security and cooperation for promoting human rights and fostering economic development. This desire for international peace gave birth to an international organization named ‘United Nations’, (UN) the charter of which was signed in October 1945. The preamble of the charter provides that the members “reaffirm the faith in fundamental human rights, in the equal rights of men and women”. As more than 200 wars were fought in 20th century in different parts of the world, UN now wanted a road map to assure basic human rights to every individual. Thus The Economic and Social Council of UN created United Nations Commission on Human Rights (UNCHR). The said Commission adopted a landmark document named Universal Declaration of Human Rights (UDHR), to give shape to global human rights. The declaration has promised gender equality by incorporating the words ‘equal rights of men and women’. The relentless efforts of women legal scholars like Mrs. Eleanor Roosevelt (the chairwoman of UDHR drafting committee), Mrs. Hansa Mehta (Indian representative of Human Right Commission) and Ms. BodilBegtrup (vice-chairman of UDHR committee) insured the women’s rights in the declaration. The Economic and Social Council of UN also established Commission on Status of Women to explore the issues relating to women. UN saw movements all over the world demanding social, cultural, political and economic rights of women so it organized many conferences and adopted conventions to frame the strategies for women from time to time, upon which the governments of respective countries can proceed.

1.2 CURRENT GLOBAL SCENARIO AND THE NEED TO PROTECT WOMEN’S RIGHTS:

The umbrella of human rights is massive and various nations face different challenges in promoting and implementing human rights. Violence against women is widespread in all the corners of world and such violence is a human right violation that manifests itself in number of ways. The researcher would like to categorize the women’s rights violation under the following four heads:
1.2.1 The Right to Life:

The right to life is in the centre of all fundamental rights guaranteed by International human rights law. It is the basic right accruing at the birth. According to Article 6 of Covenant on Civil and Political rights, every human being has the inherent right to life. It shall be protected by law and no one shall be arbitrarily deprived of life. Under the same Article, it is mentioned that sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women. In spite of being a very foundation for enjoyment of other human rights, right to life is violated globally. As per World Health Organization (WHO) report of November 2015, “Everyday approximately 830 women die from preventable causes related to pregnancy. Out of these, 99% of maternal deaths occur in developed countries. Almost 35% of women worldwide have experienced either physical/sexual violence in their lifetime.” As per one of the estimates, 3500 women became victim of the most violent form of assault i.e. acid attack in Bangladesh between 1999 and 2000. According to US Department of Justice, more than 7 lakhs women and children are exploited every year by global commercial sex trade. ISIS (Islamic State of Iraq and Syria) in December 2014 killed 150 women, including a pregnant woman, for refusing to marry militants in Iraq.

1.2.2 The right to Liberty:

As mentioned in Art. 3 of UDHR, “Everyone has the right to life, liberty and security of person” and as per Art. 9, “No one shall be subjected to arbitrary arrest, detention or exile.” The term liberty is derived from the Latin word ‘Liber’, which means free. Thus liberty denotes freedom or a state of being free and absence of any restraints. The violation of the said right includes: Malala Yousafzai, the first National Youth Peace Prize winner and a Pakistani citizen, was shot by gunman for promoting women’s right to education. Taliban banned television, music, shopping and other modes of recreation for women in Pakistan, which is also a violation of right to liberty. As per the report of UNESCO in 2013, “One out of every four girls in developed countries had never completed their primary school education and

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3 http://www.who.int/mediacentre/factsheets/fs348/en/


5 MalalaYousafzai: is a Pakistani activist for female education and the youngest Nobel-prize laureate. She demanded that girls be allowed to receive an education. She was shot in head by Taliban gunman in 2012.
million girls of primary school age were not in school.”\(^6\) Until the year 2015, Saudi Arabia women were not allowed to vote and are still not allowed to drive the vehicles. As per World report 2013, “In South Sudan, women do not have freedom to select the spouse of their choice. Around 48% of girls between 15-19 years of age are currently married, out of which 17% were married before the age of 15. In Argentina, abortions are considered illegal, with limited exceptions. In few Islamic countries like Indonesia, the term ‘democracy’ is interchangeably used for ‘Islam’ and so around 150 regulations in the country restrict the rights of minorities and around 500 churches are closed since 2004.”\(^7\)

1.2.3 The Right to Equality:

According to Art.1 of UDHR, “All human beings are born free and equal in dignity and rights” and according to Art.7 “All are equal before the law and are entitled without any discrimination to equal protection of the law.” There is grave violation of this right as: “As per the Human Development Report (HDR) 2015, globally women earn 24% less than men and earn only one-tenth of world’s income despite working for two-third of total working hours.”\(^8\) Even in developed countries like US, female financial specialists earn only 66% as compared to their male counterparts. In sample of 62 countries, men on average get 4.5 hours a day as leisure time, as against women’s 3.9 hours. This gap is widening in countries having low level of human development. For e.g. women of Tanzania get less than 2 hours of leisure time a day.” There is lot of imbalance worldwide in paid and unpaid work of men and women. Out of 59% of work that is paid, men’s share is almost twice than that of women i.e. 38% versus 21%. But the scenario is totally reverse in case of unpaid work. Out of 41% of unpaid work, women’s share is three times than that of men. i.e. 31% versus 10%.\(^9\) The world’s super power Russia had listed 456 occupations and 38 industries banned for women, before Russian women registered the complaint in the UN women’s rights committee.”\(^10\) 32% of the world businesses

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\(^7\) https://www.hrw.org/world-report/2013/country-chapters/global
\(^8\) http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf, pg 4
\(^10\) www.ohchr.org › OHCHR › English › News and Events
have no women in senior management position. Women globally hold 22% of seats in single and lower houses of national parliament.\textsuperscript{11}

1.2.4 The Right to Dignity:

The Preamble of UDHR enshrines the fundamental right of dignity as follows: “…recognition of inherent dignity and equal and inalienable rights of all members of human family is the foundation of freedom, justice and peace in the world.” Legal human right framework has no significance without human dignity and so the said concept has acquired the central position in human rights discourse. Forced prostitution, pornography, strip clubs, internet sex, etc. can be regarded as contrary to the dignity of women. According to one estimate, women forced or sold in prostitution is somewhere between 7 lakh to 4 million per year, globally. Another crime which is an assault on dignity of women is female genital mutilation. As per the report of UNICEF, more than 200 million girls and women alive today living in 30 countries have been forced for the said degrading treatment to ensure premarital virginity and marital fidelity.\textsuperscript{12} It also amounts to extreme form of discrimination and serious violation of right to life when it results into death of women. According to the report of WHO, an estimated 225 million women in developed countries have unmet need for family planning, resulting into unwanted pregnancies and abortions. Breast ironing or flattening is a horrific crime and another undignified treatment with women, believed to be originated in the country of Cameroon. This practice involves massaging of breasts with hot stones or burning coals with the intention to avoid the signs of female puberty. As per the estimates, 3.8 million teenage girls are at the risk of exposure or have been affected by breast ironing.\textsuperscript{13} \textit{Nadia Murad Basee Taha}\textsuperscript{14}, a young Yazidi woman described the horrific torture and persecution which Yazidi people face under ISIS (Islamic State of Iraq and Syria), to members of Security Council during a meeting (the first ever session on human trafficking) at the United Nations headquarters in New York on December 16, 2015. The ISIS militants rape, torture, use them as sex slaves, sell them as gifts and even force them to change their

\textsuperscript{11} http://hdr.undp.org/sites/default/files/2015_human_development_report.pdf, pg.4  
\textsuperscript{12} data.unicef.org › Statistics by Topic › Child Protection  
\textsuperscript{13} http://www.borgenmagazine.com/breast-ironing-affects-3-8-million-cameroon-girls/  
\textsuperscript{14} Nadia Murad: is a Yazidi human rights activist, Nobel peace prize nominee. She is first Goodwill Ambassador for Dignity of Survivors of Human Trafficking of United Nations since September 2016.
religion. “Some females are sold in exchange of weapons and some are sold for just a packet of cigarettes.”

1.3 A SHORT HISTORY OF MOVEMENTS IN INDIA FOR HUMAN RIGHTS IN CONTEXT OF WOMEN’S RIGHTS:

The concept of human rights in India is as old as 5000 years. Of course the concept was not named as human rights. The researchers generally refer the earliest record in writing i.e. Vedic literature in order to understand the development of the concept of human rights.

1.3.1 Vedic Period: (1500 BCE – 500 BCE)

Vedas is a vast collection of realization of spiritual scriptures experienced by religious saints and is believed to be created by God himself, thousands of years ago. Despite the class system prevailing during the Vedic period, there was no discrimination on the basis of gender. The importance was given to girl child right from the birth. The society not only insisted on educating the girls but also showed the concern for their overall development by training them for different forms of art. Women were allowed to chant mantras of Vedas and the society appreciated the scholarly women. The society even thought about the conjugal rights and property rights of women and so sanctioned the freedom and equality to them. The women were considered as joint owner of the property after marriage. The roles of men and women in the society were interdependent and complementary. The man was considered to be incomplete in his potential until associated with woman and so sacrifices done by man alone were considered as useless. The Vedic society highly honoured women goddesses considering them as the foundation of the society. Thus Vedic period witnessed the heroic women who had contributed in almost all fields. Some of them were warriors, professional spies, thinkers and some lived dignified married life. Their characters in the social life depict will power, courage and determination to fight for their rights.

16 Vedic literature: The literature in the period in Indian history (1500-500BCE) during which the Vedas, the oldest scriptures of Hinduism were composed.
17 Vedas: Any of the four collections forming the earliest body of Indian scripture, consisting of the Rig Veda, Sama Veda, Yajur Veda, and Atharva Veda, which codified the ideas and practices of Vedic religion and laid down the basis of classical Hinduism.
18 Mantra: a word or sound repeated to aid concentration in meditation.
1.3.2 Position of Women in Epic Age:(400 BCE-400CE)

The Epic age (i.e. Epics of Ramayana\textsuperscript{19} and Mahabharata\textsuperscript{20}) showed that women had high esteem, were highly educated and the society also granted them liberty. However, in Ramayana, it is also simultaneously seen that women were expected unquestionable obedience towards husband, son was considered as the hope of family and women also faced public humiliation in spite of being devoted to their family and being an epitome of virtue. In Mahabharata, men consulted women for social and religious affairs but ultimately men became the law makers and law givers. In most of the instances women had to turn to men for protection, which in turn made men powerful in the society and the freedom of women remained in deeds and speeches. The signs of polygamy and polyandry were seen in the royal families in the epic age. Thus it seems that to survive, women either needed to become humble and virtuous or bold and evil.

1.3.3 Position of Women In Smriti Period:(1250 BCE-1000 CE)

‘Smriti’\textsuperscript{21}, refers to the body of Hindu texts usually attributed to an author. It is a secondary work and a corpus of diverse varied texts. The smriti writers like Manu\textsuperscript{22}, Vishnu\textsuperscript{23}, Yajnavalkya\textsuperscript{24}, Narad\textsuperscript{25}, Brihaspati\textsuperscript{26}, etc tried to codify the customary laws. But the works of Manu and Yagnavalkya were quite authoritative and so their ideas did not just retain in theory but were followed by the masses. For ages, Hindu society has looked upon these Smritis for appropriate guidance. In Smritis, chaste wife was given the position of Goddess. However, certain Smriti writers considered women incompetent for gaining education, holding property, performing religious ceremonies and chanting Vedas. Some believed that women do not deserve freedom in any phases of life and unmarried woman would never attain salvation if she remains single. The

\textsuperscript{19} Ramayana: An ancient Indian epic poem which narrates the struggle of the divine prince Rama to rescue his wife Sita from the demon king Ravana. The epic is traditionally ascribed to the Hindu sage Valmiki.

\textsuperscript{20} Mahabharata: An ancient Indian epic narrating Kurukshetrawar between Kauravaand Pandava princes, ascribed to Sage Vyasa as per Hindu tradition.

\textsuperscript{21} Smriti: literally means "that which is remembered," refers to a body of Hindu texts usually attributed to an author, traditionally written down but constantly revised.

\textsuperscript{22} Manu: The spiritual son of Lord Brahma and the author of ancient legal text Manusmriti (also known as Manav Dharma Shastra).

\textsuperscript{23} Vishnu: is one of the principal deities in the Hindu pantheon, also known as preserver.

\textsuperscript{24} Yajnavalkya: was one of the first philosophers in Vedic India as per recorded history. He was renowned for his expertise in Vedic rituals and his unrivaled talent in theological debate.

\textsuperscript{25} Narad: is a Vedic sage, famous in Hindu traditions as a travelling musician and story teller, who carries news and enlightening wisdom.

\textsuperscript{26} Brihaspati: is a Vedic era sage, who counsels the Gods and also refers to the largest planet Jupiter.
clutches of social evils became strong, which in turn started degrading and victimizing women and the golden glory of Vedic age seems to fade off.

1.3.4 Position of Women in Jainism and Buddhism:

The position of women in Jainism and Buddhism was improved as compared to Smriti period due to honour given to them. The five vows of Jainism i.e. Ahimsa (non-violence), Satya (not lying), Asteya (not stealing) Brahmacharya (chastity) and Aparigraha (non attachment) for one who chose to become ascetic and its intensity for execution were same for monks and nuns. When women chose to become nuns, they used to observe strict religiosity without conflicting with familial and domestic duties. In spite of strict observance of rules, Jainism considered nuns inferior to monks. A monk with the same years of experience as nun can be a preacher to nun. Moreover, Jainism considered women as principal source of danger having fickle mind and coquettish behavior. They further believed that woman is a biggest obstacle in monk’s spiritual career, which would mislead him from his true path. The Buddhist literature depicts both dark and bright side of women’s position in the then society. The society which insisted on girl’s education and did not promote dowry and polygamy, except in few instances, the same society insisted veiling of faces by women. Lord Buddha respected women but did not trust their potentials fully. He did not insist on women becoming nuns as he feared that with their entry the religion would not last long.

1.3.5 Position of Women During Rajput Era and Mughal Era:

Polygamy and purdah (veiling of faces by women) were integrated features of this era. Ironically kings had the freedom to have up to 30 women in their lives, including queens and concubines, whereas women were not even allowed to remarry.

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27 Jainism: is an ancient religion from India that teaches that the way to liberation and bliss is to live a life of harmlessness and renunciation. It is believed to have been originated in 7th-5th Century BCE in Ganges basin of eastern India.
28 Buddhism: is a religion that encompasses a variety of traditions, beliefs and spiritual practices largely based on teachings attributed to Lord Buddha and which was originated in India between 6th and 4th centuries BCE.
29 Lord Buddha: Also known as Siddharth Gautam was an ascetic and sage, on whose teachings the religion of Buddhism was founded.
30 Rajput: is a member of one of the patrilineal clans of western, central, northern India and some parts of Pakistan. They claim to be descendants of ruling Hindu warrior classes of North India.
31 Mughals: Central Asian Turco Mongols belonging to Timurid dynasty. The beginning of the empire is conventionally dated to its founder Babur. Mughal era is between 1526-1857CE.
The prestige and longevity of Rajput clans totally depended upon male heirs. The system of marriage during Rajput era was rather a strategy for expansion of their political powers and gaining military strength by binding of two powerful chiefs through marriage alliance instead of a social institution. Women of this era were bold, courageous and educated. They fought bravely in battle field and even encouraged their husband to fight for preserving the pride of their clan. During Mughal era, the position of women deteriorated due to strict adherence to purdah system and polygamy practiced by kings. The evils of sati system, jauhar32 and child marriages seem to fuel the disadvantageous position of women. Though the steps were taken to curb these evils, but none of the Mughal kings were successful in banning the practices. The society was divided into classes: royal class, middle class and lower class. The lower class women mainly did low jobs such as maid servants, attendants to queens, etc. Women belonging to royal class enjoyed many privileges and led a comfortable life. They were educated and were even aware about their property rights. They were respected by kings and courtiers and were called by honorific titles awarded to them. In spite of women excelling in the field of art forms and warfare, they were supposed to enjoy the privileges within the four walls of the palace.

1.3.6 Position of Women During British Era: (1858-1947)

On one hand India’s economic condition was at the peak and on other hand women’s status in the society had reached to the lowest level, on the advent of British rule in India. The social evils like polygamy, pre-puberty marriages, enforced widowhood, purdah33 system, sati system, female infanticide, etc were deeply percolated in the social system of India which deteriorated the women’s position in the society. After witnessing the industrial revolution and the active role of women in England, the British however could not see the pitiable position of women in India and introduced female education. The British strengthened the social, economic and legal position of women by introducing legislations favouring women for claiming separate residence and maintenance, banning certain inhumane practices like sati, Hindu women’s right to property, etc. The concepts of equality, freedom, human rights and women’s education were in existence in India since ancient times in different

32 Jauhar: is a self immolation of women, always including queens and female royals of Hindu kingdoms of Rajasthan in India, when facing defeat at the hands of enemy.
33 Purdah: the practice in certain Muslim and Hindu societies of screening women from men or strangers, especially by means of a curtain.
eras, but Britishers systematized these concepts and thereafter India made a remarkable progress in women’s education.

There was countless human rights violation during India’s freedom struggle due to violent actions of British. The economy was paralyzed due to violent behavior of masses against unjust laws passed by British, planning to divide India in Casteism. The spirit for participating in the freedom struggle arose in women due to many tragic and violent incidents like *Jallianwala Baug massacre*[^34], initiated by British. Women leaders even struggled for claiming an adult franchise without discrimination. The wild fire of *Swaraj*[^35] fueled up as Mahatma Gandhi, the great national leader, trusted the potentials of women. Every woman whether young or old, rich or poor had contributed in freedom struggle: some by marching some by burning foreign goods, etc.

### 1.3.7 The Role of Women in Framing the Constitution of India:

It is interesting to note that 15 women leaders participated in historic task of framing the Indian Constitution among the total 389 members of Constituent Assembly. Their contribution as reformists, politicians or as freedom fighters was noteworthy. In framing the Constitution, these women leaders insisted a democratic state based on the equality of individuals. In order to have national acceptance of this landmark document, some insisted that the size of the Constitution should be of pocket dictionary so that one can carry it in purse, whereas the other opposed the separate electorate for minorities and reservation of seats for them in legislative assemblies. They did not want ugly scar in the picture of Constitution so some insisted on banning the practice of untouchability, whereas some insisted on enacting a Uniform Civil Code. Most of the women thought that reservation for women was an insult to their capabilities and so they were against it.

[^34]: Jallianwala Bagh Massacre: also known as Amritsar massacre, took place on 13 April 1919, when a crowd of non-violent protestors who were gathered in Jallianwala Bagh were fired upon by the troops of the British Indian Army.

[^35]: Swaraj: self-government or independence of India.
1.4 CURRENT INDIAN SCENARIO OF HUMAN RIGHTS IN CONTEXT OF WOMEN’S RIGHTS:

As per the Indian legal expression, human rights mean the rights relating to life, liberty, equality and dignity of an individual as guaranteed by the Indian Constitution. These rights also find its mention in international covenants and are enforceable by the courts in India. Ironically Indian women have more rights as compared to men, even then the condition of women is pitiable. As per the report of National Crimes Records Bureau of 2014, “A total of 3,37,922 cases of crimes against women were reported in India in the year 2014 as against 3,09,546 in the year 2013 thus showing increase of 9.2% in the year 2014.”

The researcher would like to categorize human rights violation in context of women’s rights under following broad categories:

1.4.1 The Right to Life:

According to Art 21 of Indian Constitution, ‘No person shall be deprived of his life or personal liberty except according to the procedure established by the law’. The right to life includes protection against torture, cruel, inhumane and degrading treatment in any form. The right to life is in the centre of fundamental rights and is a pre-condition for the operation of other fundamental rights. It connotes something more than mere animal existence. In the case of Unni Krishnan v. State of A.P. the Supreme Court enumerated other rights within Art 21 such as: right to go abroad, right to privacy, right against solitary confinement, right against hand cuffing, right to shelter, etc. In spite of having a wide ambit of this right, the sufferings of women continue. There is an increase of 9%, 10.5% and 4.6% in rape cases, kidnapping cases of women and dowry deaths, respectively in the year 2014 as compared to the year 2013 as per the reports of NCRB. Out of total rapes committed in the year 2014, 86.0% were incest rapes. The brutal gang rape case of Nirbhaya by six men in the moving bus in Delhi, in the year 2012, four minor girls abducted from Jharkhand hostel and raped by 20 men, etc shows systematic sex assaults on women. “The study ‘Masculinity, Intimate Partner Violence and Son Preference in India’ by UNFPA and

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36 ncrb.nic.in/StatPublications/CII/CII2014/chapters/Chapter%205.pdf
37 Unni Krishnan v. State of A.P. 1993 SCC (1) 645
38 Nirbhaya: (in Hindi means the fearless one) was a 23 year old physiotherapy student raped on a bus in Delhi on December 16, 2012. It is one of the many names given by Indian media, as India does not permit using of rape victim’s name.
International Centre for Research on Women (ICRW) revealed that 52% of women surveyed by them had experienced some form of violence during their lifetime. 38% of women among them had experienced physical violence, 35% had experienced emotional violence, which also included insults, intimidation and threats.\textsuperscript{39}

1.4.2 The Right to Liberty:

According to Art 21, “No person shall be deprived of his life and personal liberty except according to a procedure established by law.” It encircles rights and privileges that are indispensable for the happiness of a free man and thus making him free from restrictions. The current scenario for violation of the right to liberty includes: Several places of worship like Haji Ali Dargah of Mumbai (the ban was put in 2011), Sabarimala temple of Kerala, Shani temple of Ahmednagar, etc restrict women in one or the other way from entering the place. This is violation of freedom to religion. The ban in Haji Ali Dargah was recently lifted in November 2016. As per one research, out of 100 girls enroll in first standard of school, only 42 reach class V. Among SCST, only 19 out of 100 girls reach class V. This is violation of right to education. The Cine Costume and Makeup Artists Association (CCMMA), since last six decades prohibited women from working as registered make-up artists, which was recently struck down by Supreme Court to be unconstitutional as it was discriminatory and it restricted women’s freedom to become member in registered union.\textsuperscript{40} The Supreme Court in 2013 upheld the rights of women bar dancers to follow their profession and dismissed the government appeal to ban them.\textsuperscript{41} The study on seven states of India conducted by UNFPA and International Centre for Research on Women (ICRW) revealed that one out of every six men did not allow their wives to wear the clothes of their choice, did not expect their partners to use contraceptives without their permission. 16% of women surveyed by them revealed that they were economically abusive and their husbands prohibit them from working.\textsuperscript{42}

\textsuperscript{39} Dhawan H., “60% Men Admit to Wife-beating: Survey” The Times of India, Ahmedabad. November 11, 2014
\textsuperscript{40} Charu Khurana & Others v. Union of India & Others. Writ Petition (civil) No. 78 of 2013.
\textsuperscript{41} State of Maharashtra v. India Hotels and Restaurants and others. Civil Appeal no. 5504 of 2013
\textsuperscript{42} Dhawan H., “60% Men Admit to Wife-beating: Survey” The Times of India, Ahmedabad. November 11, 2014
1.4.3 The Right to Equality:

The right to equality refers to equality in the eyes of law, discarding any unfairness on the ground of religion, caste, race, place of birth or sex. There are many laws in India which tends to discriminate women against men. The minimum age of marriage for boy is 21 years, whereas for girl it is 18 years. In the state of Goa, a Hindu man can remarriage his present wife cannot give birth to male child till the age of 30. On separation, Indian woman has right to get maintenance from husband but has no rights on the house and other assets, which are bought in her husband’s name during marriage. In the year 2014 UN Committee on Elimination of Discrimination against Women reported that India has failed to implement the laws to ensure non-discrimination against women. According to great noble laureate Amartya Sen, women in India are discriminated against men in two ways: educational inequalities and health inequalities. According to the report of UNDP and World Bank, the female child in India spends nearly three-fourth of an hour more on domestic work than male child and thus has lesser hours of resting time. The study on seven states of India conducted by UNFPA and International Centre for Research on Women (ICRW) revealed that 75% men believed that they have a greater say than their wives in important decisions taken that affect them.\textsuperscript{43} The decision of Aligarh Muslim University in November 2014 for restricting the entry of women in library was highly condemned on the ground of being gender bias.\textsuperscript{44}

1.4.4 The Right to Dignity:

The right to life includes the right to live with human dignity. To live with human dignity means to live free from exploitation. The term ‘dignity’ connotes the state or quality of being worthy of honour. Some of the undignified practices prevalent in India include: India has the highest number of people in the world trapped in modern slavery with 18.35 million victims of forced labour, including prostitution and begging. The women belonging to Perna community in certain areas of Delhi are compelled to work into flesh trade by their in-laws as per the orthodox custom prevailing in their community. Manual scavenging is an undignified removal of raw human excreta from the containers that are used as toilets. The apex court...
stated that there are around 96 lakhs dry latrines in India which are manually emptied by around 1.3 million dalits, mostly women manual scavengers.\(^{45}\) This undignified practice is prevalent in many states of India, in spite of prohibiting it in the year 1993.

**1.5 WOMEN’S CONTRIBUTION AND SUFFERINGS IN MAJOR EVENTS OF HISTORY OF GUJARAT:**

The position of women in India and in the state of Gujarat before independence was almost similar. The British tried to strengthen the social, economic and legal position of women by enacting various laws in favour of women, but those laws were not strictly implemented. The salt march and other major episodes of independence struggle which took place in Gujarat fuelled the women’s morals to fight for independence. In spite of their notable contribution in independence, their status had reached the lowest level.

**1.5.1 Mahagujarat Movement:**

*Mahagujarat movement* was a political movement of demanding the creation of the state of Gujarat for Gujarati speaking people from bilingual speaking state of Bombay, which started in the year 1956 and ended on 1\(^{st}\) May 1960. This regional movement with lingual dispute ultimately culminated in separation of old state of Bombay into two states of Gujarat and Maharashtra. The major dispute between two states was whether the district of *Dang* and the city of *Mumbai* should be included in Gujarat or Maharashtra. Among the other notable folks who participated in the movement, there were women participants such as *Vidhyaben Nilkanth, Shardaben Mehta, Budhdhiben Dhruv, Maniben Patel, Vinodiniben Nilkanth, Ranjanben Dalal*, etc, who were considered as ornaments of Indian womanhood. In spite of being send to jail for taking active part in this movement, women did not fear in supporting men. Most women considered *Indulal Yagnik*\(^{46}\) as their leader and tried to follow his ideals. Many women leaders used to inspire the masses by singing the songs of freedom.

\(^{45}\) Safai Karamchari Andolan & Ors V. Union of India & Ors.Writ Petition (Civil) 583 of 2003.

\(^{46}\) Indulal Yagnik: (1892–1972) was an Indian independence activist who lead Mahagujarat Movement, which spearheaded the demand for the separate statehood for Gujarat.
1.5.2 The Self Employed Women’s Association Movement (SEWA):

The SEWA started by Ila Bhatt\(^{47}\) in Ahmedabad in 1972 was a revolutionary trade union involving poor, self-employed women workers in India aiming to make them self reliant. This movement could solve many problems of women such as low earnings, domestic violence, poor working conditions, etc. Started with few textile women workers the union has now 1.3 million members, including national and international women members.

1.5.3 Navnirman Movement (Also Known as Reconstruction Movement):

*Navnirman movement* was a social political movement which was started in 1974 in Gujarat against the practice of corruption and economic crisis prevalent at that time. Students of engineering college in Ahmedabad city protested against the sudden hike in prices of food provided in hostel. This movement resulted into agitation, indefinite strike and clashes between students and police. This movement even witnessed the participation of girl students. In this phase of agitation, almost 100 people died, 3000 were injured and 8000 were arrested. Influenced by this movement, people even criticized the patriarchal system, the caste system and orthodox religious rituals and traditional domestic role of women.

1.5.4 The Communal Riots of 2002 and Women Victimized:

The outbreak of major violence triggered due to burning of the train in *Godhra*\(^{48}\) which caused the death of 59 Hindu pilgrims. Many critics observed that this terrifying event was as good as defining the legal concept of genocide. The conflagration spread rapidly in the train which caused 59 people burnt alive including 25 females and 12 children. The violent mob showed the counter effects on Muslim crowd in different parts of Gujarat by committing mass murders, gang raping the women and burning them alive. It is estimated that nearly 2500 Muslims were killed and 250 girls and women were gang raped during riots. Muslim women feared for their life and there was so much distrust among riot victims that they could not differentiate between a social worker and a thug. There were many reported cases of

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\(^{47}\) Ila Bhatt: is an Indian cooperative organizer, activist and Gandhian, who founded Self Employed Women’s Association and has won several national and international awards.

\(^{48}\) Godhra: is a municipality in Panchmahal district in Indian state of Gujarat.
stabbing, looting, gang rapes after the riots and thus it disrupted the socio-economic conditions of the society.

1.6 CURRENT SCENARIO OF GUJARAT IN CONTEXT OF WOMEN’S RIGHTS:

The researcher would like to categorize the women’s rights violation under following heads:

1.6.1 The Right to Life:

“There was a shocking rise of 30% of crimes against women in Gujarat in the year 2013 as compared to preceding year. Out of the total cases reported, 732 cases were of rape.” Since the launch of women’s helpline named ‘Abhyam’ in 2014, it has received 71000 calls, out of which 30% were related to Domestic Violence (DV). Gujarat ranks 7th in DV cases in the country with the shocking rank of 25th among 28 states in conviction. Gujarat also ranks 7th in the state for women related offences in 2013. However Gujarat ranks 4th in safety of women as per NCRB report of 2012.

1.6.2 The Right to Liberty:

The female literacy rate of Gujarat is 69.68% in 2014 as against 57.80% in 2001. The women salt pan workers in certain villages of districts like Kutch, Mehsana, Patan, Surendranagar, etc do not have any other choice of livelihood and are bound to work as salt pan workers. Due to hardships like indebtedness and lack of basic amenities, these workers do not favour girl’s education and so there is failure in enrolling girls in the school. Recently in one of the village of Mehsana taluka, the ban is put on single woman using mobile phone, considering it as a nuisance to the society.

1.6.3 The Right to Equality:

The sex ratio of Gujarat is 919 females per 1000 males as per census 2011. As per the disparity of nutritional status of children in 1998-99, Gujarat ranks 20th with Nutritional Disparity Index of 1.22 (higher the value of index, greater is the gender disparity). As per National Family Health Survey 1998-99, the disparity in education of children index is 1.09, with 83.6% of male children attending the school between 6-14 years, as against 72.8% female children (higher the value of index, greater is the gender disparity). Gujarat ranks 14th in the country in the percentage of women’s participation in organized industrial sector in the list of 22 major states.

1.6.4 The Right to Dignity:

The women working as salt pan workers suffer due to lack of basic amenities. Due to scarcity of water, they bathe for once or twice a week, which is luxury for them. Their legs become thin and stiff due to constant contact with salt and do not burn in funeral pyre after death. Their legs are buried separately after cremation for natural decomposition. The desert area of Gujarat is a flat parched land without trees or bushes. Due to lack of constructed toilets and proper space, women have to wait till dark to defecate. As per the Census report of 2011, there are 2566 manual scavengers in Gujarat, almost 80% of them is women folk. They collect human excreta in baskets and carry them on their head and the society calls them with disgraceful words such as ‘Bhangi’.

1.7 OBJECTIVES OF THE STUDY:

1. To understand the concept, nature and classification of Human Rights.
2. To understand the evolution of the concept of human rights and the movements all over the world for its protection, in general and women’s rights in particular.
3. To know current global scenario of violation of basic human rights such as right to life, liberty, equality and dignity in context of women’s rights and the need to protect them.
4. To study the ancient history of India and understand the movements in India since the Vedic age for protection of human rights in context of women’s rights.
5. To know current Indian scenario of violation of basic human rights such as right to life, liberty, equality and dignity in context of women’s rights and the need to protect them.

6. To study the role of judiciary in protection and promotion of women’s rights in India in context of right to life, liberty, equality and dignity.

7. To study the role of various stakeholders i.e. Panchayati Raj Institutions, police, non-governmental organizations and various commissions like National Human Rights Commission, the Gujarat State Human Rights Commission, National Commission for women, and Gujarat State Commission for women in promotion and protection of women’s rights.

8. To know women’s contribution and sufferings in major events of history of Gujarat.

9. To study the current scenario in Gujarat state for violation of basic human rights such as right to life, liberty, equality and dignity in context of women’s rights.

10. To study social position of women under administrative categories of caste and various women based occupations in the state of Gujarat.

11. To study whether women are aware about their basic rights such as right to life, liberty, equality and dignity and will they be able to come out of the clutches of old customs and traditions for acquiring their rights.

1.8 HYPOTHESIS:

The researcher has reached to the following hypothesis among others as the general belief in the society is that the Legislative enactments tends to focus more on masculinity and the same framework is seen in the Constitution of India. The lacuna seems to be in the framework of Human Rights pertaining to women at International and National level. The lacuna seems to be in the enforcement of laws at local level and it seems that judiciary and other stakeholders are not sensitive towards the issues of women.

1. Whether enough attention has been given to women’s rights while framing the international instruments and arranging Conferences on Human Rights and whether women globally are benefited due to such actions?
2. Whether women in India had/have justifiable position in pre-Constitutional and post Constitutional era and whether there are enough laws in India for protecting the rights of women?

3. Whether Judiciary as an institution and other stakeholders like Panchayati Raj Institutions, police, non-governmental organizations and various commissions for women been able to protect basic human rights such as right to life, liberty, equality and dignity, in context to women?

4. Whether social position of women is ameliorated under administrative categories of caste and women based labour categories in the state of Gujarat?

5. Whether the status of women has improved, in spite of international conventions concerning women, series of women specific legislative enactments and amendments at national level and women specific legislative enactment at state level?

6. Whether women in the society are aware of their rights and if yes, will they be able to come out of the clutches of old customs and traditions for acquiring their rights?

**1.9 DATA COLLECTION:**

The research is mainly doctrinal and partly empirical. The data is collected through both, primary and secondary sources.

**Primary data:** The researcher has visited various institutions and stake holders and collected the primary data through various methods i.e. personal interviews, questionnaires, etc. The empirical study is based on critical analysis of primary data. The survey was conducted in eight *mahanagar palikas* through questionnaires consisting of questions regarding socio-demographic details and questions relating to right to life, liberty, equality and dignity of women.

**Secondary data:** To justify the research problem, the researcher has tried to collect data from human rights books, journals, reference books, newspaper articles, periodicals, the reports of various conferences and conventions related to women, information acquired from internet and various judgments of Supreme Court and High

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53 Mahanagarpaalika: Is a local government in India that administers urban areas with a population of more than one million.
Courts. For facts (incidents) the researcher has tried to acquire the data from various institutions and authorities who are busy with publishing such type of data. The researcher has also visited various libraries to gather the information.

1.10 SIGNIFICANCE OF THE STUDY:

The research would be useful at international, national and state level:

**International Level:** At international level the research would serve the purpose when one wants to know the development of the concept of human rights in context of women’s rights. It would also be useful to understand the current scenario of mass violation of women’s basic rights i.e. right to life, liberty, equality and dignity at international level, so that it can become an agenda for future conferences.

**National Level:** At national level, the said research would be helpful to understand the current scenario of violation of women’s basic rights i.e. right to life, liberty, equality and dignity and the need to strengthen the laws in favour of women.

**State Level:** At the state and local level one can know the violation of women’s basic rights i.e. right to life, liberty, equality and dignity and the extent to which women are aware about their rights and the problems with the state in implementing the laws enacted for the protection of women.

The study on the rights of women would be helpful to policy makers of law and in the field of sociology, psychology, anthropology, etc. It would also be helpful to other researchers to study further on the subject.

1.11 LIMITATIONS OF THE STUDY:

Within International scenario, the definition of Women’s Human Rights has not been isolated from Human Rights in general which tends to focus more on masculinity. The same framework was seen in earlier draft of Constitution of India which also reflected on Human Rights in general and was masculine specifically. Looking at the need of time, a series of amendments have been made in the framework of Indian Constitution to understand the nature of Human Rights in
general and women’s rights in particular. Moreover women folk are not aware about their rights and some do not want to claim their rights in spite of awareness, due to age old customs and social values.

The research limits the study of evaluation of Women’s Rights in context to human rights in Gujarat and seeks to examine the implications and lacuna within the framework of Human Rights keeping the National and International stand points in view. The study is focused on the women’s rights in context with human rights i.e. life, liberty, equality and dignity. All the women belonging to different age groups, occupations, income groups and religions are equal beneficiaries while collecting data. The researcher has tried to approach all women of different religions, age groups, marital status and income groups but caste and religion of women were not given much weightage while collecting data.

1.12 CHAPTERISATION:
The research is divided in following six chapters-
1. Introduction of Research Problem.
3. Protection and Promotion of Human Rights in India: With Special Reference to the Status of Women.
6. Conclusion- Findings and Suggestions.