CHAPTER - 4

THE ROLE OF VARIOUS INSTITUTIONS AND STAKEHOLDERS IN PROTECTION OF HUMAN RIGHTS IN CONTEXT OF WOMEN’S RIGHTS

4.1 SOME OF THE INNOVATIVE IDEAS DEVELOPED BY SUPREME COURT AND HIGH COURTS TO PROTECT HUMAN RIGHTS IN CONTEXT OF WOMEN’S RIGHTS:

The Constitution of India has created a parliamentary system of government which bifurcates the powers of the Government of India between three branches i.e. Legislative, Executive and Judiciary. The role of judiciary should be independent of the other two branches of government. At the top of the judicial pyramid is the Supreme Court, which is followed by 24 High Courts of different states. The High Courts are followed by District courts and Subordinate courts. In democratic country like India, the role of judiciary should be independent and impartial, only then it can deliver justice without fear and favour. This branch of government is often known as ‘Watch dog’, as it keeps a check against the violation of fundamental rights guaranteed by the Constitution of India to the citizens of India. It administers justice by maintaining the balance between conflicting powers of centre and the states or among the states and so it is also known as ‘Guardian’ or ‘Custodian’ of the Constitution. Whenever the human rights of an individual/group are violated, it is the only Constitutional hope for which one can look for, because it can pronounce the actions of other organs to be invalid. It is rightly said that,

“Independence of Judiciary is sacrosanct, and any rash tinkering can tip the balance. And that can have disastrous consequences for a constitutional democracy.”

In the article published on the account of the farewell function of Chief Justice of India P. Sathasivam on 25th April, it is mentioned that,

The independence of judiciary was considered by the framers of India’s constitution to be of paramount importance chiefly because the functioning of an effective democracy required judges of the higher judiciary to remain free of any political influence. In the case of Indian democracy, this is particularly so, as the constitution vests in the country’s judges an enormous power.”

The Supreme Court, since its establishment in 1950, is a unifying force having enormous powers to interpret the constitution. In almost seven decades of independence of India, we have seen that courts are exercising their powers of delivering justice with complete confidence. The landmark judgments given by Supreme Court and High Courts of different states from time to time shows the ideals followed by these courts in dispensing the justice, which reaffirms the faith of people in Indian judiciary. From time immemorial, women of India were suffering due to ill-treatment and cruelty exercised on them and they were made socially and economically handicap in the patriarchal society. Of course the disadvantageous position of women cannot be changed overnight but efforts can be made in the direction of justice to ameliorate the position of women and to bring them at par with men. The landmark judgments delivered by the Supreme Court and High courts of different states since its establishment, also reveal that the law is playing a positive role in achieving gender equality. In All India Meeting Of Chief Justices of High Courts on Women Empowerment vis-à-vis Legislation and Judicial Decision organized by The National Commission for Women, while giving inaugural address, Chief Justice of India Shri R.C. Lahoti stated that,

“Law is a means of bringing silent changes in substantive laws and procedures, which have relevance to the women’s rights. However, the courts can go beyond the limitations of written law and have often done so. All law is not justice and all justice is not law. Justice is a combination of various factors; namely, good legislation, implementation, etc. Law in action is more important than law itself.”


3 Chief Justice of India Shri R C Lahoti, “Speech at All India Meeting of Chief Justices of High Courts on Women Empowerment vis-à-vis Legislation and Judicial Decision” (at Parliament House Annex, New Delhi), December 11, 2004. nwc.nic.in/pdfreports/All%20India%20Meeting%20of%20Chief%20Justice.pdf
In the same meeting during his inaugural address he stated that,

“During last three decades there has been a sea change in the concept of women empowerment. I am reminded of a dialogue from In a Doll’s Home written by Henrik Ibsen. Helmer tells to Nora “First and foremost, you are a wife and mother”. Nora replied, “That I don’t believe any more. I believe that first and foremost, I am an individual, just as much as you are”. This dialogue carries a forceful message. A woman today expects herself and rightly so to be treated as an individual, a living human being entitled to the same dignity and status, as her male counterparts.”

According to The Protection of Human Rights Act, 1993 [as amended by the Protection of Human Rights (Amendment) Act, 2006], the ‘human rights’ means the rights relating to life, liberty, equality and dignity of the individual as guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India.

4.1.1 The Right to Life:

As per Article 3 of Universal Declaration of Human Rights, every human being has an inherent right to life. This right shall be protected by law and no one shall be arbitrarily deprived of his life. This right is also guaranteed under Article 21 of the Constitution of India. The right to life also means to lead complete, meaningful and dignified life. It is something more than mere animal existence.

A. Supreme Court Judgements:

1. In the case of Mathura5, there was a custodial rape of a tribal girl by two police constables. The Supreme Court acquitted the policemen on the grounds that no alarm was raised by the victim and so she had not undergone any struggle. Moreover there were no visible marks of injury on her body and so she might have instigated the cops for sex. The court held that she was used to sex and so it does not amount to rape. The verdict created hue and cry in the society and it

4 Ibid
5 Tukaram and Ars. V. State of Maharashtra AIR 1979 SC (1) 810
resulted into Criminal Law Amendment Act 1983 in which S. 376 of Indian Penal Code was amended.

2. In the case of Sheela Barse⁶, the lady journalist wanted to interview women prisoners in Maharashtra jail. She was initially permitted but later on refused as she started tape recording the interviews. The journalist tried to reveal that women prisoners are being tortured in the lock up. It was held that journalist has a right to reveal the position of prisoners and the guidelines were issued for the protection of women against mal-treatment in police custody such as:

(a) Four to five lock-ups should be selected in reasonable good localities where only female suspects should be kept and they should be guarded by female constables. Female suspects should not be kept in the lock up in which male suspects are detained.

(b) The interrogation of female should be carried out in presence of female officers…

(c) The person arrested must be immediately informed about the grounds of his/her arrest…etc.

3. In the case of Shah Bano Begam⁷, the lady named Shah Bano Begam was married to Mohd. Ahmed Khan and five children were born out of marriage. After 43 years of marriage, the husband ditched his wife and later divorced her. So wife sued her husband for maintenance, as she was unable to maintain herself. The Supreme Court held that the husband has to pay alimony to wife after divorce, till her death or remarriage. This controversial judgement created hue and cry in Islamic society and later the judgement was reversed cancelling the alimony payable to wife. Later on the government was compelled to pass The Muslim Women (Protection of Rights on Divorce) Act, 1986 and the effect of the last judgement was diluted.

4. In the case of Delhi Domestic Working Women Forum⁸ there is pathetic plight of four helpless tribal women, who were working as domestic servants and were raped by seven army personnel while travelling in train. The rape trials proved to be a traumatic experience for victims as they were even worse than rape itself. Thus the court set the parameters in assisting the rape victim. They were:

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⁶ Sheela Barse V. State of Maharashtra AIR 1983 SC 378
⁸ Delhi Domestic Working Women’s Forum v. Union of India and Others 1995 SCC (7) 183
(a) …The role of advocate would be to explain the victim the nature of proceedings, to prepare her for the case and to assist her in police station and in court…

(b) Legal assistance should be provided at the police station to assist the victim in distressed state…

(c) The police should be under the duty to inform the victim of her right to representation…

(d) A list of advocates willing to act in these cases should be kept at the police station…

(e) The advocate shall be appointed by the court, upon application by the police at the earliest convenient moment…

(f) In all rape trials anonymity of the victim must be maintained, as far as necessary.

(g) It is necessary, having regard to the Directive Principles under Art. 38(1) of the Constitution of India to set up Criminal Injuries Compensation Board as the rape victims frequently incurs substantial financial loss…

(h) …The Board shall take into account pain, suffering and shock as well as loss of earnings due to pregnancy and the expenses of child birth if this occurred as a result of rape.

5. In the case of Shri Bodhisattwa Gautam⁹, the male lecturer of a college in the city of Kohima, had an affair with the girl student of the same college. Giving false assurance of marriage, the lecturer had physical relations with the girl, resulting into pregnancy, which was aborted twice. The lecturer even performed certain marriage ceremonies unofficially, in spite of knowing that the marriage is void. Now lecturer moves to another city and disregards the marriage. The court in the said case observed that: Rape is a crime against basic human rights and it is violation of most cherished Fundamental Right i.e. Art. 21 (Right to life) of Indian Constitution. Rape is not only a crime against woman, it is considered as a crime against entire society. The society generally looks down upon the rape victim and unfortunately rape laws do not take care of the social aspect of the matter. The court disposed the matter ordering the lecturer to pay Rs 1000 per month as an interim compensation during the pendency of suit.

⁹ Shri Bodhisattwa Gautam v. Miss Sudha Chakraborty 1996 SCC (1) 490
6. In the case of Aruna Shanbaug\textsuperscript{10}, the lawsuit moves around the controversial issue of \textit{Euthanasia}.\textsuperscript{11} In 1973, a nurse named Aruna was working with a hospital in Bombay. With the intention of rape, she was attacked by a sweeper of the same hospital, who strangled her with a dog chain. Due to insufficient blood circulation, she was in vegetative state since 38 years. The court rejected the plea of Euthanasia as the nurse was not clearly brain dead and the hospital staff was taking good care of her. It was held that the nurse had the right to live under Art. 21 and the right to life does not include right to die. The court thereafter set the guidelines for passive euthanasia in India.

7. In the case of Nirbhaya\textsuperscript{12}, a young physiotherapy girl student was raped in a running bus in Delhi. She was gang raped by six men, including one juvenile. She got serious injuries in intestine and genitals due to iron rod poked in her private parts. The accused were guilty of criminal conspiracy to gang rape, murder and unnatural sex with the girl. The said heinous crime led to The Criminal Law (Amendment) Ordinance, 2013. Thereby the definition of ‘Rape’ was expanded to include penetration of any orifice of woman with any part of male’s body or any object. It provides for rigorous imprisonment of minimum 20 years for the convicts of gang rape. It also prescribes punishment for stalking, \textit{voyeurism}\textsuperscript{13} and sexual harassment.

\textbf{B. High court Judgements:}

\textbf{Andhra Pradesh High Court:}

In the case of Rayala M Bhuvneshwari\textsuperscript{14}, the husband had no trust on wife and so started recording her conversation with her friends and parents on telephone, when she was in US, without her knowledge. The question aroused about the purity of relations between the couple. Held, the tape recording of phones violates Art. 21 as it infringes the right to privacy.

\textsuperscript{10} Aruna Ramchandra Shanbaug v. Union of India. Writ Petition (criminal) No. 115/2009
\textsuperscript{11} Euthanasia: the painless killing of patient suffering from painful disease or in an irreversible coma.
\textsuperscript{12} Ramsingh and others v. Union of India. Crl. Rev. P. 124/2013 (Nirbhaya Case)
\textsuperscript{13} Voyeurism: the practice of gaining sexual pleasure of watching others engaged in sexual activity.
\textsuperscript{14} Rayala M Bhuvneshwari v. Nagaphomender Rayala AIR 2008 AP 98
Delhi High Court:
In the case of Suresh Khullar\textsuperscript{15}, the appellant being the second wife of respondent had married relying on the advertisement stating that he is divorcee and seeking for matrimonial match. The appellant got married to respondent and within few days of marriage the respondent deserted appellant from the matrimonial house. The husband had obtained an ex-parte divorce from the first wife. The trial court set aside ex-parte divorce and so maintenance claim of second wife was dismissed on the ground of void marriage. But Delhi High Court observed that decree of divorce was in operation when second marriage was solemnized and so second marriage was considered valid for the purpose of maintenance. Thus court did not allow the man to take benefit of his own wrong and defeat the rights of woman in good faith, not knowing the existence of first marriage.

Kerala High Court:
In the case Raja Gopalan\textsuperscript{16}, the marriage was dissolved on the ground of adultery of wife and the wife claims maintenance and husband refuses to pay on the allegation of unchastity. Held the court disallowed the claim of wife for alimony and maintenance on the ground of adultery. For obtaining relief, the Hindu Marriage Act expects chastity of wife in three phases i.e. before marriage, during matrimonial life and after judicial separation or divorce.

Madhya Pradesh High Court:
In the case of Girdhar Gopal\textsuperscript{17}, the priest of the temple on the pretext of giving Prasad to the nine year old girl, took her home and made her lie on the bed, became naked and also asked the girl to remove the clothes. Later the relatives of the girl rescued her. Here the criminal force was used with the intention of outraging the modesty of woman. Thus the accused was punished with one year imprisonment.

\textsuperscript{15} Suresh Khullar v. Vijaykumar Khullar AIR 2008 Delhi 1.
\textsuperscript{16} Raja Gopalan v. Rajamma AIR 1967 KER 181.
\textsuperscript{17} Girdhar Gopal v. State. 1958 MP 147
Punjab High Court:

In the case of Bhai Sher Jung Singh\(^\text{18}\), the lady got various gifts at the time of marriage from her parents, relatives, husband and in-laws. As a dutiful daughter-in-law she entrusted all her gifts to in-laws and now they refuse her to use them. The husband left the country on the pretext of business trip and thereafter the in-laws ill treated the lady for dowry and expelled her from the house. It was held that the lady becomes the absolute owner of the property given to her as it consists of stridhan. The person who denies giving property to woman for which she is rightful, is guilty of Criminal Breach of Trust.

Rajasthan High court:

In the case of Suomoto v. State of Rajasthan\(^\text{19}\), there is an obnoxious incident of rape of a German lady tourist by an auto rickshaw driver. The court held that rape is a serious crime, whether it is of a foreign tourist or any other woman. The court directed the Rajasthan government to bear all expenses of the victim for her overstay on the account of court proceedings. The fast track court was setup and the case was decided within 2 weeks of its occurrence, concluding with the compensation of Rs 3 lakhs to be paid by State of Rajasthan to German embassy, to be paid to the victim.

4.1.2 The Right to Liberty:

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. 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.

A. Supreme Court Judgments:

1. In the case of Maneka Gandhi\(^\text{20}\), the passport authorities of India issued a passport to Maneka Gandhi in 1976. Later, in 1977 she received a letter from passport

\(^{18}\) Bhai Sher Jung Singh And Anr v. Virinder Kaur. 1979 Cri LJ 493
\(^{19}\) Suo moto v. State of Rajasthan RLW 2005 (2) Raj 1385
\(^{20}\) Maneka Gandhi v. Union of India 1978 AIR 597
authorities stating that Government of India has decided to impound her passport in public interest. The authorities denied mentioning the reasons for doing so. The court held that the right to travel and to go outside the country is included in the right of personal liberty, and no person shall be deprived of such right, except according to the procedure established by law. The Supreme Court through this case gave liberal interpretation to the term ‘liberty’.

2. In the case of State of Uttar Pradesh v. Kaushailya\textsuperscript{21}, the prostitutes were carrying on their trade in the city of Kanpur, and were insisted by the police to vacate the place and prohibited them from re-entering in order to prevent moral decadence in a busy locality. The Supreme Court held that even a prostitute had a fundamental right under Art. 19(1) (d) to move freely throughout the territory of India and to reside and settle in any part of Indian territory.

3. In the case of Lata Singh v. Uttar Pradesh\textsuperscript{22}, the lady named Lata underwent inter caste marriage against the wishes of her family. Lata’s brothers harassed Lata, her husband and in laws and even lodged a false complaint against Lata’s husband of kidnapping Lata. The court observed that there is no bar on inter caste marriage under the Hindu Marriage Act. The lady is an adult and has a right to select the spouse of her choice. Moreover inter caste marriages are in national interest as it will curb the caste system.

4. In the case of S. Khusboo\textsuperscript{23}, a survey was conducted by India Today magazine on sexual habits of people living in different cities. They interviewed Khusboo, one of the leading actresses of South India. She opined that because of the trend of live-in relationship in the society, the girls should take precautions to prevent unwanted pregnancies in case of pre-martial sex. Due to her remarks, 23 criminal cases like defamation, outraging the modesty of women, promotion of enmity between the groups, etc were filed on her. The Supreme Court threw out the cases considering the citizen’s right of freedom of speech and expression, which cannot be suppressed unless it is endangering particular community’s interest.

5. In the case of reopening of dance bars\textsuperscript{24}, dance bars were banned in the state of Maharashtra in 2005 by passing the Maharashtra Police (Amendment) Act, 2005.

\textsuperscript{22} Lata Singh v. State of Uttar Pradesh AIR 2006 SC 2522
\textsuperscript{23} S. Khusboo v. Kanniammal & Anr. Cri. Appeal No. 913 of 2010
\textsuperscript{24} State of Maharashtra v. India Hotels and Restaurants and others. Civil Appeal no. 5504 of 2013
As per the said Act, the government was also barred from issuing new licenses to the dance bars on the ground that it corrupts the youth and there is rise in the crimes against women. Almost 75,000 bar girls were unemployed as a result of this ban. The Supreme Court held that the ban on dance bar is violation of Art. 14 and Art. 19 (1) (g) of the constitution of India. Every Indian citizen has a right to practice any legal profession, trade, occupation or business. The court further stated that the dance should be carried on in bars but without any obscenity so as to safeguard the dignity of women.

B. High Court Judgments:

Gujarat High court:
In the case of Ashaben\(^{25}\), a married lady aged 23 years was kidnapped by 7 accused and was kept in unlawful confinement for about 9-10 months. During this period she was subjected to sexual intercourse forcibly. Getting the opportunity she freed herself from the clutches of accused persons but meantime she was pregnant by 24 weeks. She expressed her desire before court to terminate her pregnancy. So question arose that does woman have a right to choose whether or not to have an abortion. Held the pregnancy was above 20 weeks, its termination would put applicant’s life in danger and hence application was rejected.

Kerala High court:
In the case of Sabarimala temple\(^{26}\), the menstruating women between the age group of 10-50 years (i.e. during reproductive age) were not allowed to enter the temple during certain periods. Thus question arose that whether it is relevant to stop women from entering the said temple for worship? The chief of Travancore Board also remarked that women will be allowed to enter the temple only after the machine is invented to check the purity of women. His remarks created hue and cry in the society. But it was held that women are restricted to access to temple and such discrimination is not unconstitutional as it restricts women of particular age group and not women as a class.


\(^{26}\) S. Mahendra v. Secretary Travancore Devaswom Board AIR 1993 Ker 42-51
Madras High Court:
In the case of Nithya\textsuperscript{27}, the girl student named Nithya, of Ethiraj college of women became pregnant while pursuing her 3 years course in the college. Her hall ticket for the final exams was withheld by the college authorities stating her lack of attendance in the college as per the attendance regulations. Nithya submitted that due to morning sickness and nausea during pregnancy, she could not attend the classes. Held the girl student was given exemption from attendance regulations on the ground of natural consequences of married life. The court further observed that the university should give liberty to women students to complete the courses by paying condonation fees for those who get married and become pregnant during their academic career.

Punjab and Haryana High Court:
In the case of Surjit Singh\textsuperscript{28}, the wife had filed a petition before District Court for decree of nullity of marriage on the ground that marriage was never consummated. The husband had taken defense that marriage has been consummated and he is not impotent. Then husband appealed in High Court for medical examination (i.e. virginity test) of wife. Held the examination of wife was declined on the ground that it violates her right to privacy and liberty as enshrined by Art.21 of the Constitution.

4.1.3 The Right to Equality:
The right to equality refers to equality in the eyes of law, prohibiting any discrimination on the ground of religion, caste, race, place of birth or sex. According to Art.14, the state does not deny any person equality before law or equal protection of laws within the territory of India.

A. Supreme Court Judgments:
1. In the case of Yusuf Abdul Aziz v. State of Bombay\textsuperscript{29}, the appellant was prosecuted for adultery so he wanted the court to declare Sec 497 of Indian Penal Code to be ultravires because the man is punished for the offence of adultery and

\textsuperscript{27} Nithya v. University of Madras AIR 1995 Mad 164  
\textsuperscript{28} Surjit Singh Thind v. Kamaljit Kaur AIR 2003 P&H 353  
\textsuperscript{29} Yusuf Abdul Aziz v. State of Bombay AIR 1954 SC 321
the woman goes scot-free and so he alleged that law does not operate equally upon all persons. The appeal was struck down stating that the discrimination in the country is not the fact that women had a sex different from that of men, but that women in this country were so situated that special legislation was required to protect them.

2. In the case of C. B. Muthamma\(^{30}\), the senior IFS (Indian Foreign Service) woman member had to suffer due to the prejudice against women in the minds of appointment committee and was denied promotion. The conditions were put against her at the time of appointment that woman member will have to seek government permission before marriage and will resign from the job if government feels that domestic commitments hamper her duties as a members of service and no married woman shall be entitled for appointment. The Supreme Court allowed her promotion and criticized the sex prejudice against Indian women prevailing in the society.

3. In the case of Nargesh Meerza\(^{31}\) there is discrimination on the ground of sex. The conditions laid by Air India were that the air hostesses were to retire in case of following contingencies:
   (a) On attaining the age of 35 years, (b) on marriage, if it took place within 4 years of service, (c) on first pregnancy, whichever occurs earlier. The SC struck down the conditions which were unconstitutional and it resulted in extension in the age of retirement of air hostesses.

4. In the case of Uttarakhand Mahila Kalyan\(^{32}\), the lady teachers and other female employees in the educational line are discriminated for salary and promotions, as paid to their male counterparts. The Court held that there is no justification for preferential treatment to male teachers as all female and male teachers are doing the same job.

5. In the case of Gita Hariharan v. Reserve Bank of India\(^{33}\), Mrs. Gita and Dr. Mohan Ram were married and a son was born through a lawful wedlock. Later the couple had applied for divorce and the proceedings were pending in court. Mrs. Gita, being a natural guardian of minor son had applied to RBI for relief bonds in the name of minor son. However the application was sent back to her by RBI

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\(^{30}\) C. B. Muthamma V. Union of India 1980 SC (1) 668  
\(^{31}\) Air India V. Nargesh Meerza AIR 1982 SC (1) 438  
\(^{33}\) Gita Hariharan v. RBI AIR 1999 SC 1149
stating that she has to produce application signed by the father permitting her to invest. Held, the order was gender biased and father cannot claim to be the sole natural guardian. Mother can also act as a natural guardian of minor during the life time of father.

B. High Court Judgments:

Allahabad High Court:
In the case of Mrs. A. Cracknell v. State of Uttar Pradesh\(^{34}\), the Court of Wards, without giving notice, assumed superintendence over the estate of a lady who owned the land in Meerut. As per the Sec. 8 (1) (b) of Court of Wards Act, females are considered incapable of managing their own property. The Allahabad High Court declared the provisions to be unconstitutional as they were discriminatory against women and put them in more disadvantageous position than males.

Chattisgarh High Court:
In the case of Smt. Sarojini Bhoi v. State of Chattisgarh\(^{35}\), the father died in harness on a post in water resource department of Government, leaving behind widowed wife and two daughters. Mrs. Sarojini, the elder married daughter of the deceased, was maintaining her mother as there was no other source of income. She applied for compassionate appointment for the post so as to earn livelihood for the family, which was rejected considering the married daughter of deceased employee ineligible for the post. The High Court struck down appointment rules being discrimination made in public employment on gender basis.

Delhi High court:
In the case of Swaraj Garg v. K. M. Garg\(^{36}\), there is no pre marital agreement regarding location of matrimonial home. The wife is employed as a headmistress in government school in Sangrur district, 5 hours away from Delhi. She has good prospects for future benefits in job. Whereas the husband was employed in Delhi,

\(^{34}\) Mrs. A. Cracknell v. State of Uttar Pradesh AIR 1962 All 74
\(^{35}\) Smt. Sarojini Bhoi v. State of Chattisgarh WP (s) no 296 of 2014
\(^{36}\) Swaraj Garg v. K M Garg AIR 1978 Del 301
where he had no house of his own and he did not earn much to maintain the family. The case has come up before court to decide the matrimonial home. It was held that Art.14 of Constitution guarantees equality before law for both husband and wife. Any law which would give exclusive right to husband to decide the matrimonial home without considering wife would be contrary to Art.14 and unconstitutional.

**Kerala High Court:**
In the case of K R Gopinath Nair v. The Senior Inspector cum Sales-tax officer of cooperative society ltd\textsuperscript{37}, the petitioner who is the member of a bank, contends that Co-operative Societies (Amendment) Ordinance, 1985 having reservation of one seat for woman in the committee of every society is ultra vires of Art. 14. In order to eliminate inequality in status and opportunity to women in society, the High Court upheld the validity of the ordinance.

**Punjab and Haryana High Court:**
In the case of Raghuban Saudagar Singh\textsuperscript{38}, Mrs. R.S. Singh was appointed as a woman superintendent in women’s jail at Lahore. In the year 1947, due to partition of India and Pakistan, she was given appointment as a Superintendent in Reformatory school, Delhi, as per the order sent to her. It was also mentioned in the order that women are ineligible for the post in men’s jail, except for the post of clerks or matrons. Here the High Court upheld the order of Government, considering women ineligible for all posts in men’s jail because of habitual criminals in the jail, which would put women in more hazardous position.

**4.1.4 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.


\textsuperscript{38} Raghuban Saudagar Singh v. State of Punjab AIR 1972 P&H 117
A. Supreme Court Judgments:

1. In the case of Dr. Upendra Baxi v. State of Uttar Pradesh\(^{39}\), the female inmates of the protective home at Agra were living in inhumane and degrading conditions, which violated their right to live with dignity. The women who were helpless and needed protection were brought to this protection home but no women so far have been sent back to their home. Some inmates were mentally insane and some were suffering from T.B., but proper treatment was not given to them. The Court directed the protective home to take necessary measures for making human rights meaningful for weaker sections of the society and thus making socio-economic justice.

2. In the case of Mrs. Neera Mathur v. Life Insurance Corporation of India\(^{40}\) the lady was discharged from the job during probation on the grounds of filing false details about her last menstruation with the intention to conceal the material fact of pregnancy. The court felt that the lady cannot be blamed as she was declared medically fit by the doctor examining her, before joining the service. The court observed that personal details to be filled in the declaration form by ladies such as menstrual cycle, number of conceptions, etc are very embarrassing and affects the modesty and self respect of women.

3. In the case of Gautam Kundu v. State of West Bengal\(^{41}\), the wife had gone to her father’s place to prepare for Higher Secondary exams. She conceived during this time. The husband and his family members forced her to abort the child for which she refused. So wife sued husband for divorce. In order to avoid the payment of maintenance, husband applied to court for blood test of wife and child, disputing about the paternity of child. The court observed that the effect of blood test would be branding the child as bastard and mother as unchaste woman. It is rebuttable presumption of law that child born out of a lawful wedlock is legitimate and so blood test would affect the dignity of an individual and so prayer for blood test was rejected.

4. In the case of Rupan Deol Bajaj v. K.P.S Gill\(^{42}\), Mrs. Bajaj, a lady officer of Indian Administrative Service of Punjab cadre, along with her husband visited

\(^{39}\) Dr. Upendra Baxi v. State of Uttar Pradesh 1983 (2) SCC 308

\(^{40}\) Mrs. Neera Mathur v. Life Insurance Corporation of India AIR 1992 SCR (2) 146

\(^{41}\) Gautam Kundu v. State of West Bengal AIR 1993 SC 2295

\(^{42}\) Rupan Deol Bajaj v. K.P.S Gill 1995 SCC (6) 194
their colleague’s residence for dinner. During their visit, Mr. Gill, Director General of Police, Punjab, behaved in an obnoxious manner with Mrs. Bajaj and slapped her on her posterior in presence of guests. Mr. Gill was held to be guilty of the charges u/s 354 (outraging the modest of woman) and u/s 509 (word, gesture or act intended to insult a lady) and was sentenced with a fine of Rs. 2,00,000 and few months of probation.

5. In the case of Vishaka v. State of Rajasthan\textsuperscript{43}, a social worker named Bhanwari Devi, tried to stop child marriage and in consequence was brutally raped. Vishakha and other women groups filed Public Interest Litigation to enforce the fundamental rights under Art. 14, 19 and 21 of the Constitution of India. The court here felt that International Conventions in favour of women should be followed so that women can exercise their right to work with dignity. The Supreme Court has defined the terms ‘sexual harassment’ and laid down certain guidelines to prevent sexual harassment of working women. The court laid down the duties of employer to protect the women at work place until the legislation is enacted for the purpose.

6. In the case of State of Madhya Pradesh v. Madanlal\textsuperscript{44}, the victim girl aged 7 years was in search of her mother who was grazing goats. The accused misguided her, took her at a lone place, removed her clothes and discharged on her private parts and washed the same. The trial court had sentenced 5 years rigorous imprisonment, which was set aside by High Court, by reducing the jail term to a year. The Court’s decision was also influenced by the victim’s parents trying to compromise with the accused. Condemning rape and an attempt to rape the Supreme Court observed that: “These are the crimes against the body of a woman which is her own temple. They suffocate the breath of life and sully the reputation. And reputation, needless to emphasize, is the richest jewel one can conceive of in life. No one would be allowed to extinguish. When a human frame is defiled, the ‘purest treasure’ is lost. Dignity of a woman is a part of her non-perishable and immortal self and no one should ever think of painting it in clay. There cannot be a compromise or settlement as it would be against her honour which matters the most. It is sacrosanct.”

\textsuperscript{43} Vishakha and Others v. State of Rajasthan and Others 1997 (7) SC 384
\textsuperscript{44} State of Madhya Pradesh v. Madanlal. Crl. Appeal No. 231 of 2015.
B. High Court Judgments:

Bombay High court:
In the case of Milan Saryajani v. Pune Municipal Commissioner\(^{45}\), a forum working for women empowerment did a Public Interest Litigation to construct the toilets at public places for women across the city who finds trouble in locating a loo. They complained further that the existing toilets are not properly maintained and so women suffer from ailment of not having proper place to urinate. The court observed that no human being can live with dignity unless there are facilities to maintain basic hygiene such as clean toilets.

Delhi High court:
In the case of M.F.Hussain v. Raj Kumar Pandey\(^{46}\), the renowned painter Mr. M.F. Hussain had depicted India through a graphical representation of a nude woman with her hair flowing in the form of Himalayas. The said painting was sold to the collector. Later that painting was entitled ‘Bharat Mata’ and was put for online auction, for which the painter claims to have no involvement. There were heated public discussions and large scale protest for the painting as it hurt the Indian sentiments and affected the dignity of woman. The court tried to balance between the law relating to obscenity and right to speech and expression. The Delhi High Court observed that a liberal tolerance of different point of view causes no damage and cancelled the warrant of arrest issued against M.F.Hussain.

Gujarat High Court:
In the case of Sugam @ Monty Harishankar Jaishwal v. State of Gujarat\(^{47}\), 24 year old girl (here Ms. X) from Ahmedabad city, was gang raped and tortured by her boy friend and his friends. The accused had sexual intercourse upon the victim by force and that too in a barbarous manner. The accused had destroyed the identity and dignity of victim in such a way that she could not tolerate and later committed suicide. The court observed that, “Offence is not only very serious in nature, but it has practically destroyed the human dignity of victim”.

\(^{45}\) Milan Saryajani Through Editor v. Pune Municipal Commissioner. PIL No. 98 of 2011.
\(^{46}\) M.F. Hussain v. Ram Kumar Padey Crl. Revision Petition 114/2007
\(^{47}\) Sugam@ Monty Harishankar Jaishwal v. State of Gujarat Crl. Appeal 2124 of 2008
Himachal Pradesh High Court:
In the case of Dushyant Kumar v. State of Himachal Pradesh\(^{48}\), the complainant is a divorcee lady having three children. She came in contact with petitioner who was also married and deceived to be divorced. The petitioner had physical relations with the complainant on the pretext of marriage and later the relations between them had gone sour. The court observed that “Once the prosecutrix knew that the petitioner is a married man, it was for her to restrain herself and not indulge in intimate activities. No doubt, it is the responsibility, moral and ethical both, on the part of man not to exploit any woman by compelling her for sexual relationship. But then it is ultimately the woman herself who is the protector of her own body and therefore, her prime responsibility to ensure that in the relationship, protects her own dignity and modesty.

4.2 THE ROLE OF PANCHAYATI RAJ INSTITUTIONS (PRIs) AND WOMEN’S RIGHTS:

4.2.1 Panchayati Raj Institutions in India:
Panchayat raj is a three tier system of local government or the back bone of decentralized governance, which resolves the disputes among the villagers. The terms ‘Panch’ mean five and ‘raj’ means rule. In ancient times, five wise and elderly persons were chosen from the village, generally accepted by local community, to settle the disputes of villagers. According to 73\(^{rd}\) and 74\(^{th}\) amendment of 1993 in Indian Constitution, rural local government (or Panchayati raj) and urban local government (or Nagar palika) were introduced. Panchayat Raj Institutions (PRIs) are further divided into: Zilla Panchayat, Taluka Panchayat and Gram Panchayats where as urban local government is further divided into Municipal Corporations, Municipal Councils and Nagar Panchayats. At the time of framing constitution of India, PRIs were not given much importance. The only mention was found in Article 40, which mentioned that the State shall take steps for Panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government. But there was no legislation in the country for implementing it. In the

year 1989, in order to empower gram panchayats and to directly fund the village councils, the government of India started Jawahar Employment Plan. In the year 1990, the three tier Panchayat system was made mandatory for all states through 64th amendment in Constitution.

The 73rd Constitutional amendment in 1993, which had been considered as a ‘landmark amendment’, reserved 33% of the positions of gram Panchayat for women. As per the data provided by Ministry of Panchayat Raj in the year 2008, the total representation of women in all three tiers of Panchayat in India amounted to around 36%. The government of India in the year 2009 through a reservation bill has decided to approve 50% reservation for women in PRIs. By this way women will get political equality in the country and will get opportunity to depart from age old barriers of social structures imposed on them in male chauvinist world.16 states in India have started implementing 50% reservation for women in panchayats. Recently in Shirol Taluka of Maharashtra, 100% elected members were women. In the words of Prime Minister of India, Dr. Manmohan Singh, at National Convention of Chairpersons of District and Intermediate Panchayats in the year 2008 (in Hindi),

“Our great success in this field has been the number of women representatives that outnumber the sum total of elected representatives all over the world. Political and Social Empowerment of Indian Women is the greatest success of Panchayati Raj. It is unique in the world history and in modern era”.

However, in spite of reservation, women sarpanchs have failed to meet the expectations of PRIs. The patriarchal society has proved to be a barrier in their way. The dominating husbands of women sarpanchs become de facto sarpanchs, leaving them as passive spectators. Due to illiteracy and lack of training, the influential upper class males purposely use women representatives to set their designs. Women

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49 http://www.cdhr.org.in/womens-empowerment/womens-empowerment-through-panchayati-raj/
52 Sarpanch: is the elected of a village level statutory institution of local self government called Panchayat.
sarpanchs are generally unaware about their powers and duties in democratic decentralization. They do not attend Panchayat meetings and hesitate in visiting police station for seeking help. In spite of assuming post in PRIs, they could not get rid of parda system completely as many male voters consider parda as a sign of respect for elders. In one of the cases, the lady sarpanch was stripped off and paraded in Thikri village of Rajasthan, as she dared to unfurl the national flag on Independence Day in the year 1998.\(^{54}\)

Even in certain states, women are not allowed to lift their ghunghat (veil or a headscarf, used by married women) and speak in presence of Panch. In one of the cases, the Dalit woman sarpanch was denied entry in Panchayat by caste bullies.

### 4.2.2 Panchayati Raj Institutions in the State of Gujarat:

The Gujarat Panchayat Act 1993 came into force after 73\(^{rd}\) amendment in Constitution of India; with three tier arrangement of decentralized governance i.e. District, Taluka and Gram Panchayat. The state of Gujarat is considered to be the pioneer or trend setter in the field of computerizing the village panchayats. The government of Gujarat has launched the innovative scheme named e-gram. It has adopted GSWAN (Gujarat State Wide Eligibility Area Network) for providing connectivity from state to district level and VSAT (Very Small Aperture Terminal), a satellite communication system for providing connectivity from block to gram Panchayat. This network facility connects 26 districts and 225 talukas, for data exchange and video conferencing. Gujarat is considered to be a unique state by adopting the scheme of ‘Samras Yojana’, under which the developmental incentive will be given to those villages, which select their leaders through consensus and not election. There are greater incentives for villages having women sarpanch or all women samras village. Under the said scheme, many women sarpanchs have acquired the perfect status of Samras village through developmental works such as clean drinking water, solar lights, better roads, ending open defecation, etc. In year 2012-13, there were 38,068 elected women in Panchayati Raj institutions in Gujarat.\(^{55}\)

Gujarat government on one hand has supplied three phase power and facilitated 18000 villages with video conferencing, but on other hand the Gujarat’s model of PRI is against the spirit of 73\(^{rd}\) amendment. The grass root democracy seems


to be a dream far-fetched as there is constant threat of no-confidence motion against women sarpanchs. PRIs in Gujarat have become an organ of state government, which helps in implementing the schemes of government but in reality these villages have ‘proxy functioning’, (i.e. male member of dominant caste handling all the affairs), in spite of being women samras village. The main reason for the failure of PRI in Gujarat is lack of formula for devolution of funds from state government to PRIs, in which Gujarat has scored ‘zero’ (in index of devolution), as per the report of 13th Finance Commission. The other reasons for making PRIs ineffective can be enumerated as – lack of training to women sarpanchs, lack of discipline among male members at Panchayat office, etc. In one of the cases, the Dalit woman sarpanch was prohibited from hoisting the flag on the Independence Day in Gujarat in the year 1998. This shows that all women samras panchayats cannot be considered as the path of women empowerment.

4.3 THE ROLE OF POLICE AND WOMEN’S RIGHTS:

4.3.1 The Role of Police in India:

Indian Police Service (IPS) is one of three units of All India Services of government of India, which not only makes it the service providing unit but also the protectors for maintaining peace and security in the country. It is made responsible for crime prevention, preserving public order and protection of life, liberty, dignity and property of people of India. Police is in the frontline of criminal justice system as they are the first ones who come across the victims. So they are known as ‘Most visible representatives of government’. They are made accountable for following Constitutional norms so that the faith of public is retained in a democratic society. For this they need to perform their duties honestly, impartially and sensitively especially in case of women related crimes, which has hiked by 7.1% nationwide since 2010 as per the report of National Crime Records Bureau. In connection to increasing crimes against women and to give them protection, IPS has given a three digit number ‘100’, a telecom service, which is applicable nationwide and can be dialed in case of any emergency. The telecom service number 181 and 1091 are women helpline and can be

dialed for speedy relief to women in distress, whether she wants protection from violence, emergency medical treatment, legal aid or shelter.

However, police, the frontline of criminal justice system, is involved in many heinous crimes against women. In many cases they are not found to be accountable to Constitutional norms and standards for protection of women. They behave in unsympathetic and cruel manner and thus women become their victim. Out of 36,735 rape cases in India in the year 2014, 197 cases reported as custodial rape. (Custodial rape includes rape under custody of police, hospital, judicial custody, etc. Harassment of women by police and sufferings of women due to negligence of police has become common these days and following are some of the incidents which prove that police had become “hungry wolves in the guise of saviors”.

A. Women, the Victim of Custodial Rape:

a) In the case of Shiv Kumar Gupta v. State of Uttar Pradesh, police misbehaved with the pregnant lady named Maya Tyagi, who was going in a car with her husband and two other men, in Meerut. In order to protect the wife, husband started beating the policeman. In revenge, police shot the men and stripped the lady and made her parade naked in that area and later gang raped her. The judge described the policemen as “criminals in uniform’ and concluded with the death penalty for six policemen and life imprisonment for four policemen.

b) In the case of Ram Kumar V. State of Himachal Pradesh, the prosecutrix and her husband were residing in Chandigarh and were fetched to Rajgarh in Himachal Pradesh by the husband’s brother. At the mid night, police awakened the couple and were forcibly taken to police station on the false plea of wireless message being received from Chandigarh. Then husband and wife were kept in separate rooms and later on an investigating head constable of police, Nain Singh, by misusing his position, raped the lady. Ram Kumar, the constable, kept watch on the husband and abetted in committing the crime. The High Court sentenced Nain Singh with seven years of rigorous imprisonment and Ram Kumar with two years of imprisonment.

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58 Shiv kumar Gupta v. State of Uttar Pradesh Criminal Appeal 183 of 1988
59 Ram Kumar V. State of Himachal Pradesh 1995 SC 1965
B. Women, the Victim of Police Torture:

a) Special Task Force (STF) of police was constituted by Karnataka and Tamilnadu state governments in the year 1990 to counter notorious Indian brigade, ivory poacher and smuggler, *Veerapan*. The STF *jawans* (police men or army) had raped many tribal women, passed electric currents in their genital organs and paraded them naked in the village as a part of torture to know the whereabouts of Verappan. The STF looted the assets, cattle and money of many women and made them their sexual slaves. In order to encounter Veerapan, STF had made forest their torture ground and made the lives of oppressed people, miserable.

b) In the case of *State of Maharashtra v. Christian Community Welfare*, 60 police locked up and molested the lady named Jarina Adam who had gone to police station to inquire about her husband who was found dead in the police lock up. The police locked up Jarina also. In order to uphold the dignity of women, the apex court ruled out that – no female shall be detained or arrested without the presence of lady constable and in no case, after sunset and before sunrise.

c) Armed Forces (Special Powers) Act (AFSPA) is the draconian Act passed in 1958 and is applicable to North Indian states, which grants unrestricted and unaccounted special powers to Armed Forces to carry out operations in the disturbed areas. In the name of ‘public order’, the uniformed men have been raping, molesting and torturing women and children. In one such case of police barbarity, the young woman of Manipur state was raped and killed by the uniformed men and was thrown on roadside after firing bullets in her genitals. This act of army provoked women of Manipur and they paraded naked in front of army men, asking to come and rape them. 61

C. Court Rulings Protecting Women from Police Cruelty:

In order to uphold women’s dignity, the following rulings are made by various courts from time to time under various cases:

a) Whenever a rape case is registered, it becomes the duty of Station House Officer to report the same to Legal Service authority, so that they can make arrangement for a lawyer for the victim.

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60 State of Maharashtra v. Christian Community Welfare AIR 2004 SC 7
b) All the police stations must have a woman police officer round the clock to comfort the victim and her family for registering a complaint relating to sexual offences (Delhi Commission for Women v. Delhi Police\textsuperscript{62})

c) A woman who has been raped can record her statement before one police officer and a woman constable at a convenient place that is not crowded…

d) In case of horrifying incident like rape, the Police must register an FIR even if there has been a gap between the report and the occurrence of the incident (Puranchand v. State of HP\textsuperscript{63})

e) The woman has a right to lodge an FIR at any police station in the city under zero FIR ruling. (Lalita Kumari v. Govt of UP\textsuperscript{64})

f) Woman cannot be called at police station for interrogation u/s 160 of Criminal Procedure Code. Instead her interrogation by police can be done at her residence in presence of woman constable and family members.

4.3.2 The Role of Police in the State of Gujarat:

The Gujarat Police is the law enforcement agency of the state of Gujarat. For protection of women, Government of Gujarat has taken a unique step by launching a helpline ‘Abhyam’, in February 2014, to fight violence against women. The helpline number on phone is 181. This helpline is synchronized with 1091, also known as ‘Police HEART’ (Help Emergency Alert Rescue Terminal). Under this helpline Gujarat Police will trace the location of the women in distress, the server of which is kept in police control room, and will help the women in emergency situations. Within nine months of launching this helpline, it has received 10,000 calls. It was surprising to note that out of total calls received, 18% calls were from women who required help for the reason of being victims of domestic violence and 3% required help for the reason of being victims of physical assault. The top five districts of Gujarat with highest calls to Abhyam helpline by women in distress were Ahmedabad, Surat, Vadodara, Gandhinagar and Rajkot respectively.\textsuperscript{65}Having 2500 women police in Gujarat, the government can also take pride for being the first state in India to declare 33% reservation for women in police recruitment. The state is also honoured to have

\textsuperscript{62} Delhi Commission for Women v. Delhi Police. WP (Crl) 696 of 2008.
\textsuperscript{64} Lalita Kumari v. Govt of UP. Crl Appeal 1410 of 2011
\textsuperscript{65} Times News Network.”Harassed by In-laws, Saved by 181” The Times of India, Ahmedabad. November 12, 2014.
first all women police band. In order to make police department more approachable by women, the government has even declared that norms for recruitment of women in police would be revised and relaxed, regarding height, weight and running capacity in order to ensure 33% jobs for them.

However in certain instances the action of Gujarat police brought shame for the country. One such incident was Godhra train carnage, which killed 58 Hindu pilgrims, including 25 women and 12 children. They were burnt alive in Sabarmati Express train. This incident triggered communal riots in 15 districts of Gujarat. Certain NGOs and investigating teams alleged the incident to be pre-planned and targeted. The violent mobs holding swords burnt the houses, raped women in front of their family members, stripped and molested many women, poked sharp objects in their genitals after raping them, and some of them were even burnt alive. The victims tried to contact police, ambulance and fire brigade but all their efforts were in vain. It was alleged that police, ruling party and certain politicians were indulged and provoked the riots. In spite of systematic violation of women’s rights during the riots, only few cases were registered and thus people lost their trust on police. The role of police was also condemned in rape committed in Ahmedabad city in 2013, for failing to fulfill their obligations and misbehaving with victim and her family members. Senior police inspector was suspended on three grounds: Not present in police station at the time of registration of complaints, not making immediate arrangement for medical examination of victim and for not sensitively handling the case.

4.4 THE ROLE OF NON-GOVERNMENTAL ORGANISATIONS AND WOMEN’S RIGHTS:

Non-governmental organizations (NGO) or public benefit organizations provide a support system for strengthening the civil society in general and marginalized communities in particular. Generally the marginalized communities have limited access to available resources. Thus NGO plays a significant role in

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overcoming such drawbacks. NGOs are non-profit organizations, independent from state, national or international government. They are task oriented and can function at local, national, or international level. Sometimes the individuals such as a lawyer or a journalist, who has champion human rights, even though not attached with any organization, can also compel government to protect the human rights of marginalized groups. The role of NGO cannot be ignored at international level. As discussed earlier, the landmark documents such as UDHR and CEDAW had gender biased terminology initially. It is because of dedicated efforts of enlightened people and women organizations, the terms focusing on masculinity were altered. Even the phrase “equal rights of men and women” was added in the UN Charter only due to strong positive efforts put in by female delegates and NGOs. At national level also, for upliftment and empowerment of women, NGOs play a major role by generating awareness for their rights, providing opportunities for self-employment, helping them to fight for their rights by becoming a connecting link between government and victims, improving their social and economic status and help them acquiring quality life. India is a country which is flooding with NGOs striving to ameliorate the position of women. However, the actions of certain NGOs are also criticized by Supreme Court considering them as a ‘major problem’. With the least interest in India’s progress and without knowledge of grass root realities, foreign agencies fund Indian NGOs and get the desired agenda run for them. Some NGOs taking positive steps in the field of women’s rights are:

a) Centre for Health and Social Justice – India: It was founded in 2005 to promote gender equality, human rights and social justice. It aims at improving the availability and access to health care for people living in rural areas especially women.

b) Azad Foundation – New Delhi: It was started in 2008 with the aim to equip resource poor women with knowledge and skills so that they earn the livelihood with dignity. They operate in cities like Jaipur, Kolkata, Indore and Ahmedabad. They train women from most marginalized community of manual scavengers and successfully launched them as cab-drivers, bus-drivers, etc.

c) Sadhana – Rajasthan: The NGO started in 1988 aims at changing the lives of women, by providing them alternative means of livelihood in rural, urban and

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tribal slum areas in Southern Rajasthan. It further aims at empowering women, both socially and economically by enhancing their self esteem. The NGO strives to give such women, control over significant financial and social resource, a status in their family and society. In year 2011, the NGO was awarded for stupendous work in their field and conquered the title of ‘National Winner- Community Owned Enterprise’.

d) Jan Chetna Manch – Jharkhand: The said NGO won the award for outstanding work done for empowering and improving the lives of the poorest in Bokaro district of Jharkahnd and improving the health of poor rural women.

e) STEPS Women Development Organisation – Tamilnadu: The NGO is a women organization working against the violence of women with special focus on women’s rights of Muslim women.

4.5 THE ROLE OF VARIOUS COMMISSIONS IN PROTECTION OF WOMEN’S RIGHTS:

4.5.1 National Human rights Commission (NHRC):

NHRC, an autonomous body, constituted in 1993, is responsible for protection of human rights i.e. the rights relating to life, liberty, equality and dignity of an individual. The institution having statutory recognition under The Protection of Human Rights Act, 1993, undoubtedly considers the importance of women as a human resource for development and progress of India. For the last two decades, NHRC has been inquiring into human rights violation, intervening in the court proceedings concerning human rights, visiting different jails to know the living conditions of inmates, studying international treaties and making recommendations for their implementation and protection of women’s rights. Since its inception, NHRC has been taking positive steps in the direction of promoting women’s rights and some of them are as follows:

1. It recommended in 1994 the strict implementation of international treaty named CEDAW. It also advocated the Programme of Action adopted at Beijing conference.

2. From view point of health of women, it focused on maternal anemia in 1996-97.
3. In year 2000, it majorly focused on issues related to women’s rights.
4. In year 2001, it insisted on strict implementation of Pre-Conception and Pre-Natal Diagnostic Techniques Act, considering the misuse of sex determination tests.
5. For combating sexual harassment of women at work place, it recommended the Supreme Court for strict implementation of Vishaka Guidelines.
6. In 2013, it organized a National Conference on violence against women.
7. It also suggested the need to have more rigorous sections in existing laws such as Indian Penal Code, The Indian Evidence Act 1872, The Code of Criminal Procedure 1973, The Immoral Traffic (Prevention) Act, 1956 and enforcement of these laws.
8. NHRC has also focused on economic, social and cultural rights of women on regular.\(^{70}\)

However, in certain instances NHRC has failed to perform its statutory functions for safeguarding the fundamental rights of citizens. In the case of Extra Judicial Execution Victim Families Association v. Union of India\(^ {71}\), the apex court for fake encounters of terrorists in Manipur has criticized the role of NHRC by calling it as ‘Toothless Tiger’, as it could not take appropriate steps and provide remedies to families of victims.

4.5.2 Gujarat State Human Rights Commission (GSHRC):
Since its inception in 2006, the Commission has been protecting and preserving human rights guaranteed by the Constitution of India viz. the right to life, liberty, equality and dignity of an individual. Among other functions performed by the Commission, it inquires suo moto on the petition filed by the victim for violation of human rights; intervene in the proceedings of violation of human rights pending before the court, visit any jail under the control of state government to study the living conditions of inmates, etc. It ensures full protection of women’s rights by keeping continuous vigilance on petitions made by women for violation of their rights and making recommendations to concerned offices to take steps for prevention of such violation. Due to continuous efforts taken by the Commission in protecting women’s

\(^{70}\) http://nhrc.nic.in/
\(^{71}\) Extra Judicial Execution Victims Families Association v. Union of India WP(Criminal) No. 129 of 2012.
rights, it has received 205 petitions from women regarding violation of their rights in the year 2009-10.

4.5.3 National Commission for Women (NCW):

The Committee on Status of Women in India and various NGOs suggested to government for establishment of an apex body for women to protect their rights. Their suggestions were based on sufferings of women that the country witnessed in cases of Vishaka v. State of Rajasthan, The Chairman of Railway Board v. Chandrima Das\textsuperscript{72}, etc. Thus National Commission for Women, a statutory body of Government of India was established in 1992 for advising government in policy matters related to women. Its main aim is to support women in raising their voice against their exploitation and injustice. Its main concern includes campaign against dowry, religion, equal representation of women in jobs, exploitation of women for labour etc. It has been receiving large number of complaints for violation of women’s rights since its constitution and has acted suo-moto in many cases to provide speedy justice to the victims. It has continued to focus on the issues of child marriages, legal awareness programmes, \textit{Parivarik Mahila Lok Adalats}, etc. It has made recommendations for making the laws more effective especially Dowry Prohibition Act, 1961, The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Hindu Marriage Act, 1955, Medical Termination of Pregnancy Act, 1971, etc. However due to contradictory judgments passed by SC in many rape cases, NCW drafted the Criminal Law Amendment Bill in 1994, but unfortunately it proved to be cosmetic amendments to the rape laws. The actions of NCW were criticized when one of its members leaked the name of minor victim who was molested in Guwahati (Assam) in year 2012. The commission was also in controversy in year 2006 when it opposed the amendment in S. 497 of Indian Penal Code, making adulterous wives equally prosecutable by their husbands.

\textsuperscript{72} The Chairman of Railway Board v. Chandrima Das. AIR 2000 SC 988.
4.5.4 Gujarat State Commission for Women (GSCW):

With the vision of empowering women and creating a world of gender equitable society, an advisory Non-Departmental Public Body (NDPB) named The Gujarat State Commission for Women was set up in 2005 under The Gujarat State Commission for Women Act 2002. Among other objectives it aims to provide safeguards to women as per the Constitution of India, to review existing provisions of laws pertaining to women and recommend amendments in them, to look into complaints and take suo moto action in matters of deprivation of women’s rights, to investigate into the situations causing discriminations and atrocities against women, etc. In the year 2007, the Gujarat State Commission for Women along with NCW had directed the Centre not to proceed towards constituting the Commission of Inquiry for the purpose of illegal surveillance of a woman architect by Gujarat government, as the inquiry was infringement of right to privacy of the lady. Since its inception, the commission has helped about 4451 women by providing guidance on their problems.

4.6 CONCLUSION:

Democracy becomes meaningless in absence of human rights. The term democracy will be said to be used in real denotation when people realize the entire gamut of human rights, which are fundamental to human civilization. In fact, human rights and democracy are complimentary to one another. They strengthen each other. The goal of progress of nation is unattainable without realization of human rights by its citizens, because its realization defines the state of culture existing in the country. Here it becomes the duty of stakeholders to make a concerted effort to see that human rights are ensured to every citizen of the country.

Judiciary as a stakeholder of women’s rights should be independent and impartial, only then it can dispense justice without fear and favour. The landmark judgments of Supreme Court and High Courts of various states have reaffirmed the faith of people in Indian judiciary. The innovative ideas which judges have applied from time to time while dealing with feminist matters prove that judges have been the forerunners in eliminating gender inequality in the society. The courts have always tried to interpret laws by applying the principles of equity, justice and good

conscience. However in certain instances judiciary is also criticized for not being so serious about violation of human rights in general and women’s rights in particular. Thus to contribute towards the excellence of judiciary, the judges should be sensitized for new feminist challenges also such as surrogacy, cyber crimes relating to women, etc.

Political empowerment of Indian women through Panchayati Raj Institutions was a good start through reservation in 1993. Besides granting political stand, the other aim was to free women from age old social barriers imposed on them in male chauvinist world. The reservation showed its impact in 2008, where the participation of women in all three tiers of Panchayat became 36% in India. But this empowerment seems to be on paper as their dominating husbands become de-facto sarpanchs. The other barriers such as parda, class conflicts, dominance of elites in rural areas, etc do not allow women to become decision makers in real sense, leaving them as passive spectators. Thus PRI, even after two decades of reservation for women, has not proved to be an effective stakeholder in upholding women’s rights.

Police, the frontline of criminal justice system and a responsible stake holder, can be made accountable for following Constitutional norms so that the faith of public is retained in a democratic society. But in many cases they are not found to be accountable for following the standards especially set for women related issues. Police atrocities are ordinary features of Indian scenario and women being the vulnerable class easily become victim of police cruelty. In many cases police have acted as hungry wolves in disguise of saviors. The cases like Shivkumar Gupta v. State of Uttar Pradesh and Ramkumar v. Himachal Pradesh supports the point. Most women, instead of considering police as the saviors, are more afraid of them and procedures conducted at police stations and so they hesitate in lodging the complaint. Thus as a stakeholder they are not sensitized to handle women issues, instead they have been misusing their authority and position in majority of the cases.

Non-governmental organizations at national and international levels have been providing a support system for strengthening the civil society in general and marginalized communities in particular. At international level, it is only because of women organizations and human rights activists, male personal pronouns were removed in landmark documents. The efforts of women’s organizations had brought ‘women’s rights talk’ arena on global platform. At national level also women NGOs
have strived from time to time to uphold women’s right to life, liberty, equality and dignity.

The Commissions, at national and state levels have been performing their role complementary to Supreme Courts and High Courts of India. The combined efforts of these Commissions in protecting and promoting human rights in general and women’s rights in particular have assured progress of the country and better standard of life of its citizens. As responsible stakeholders, the Commissions have made an effort to go beyond civil rights of citizens and have expanded their activities in the arena of social and economic rights. These Commissions have been receiving large number of complaints for violation of women’s rights since its constitution and has acted suo-moto in many cases to provide speedy justice to the victims.