CHAPTER – 4

PROTECTION OF WOMEN’S HUMAN RIGHTS: INTERNATIONAL PERSPECTIVE

(i) International Conventions of Women's Rights

The advancement of women has been a focus of the work of the United Nations since its creation. The preamble of the Charter of the United Nations set as a basic goal to reaffirm faith in fundamental human rights, in the dignity and worth of the human persons, in the equal rights of men and women. Article 1 of the Charter proclaims that one of the purposes of the United Nations is to achieve international cooperation in promoting and encouraging respect for human rights and fundamental freedom for the people without distinction as to race, sex, language or religion. As early as in 1946 the Commission on the Status of Women was established to deal with women's issues. The Universal Declaration of Human Rights had affirmed the principle of the inadmissibility of discrimination and proclaimed that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedom set forth therein, without distinction of any kind, including distinction based on sex. However, the continued discrimination against women
to exist considerable primarily because women and girls face a multitude of constraints imposed by society, not by law. It violated the principle of equality of rights and respect for human rights\(^1\).

The General Assembly on November, 1967, adopted a Declaration.\(^2\) On the elimination of discrimination against women, and in order to implement the principles set forth in the Declaration. Subsequently, a Convention on the Elimination of all Forms of Discrimination against women was adopted\(^3\) by the General Assembly on December 18, 1979. The Convention came into force in 1981. As on May, 2, 2003 the Convention had 172 States parties. Inspite of all these conventions there has been a starting endeavour in the form of civil and political rights convention in 1955. These International Conventions have been major steps for the equalization of women in the every front of life.

The International community is not engaged only in drafting these International conventions but very much interested for these implementation via concerned municipal ways. Along with all the International Convention, international conferences are also been organized either directly or by using good offices of different nations in one place. Yet the latest conference on the same topic have taken
place in 1995 at Beijing in China.

(a) Beijing Conference (1995)

The Fourth World Conference on Women, held in 1995 (4-15 September, 1995) in Beijing commonly called Beijing Conference stated that Women's rights are human rights'. The Conference called for the integration of women's human rights in the work of different human rights bodies of the United Nations. It considered issues of violence against women in public and private life as human rights issues. The conference also called for the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices, cultural prejudices and religious extremism.

A Draft Programme of Action was prepared for consideration in Beijing Conference with identified 12 critical areas of concern regarding women which were: increasing burden, poverty; educational opportunities; inequality in health status; violence against women; effects of armed or other kinds of conflict on women, inequality in women's access to and participation in economic structures and policies; inequality between men and women in the sharing of power and decision making at all levels; insufficient
mechanisms at all levels to promote the advancement of women; lack of awareness of women's human rights; insufficient mobilization of mass media to promote women's possible contribution to society; lack of adequate recognition and support for women's contribution in managing natural resources and safeguarding the environment and girl child.

The United Nations General Assembly in 2000 convened a Special Session on Women in 2000: Gender Equality, Development and Peace for the 21st Century to assess the progress on Women's issues since the Beijing Conference in 1995. The Special Sessions, also known as Beijing renewed the Beijing Declaration and Platforms for Action adopted at the Beijing Conference on Women in 1995. Delegates agreed that, while progress had been made towards the full implementation of the goals set out in Beijing, barriers still remained. Further actions initiating to implement Beijing Declaration and Platform for Action, was adapted by the Conference.

These conferences and the Convention of Elimination of all Forms of Discrimination Against Women could not achieve the desired effect in view of the fact that women's human rights are still disregarded and violated worldwide, in different ways and to varying
degrees mainly because inequalities between men and women have roots in societal norms and values. They cannot change overnight as a result of international agreements or even by legislation.  

(b) Role of United Nation in the Protection of Women's Human Rights:

The major human rights instruments recognizes the rights of women along with men since the establishment of the United Nations Charter itself which reaffirm faith in fundamental human rights in equal rights of men and women. Human rights discourse may be regarded as a proper type of rhetorical expression which is exemplified in the Universal Declaration of Human Rights 1948.  

Universal Declaration of Human Rights was adopted by the United Nation General Assembly in 1948 which defined the human rights and fundamental freedoms, the governments have agreed to protect.  

In the history of humankind this Declaration represents a milestone, a veritable Magna Carta which spells out precise civil, political, economic, social and cultural rights. These rights are valid for all member of the international community and cover whole range
of activities right from the rights of indigenous people to economic and social rights which also includes rights of woman. This Declaration also deals with the mechanism available to ensure these rights are respected and fulfilled.\textsuperscript{6}

Under this Declaration, Article 1 guarantees right to equality in dignity and right to freedom. Article 2 guarantees everyone all rights and freedoms in this Declaration without distinction of sex. Article 3 guarantees to life, liberty and security. Article 5 guarantees the right not to be subjected to torture or to cruel, inhuman and degrading treatment and punishment. Article 6 gives right to recognition as a person. Article 7 guarantees equality before law, equal protection of laws and equal protection against any discrimination. Article 8 and Article 10 grants to women, the right to effective remedy and fair trial. Article 13 guaranteeing right to freedom of movement. Article 19 grants to women, right to freedom of opinion and expression. Article 20 gives right to freedom of peaceful assembly and association\textsuperscript{7} and all these provisions can be indirectly used as a tool to protect victims of domestic violence in terms of human rights.

Under International Covenant on Civil and Political Rights, 1966, Article 6 guarantees to women the right to life; Article 7 gives
the right not to be subjected to torture, to cruel, inhuman or degrading treatment or punishment; Article 9 grants right to liberty and security to women; Article 10 gives right to be treated with humanity and respect for the inherent dignity of the human person to women; Article 12 gives right to liberty of movement; Article 16 gives right to recognition as a person to all including women and lastly Article 19 gives women the right to hold opinions and all these can be effectively used to protect the victims of domestic violence.

However, it is the convention on the Elimination of All Forms of Discrimination Against Women adopted by the General Assembly in 1979, which is a significant platform to protect women against domestic violence in terms of human rights. Article 2 of this convention makes it obligatory for the state parties to condemn discrimination against women in all its forms by all appropriate means. Since the creation of this convention, the United Nations Committee that monitors it has recognized the serious global impact of domestic violence. Through the committee's recommendation now, a number of activities are being carried out so as to focus attention on all forms of violence against women, including domestic violence. In 1992 the recommendation of the committee during its Eleventh
Session specifically noted that states may also be responsible for private acts if they fail to act with due diligence to prevent violation of human rights, or to investigate and punish acts of violence.  

Therefore, State parties to the Convention are bound to take all the necessary legislative, judicial, administrative or other appropriate measures to guarantee women the exercise and enjoyment of human rights and fundamental freedoms on the basis of equality of men. The strategic actions to be taken by the Governments for this purpose are:

(a) Work actively towards ratification of or accession to and implement international and regional human rights treaties;
(b) Ratify and accede to and ensure implementation of the Convention on "the Elimination of All Forms of Discrimination Against Women so that universal ratification of the Convention can be achieved by the year 2000;
(c) Consider drawing up national action plans identifying steps to improve the promotion and protection of human rights including the human rights of women, as recommended by the World Conference on Human Rights;
(d) Create or strengthen independent national institutions for the protection and promotion of these rights, including the human
rights of women, as recommended by the World Conference on Human Rights;

(e) Address the acute problems of children, inter alia, by supporting efforts in the context of the United Nations system aimed at adopting efficient international measures for the prevention and eradication of female infanticide, harmful child labour, the sale of children and their organs, child prostitution, child pornography and other forms of sexual abuse and consider contributing to the drafting of an optional protocol to the Convention on the Rights of the Child;

And the strategic actions to be taken by UN organizations by relevant organs, bodies and agencies of the United Nations system, all human rights bodies of the United Nations system, as well as the United Nations High Commissioner for Human Rights and the United Nations High commissioner for Refugees, while promoting greater efficiency and effectiveness through better coordination of the various bodies, mechanisms and procedures, taking into account the need to avoid unnecessary implication and overlapping of their mandates and tasks:
(a) develop a comprehensive policy programme for mainstreaming the human rights of women throughout the United Nations system, including activities with regard to advisory services, technical assistance, reporting methodology, gender-impact assessments, coordination, public information and human rights education and play an active role in the implementation of the programme;

(b) strengthen cooperation and coordination between the Commission of the Status of Women, the Commission on Human Rights, the Commission for Social Development, the Commission on Sustainable Development, the Commission on Crime Prevention and Criminal Justice, the United Nations human rights treaty monitoring bodies, including the Committee on the Elimination of Discrimination Against Women, and the United Nations Development Fund for Women, the International Research and Training Institute for the Advancement of Women, the United Nations Development Programme, the United Nations Children's Fund and other organizations of the United Nations system, acting within their mandates, in the promotion of the human rights of women, and
improve cooperation between the Division for the Advancement of Women and the Centre for Human Rights;

(c) encourage incorporation of a gender perspective in national programmes of action and in human rights and national institutions, within the context of human rights advisory services programmes;

(d) provide training in the human rights of women for all United Nations personnel and officials, especially those in human rights and humanitarian reliefs activities and to deal with violations of the human rights of the women.

(i) **World Conference of the International Women's Year**

The World Conference of the International Women's year was held at Mexico City from 19 June to 2 July 1975. The conference adopted (i) The Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace 1975; (ii) The World Plan of Action for the Implementation of the Objectives of the International Women's year; (iii) Regional Plan of Action; (iv) 35 resolutions and (v) decision recommending the observance of United Nation Decade for Women and the convening of a second world conference in 1980.
The Declaration of Mexico on the Equality of Women and Their contribution to Development and Peace, 1975 incorporated following important principles:

(i) Equality between men and women;

(ii) Equal rights and responsibilities of women and men in the family and society;

(iii) Equal access to education and training;

(iv) The right to work and equal pay for work of equal value;

(v) The right of couples and individuals to determine the number and spacing of children;

(vi) The right of every woman to decide freely whether to marry;

(vii) The right to participate in and contribute to the development effort;

(viii) The full participation of women in the economic, social and cultural sectors;

(ix) The role of women in the promotion of International cooperation and peace;

(x) The role of women in promoting human rights of all peoples and;
(xi) The need to eliminate violation of human rights committed against women and girls.

The emphasis was laid on the creation of just society in which the men Women and children may live in dignity, freedom, justice and prosperity, The World Plan of Action for the implementation of the objectives of the International Women's Year was designed to stimulate national and international action for solving the problems of underdevelopment and of the socio-economic structures for the reasons of which women were placed in an inferior position.


The World Conference of the United Nations Decade for Women: Equality, Development and Peace, held in Copenhagen from 14th to 30th July 1980 (Resolution adopted by the General Assembly on December 11, 1980, at its 35th Session) was the first international United Nations document to mention expressly "domestic violence" giving it international recognition guaranteeing right to women to live in peace.12
(iii) United Nations Development Fund for Women

The United Nations Development Fund for Women (UNIFEW) was established on 1 July 1985 is an autonomous association with United Nations Development Programme (UNDP). This Fund is contributed by Government, International organizations, national committees on the Fund and individuals and governed by UNDP and the Fund jointly. There is constructive cooperation between the UNDP and the Fund. The main concern of the Fund lies with the identification and study of emerging issues relating to women, more particularly, the issue of violence against the women.

The issue of violence against Women has been brought to the agenda of the Fund by the women themselves. The Fund, in its effort to eliminate the violence against women is examining the problem from a cross-cultural perspectives. It has also sponsored women from developing countries for enabling them to participate at appropriate International events where they can highlight the problem of violence in its true perspectives.
(iv) **International Research and Training Institute for the Advancement of Women**

The World Conference of the International Women's Year recommended for the establishment of an International Training and Research Institute for the Advancement of Women. This Institute was supposed to work in collaboration with appropriate national, regional and inter-regional economic and social research institutes and the specialized agencies. The aim of the Institute was described as follows:\(^{14}\):

(a) Undertaking research and the collection and dissemination of information as the basis for the formulation of programmes and policies for the effective participation of Women;

(b) Assisting in the design of research for the monitoring of changes in the situation of women and the impact on their lives of economic, social and technological changes;

(c) Develop, adopt and provide training programmes of women, in particular those of the developing countries, which would enable them to undertake national research, to assume leadership roles within their own societies and to increase their earning possibilities.
The International Research and Training Institute for the Advancement of Women has been established at Santo Domingo in pursuance of an agreement concluded between the Government of the Dominican Republic and the United Nations which was approved by the Economic and Social Council on 6 May, 1981. This Institute has been established as an autonomous body under the auspices of the United Nations, and Funded by the voluntary contributions.

The Institute is engaging itself in research on the contribution of women to development, including the work of women in the informal action the economy, and the elaboration of special methodologies for the monitoring and evaluation of programmes and projects for women. The institute is also playing constructive role in applying innovative Training strategies with a view of strengthening national Training capabilities, particularly in developing countries.

(v) World Conference to Review and Appraise the Achievements of the United Nations Decade for Women

Another World Conference to Review and Appraise the Achievements for the United Nations Decade for Women: Equality, Development and Peace was held at Nairobi from 15 to 26 July 1985. This Conference was held in pursuance of the General
Assembly resolution of 11 December 1980. The Conference took following two substantive items for consideration\textsuperscript{16}:

A. Critical review and appraisal of progress achieved and obstacles encountered in attaining the goals and objectives of the United Nations Decade for Women: Equality Development and Peace with special emphasis upon employment, health and education in the light of guidelines laid down at the World Conference of the International Women's year held at Mexico City and the "World Conference of the United Nations Decade for Women: Equality Development and Peace" held at Copenhagen.

B. Forward-looking strategies of the implementation for the advancement of women for the period upto the year 2000, and concrete measures to overcome obstacles to the achievement of the goals and activities of the United Nations Decade for Women Equality, Development and Peace in the special context of Employment, Health and Education.

The text of the paragraphs to be incorporated in the Forward looking strategies were prepared by the two main committees established for this purpose. It was endorsed by the General Assembly on 13 December 1985, with the hope that its implementation will
bring elimination of all forms of inequality between men and women and will promote integration of women into the development process. It was emphasized by the General Assembly that complete integration of women in the political, economic, social and cultural life of their countries is necessary for strengthening peace and security in the world.

The agenda adopted at the Nairobi for the advancement of women was though ambitious but realistic. The Commission on the Status of women, in order to cope with the new challenges set forth by the Nairobi forward looking Strategies, reshaped and refined its work and reaffirmed its central role in matters related to the advancement of women. The Commission restructured its agenda along functional lines, developed a systematic long-term of programme of work and made improvement in the system of supporting monitoring and appraising the implementation of the Forward Looking Strategies. Along with the Commission on the Status of Women, the Center for Social Development and Humanitarian affairs of the secretariat, the United Nations Development Fund for Women and International Training and Research Institute for the advancement of women were also assigned
with important roles in the implementation of Nairobi Forward-looking Strategies.

(vi) **Fourth World Conference on Women, 1995**

Beijing Declaration and Platform For Action adopted by the Fourth World Conference on Women: Action for Equality, Development and Peace which was held in September 1995 at Beijing, China in pursuance of the General Assembly resolution of December 1989, is a significant step towards protection of the victims of domestic violence. The agenda of this conference included: the second review and appraisal of the implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000; the Platform For Action; the main conclusion and recommendations of regional preparatory conferences, and institutional arrangements for the implementation of the Platform for Action.

The Platform for Action is a powerful agenda for the empowerment of women. It calls for the integration of gender perspectives in all policies and programmes. It focuses on concrete measures to address the critical areas of concern worldwide.
The strategic objective of Platform for Action was to take integrated measures to prevent and eliminate violence against women. So actions to be taken by the governments are:\textsuperscript{18}:

(a) Enact and/or reinforce penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs done to women and girls who are subjected to any form of violence, including in the home.

(b) Work actively to ratify and/or implement international human rights norms and instruments as they relate to violence against women including those contained in the Universal Declaration of Human rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(c) Enact and enforce legislation against the perpetrators of practices and acts of violence against women, such as female genital mutilation, female infanticide, prenatal sex selection and dowry-related violence, and give vigorous support to the efforts
of non-governmental and Community organizations to eliminate such practices.

(d) Create, improve or develop, as appropriate, and fund the training programmes for judicial, legal, medical, social, educational and police and immigrant personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts and threats of violence so that fair treatment of female victims can be assured.

(e) Co-operate with and assist the Special Rapporteur of the Commission on Human Rights on violence against women in the performance of her mandate and furnish all information requested.

Further, another actions to be taken by the governments, regional organizations, the United Nations, other international organizations, research institutions, women's and youth organizations and non-governmental organization, as appropriate: promote research, collect data and compile statistics, especially concerning domestic violence relating to the prevalence of different form of violence against women and the effectiveness of measures implemented to
Another significant step towards enhancing state responsibility for gender-based violence, the United Nations Declaration on the Elimination of Violence Against Women, 1994 which is a comprehensive statement of international standards with regard to the protection of women from violence. As per the Declaration, the state should condemn violence against women. They are to exercise due diligence to prevent, investigate and punish acts of violence against women. The Declaration specifically included domestic violence under the definition of "violence" under Article 2(a). It denounces violence against women, including violence in the home, as a violation of the rights and fundamental freedoms of women.

There is one more significant step in the same direction. The United Nations Commission on Human Rights appointed the first Special Rapporteur on Violence Against Women in 1994. The Special Rapporteur’s first report set forth the international legal framework condemning domestic violence and detailed actions that were currently being pursued by governments to reduce the occurrence of domestic assault. The states are put under a positive duty to prevent, investigate and punish crimes associated with violence against women.
women. Moreover, the states should not use tradition or custom as an excuse for abdicating their responsibilities to prevent violence against women.\textsuperscript{22}

There are so many measures also taken by the Amnesty International in promoting women's human rights as ratify and implement international instruments for the protection of human rights, ensure prompt and fair trials for all political prisoners, promote women's rights as human rights through programmes of education and training, and open the help line for victims.

Declaration on the Elimination of Violence against Women was passed in the UN General Assembly, recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, liberty, integrity and dignity of all human beings.

Therefore, in last The General Assembly proclaims\textsuperscript{23} The Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, especially for women to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive
measures, national and international, to secure their universal and
effective recognition and observance, both among the peoples of
Member States themselves and among the peoples of territories under
their jurisdiction.

Noting that those rights and principles are enshrined in
international instruments, including the Universal Declaration of
Human Rights, the International Covenant on Civil and Political
Rights, the International Covenant on Economic, Social and Cultural
Rights, the Convention on the Elimination of All Forms of
Discrimination against Women and the Convention against Torture
and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Recognizing that effective implementation of the Convention
on the Elimination of All Forms of Discrimination against Women
would contribute to the elimination of violence against women and
that the Declaration on the Elimination of Violence against Women,
set forth in the present resolution, will strengthen and complement
that process24.

Concerned that violence against women is an obstacle to the
achievement of equality, development and peace, as recognized in the
Nairobi Forward-looking Strategies for the Advancement of Women,
in which a set of measures to combat violence against women was recommended, and to the full implementation of the Convention on the Elimination of All Forms of Discrimination against Women.

Affirming that violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms, and concerned about the long-standing failure to protect and promote those rights and freedoms in the case of violence against women.

Recognizing that violence against women is a manifestation of historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women, and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men concerned that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, female children, women with disabilities, elderly women and women in situations of armed conflict, are especially vulnerable to violence.
Recalling the conclusion in paragraph 23 of the annex to Economic and Social Council resolution 1990/15 of 24 May 1990 that the recognition that violence against women in the family and society was pervasive and cut across lines of income, class and culture had to be matched by urgent and effective steps to eliminate its incidence. Recalling also Economic and Social Council resolution 1991/18 of 30 May 1991, in which the Council recommended the development of a framework for an international instrument that would address explicitly the issue of violence against women.

This 5th gathering of women from all nations of the Earth promises to be the "tipping point" for humanity in the direction of creating greater well-being for all peoples everywhere. The attendees of Beijing are getting older. Theoretically and practically, all 192 Member States are sponsors and so women from all of those countries can participate.

The UN call for a 5th World Conference for Women, the bigger idea behind the 5th UN World Conference is breaking down patriarchy. It's all outlined in Document 10, CSW55 in six languages. Young women could be sponsored by their countries to attend. Many of the younger people have not heard of Beijing. We are going to be
happy with Beijing +15 where the NGOs had no input into the document.

A 5th UN World Conference is such a cause referred to “The Tipping Point”, so that the critical mass of women can address on human rights and the quest for equality. It would be the first conference in 21st century and can take advantage of the advances in technology.

India will offer to be the host country of the 5th UN World Conference because it is largest functional democracy in the world; has the strongest women's movement; has the infrastructure to host this large a conference and has the accommodation; has more than a million locally elected women.25

International and regional legal instruments have clarified obligations of States to prevent, eradicate and punish violence against women and girls. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires that countries party to the Convention take all appropriate steps to end violence. However, the continued prevalence of violence against women and girls demonstrates that this global pandemic of alarming proportions is yet to be tackled with all the necessary political commitment and
resources. Globally, up to six out of every ten women experience physical and/or sexual violence in their lifetime.

Welcoming the role that women's movements are playing in drawing increasing attention to the nature, severity and magnitude of the problem of violence against women, alarmed that opportunities for women to achieve legal, social, political and economic equality in society are limited, inter alia, by continuing and endemic violence.

Convinced that in the light of the above there is a need for a clear and comprehensive definition of violence against women, a clear statement of the rights to be applied to ensure the elimination of violence against women in all its forms, a commitment by States in respect of their responsibilities, and a commitment by the international community at large to the elimination of violence against women.
REFERENCES


4. Supra Note.1 at pp. 756-757.


10. The conference was attended by 133 states, represented by more than 1000 delegates out of whom 70% delegates were

11. Ibid., para 1697.


13. Ibid.,para 1710.

14. Ibid.,para 1714 to 1722.

15. 157 States attended the Conference., Ibid, para 1734, p. 204.

16. Ibid.,para, 1735.

17. Ibid., Para 1740, p. 205.


19. Ibid.,para 129.


21. Ibid, Art. 2(a) which reads : "Violence against women shall be understood to encompass, but not be limited to physical, sexual and psychological violence occurring in the family including battering, sexual abuse of female children in the household, dowry related violence, marital rape, female genital mutilation
and other traditional practices harmful to women, non spousal violence and violence related to exploitation".


23. In 85th plenary meeting on 20 December (1993), UN General Assembly.

24. Ibid.