

**THE UNITED NATIONS HUMAN RIGHTS
APPROACH TO VIOLENCE AGAINST WOMEN: A
CASE STUDY OF INDIA**

Dissertation submitted to the Jawahar Lal Nehru University in partial fulfillment of the requirements for the award of the **Degree of Master of Philosophy**

PAWAN PREET KAUR

Centre for International Politics, Organization and Disarmament
School of International Studies
Jawahar Lal Nehru University
New Delhi-110067
India 2001



CENTRE FOR INTERNATIONAL POLITICS, ORGANIZATION & DISARMAMENT
SCHOOL OF INTERNATIONAL STUDIES
JAWAHARLAL NEHRU UNIVERSITY
NEW DELHI - 110 067

Gram JAYENU
Phone 6107676, 6167557
Extn 2349
Fax 91-11 6165886

5th January, 2001

CERTIFICATE

Certified that the Dissertation entitled "**The United Nations Human Rights Approach to Violence Against Women: A Case Study of India**" submitted by **Ms. Pawanpreet Kaur** in partial fulfillment of the requirement for the award of the **Degree of Master of Philosophy** has not been previously submitted for any other degree of this or any other University and is her own work.

We recommend that this Dissertation may be placed before the examiner for evaluation.

DR. VARUN SAHNI
Chairperson

Chairperson
Centre for International Politics,
Organization and Disarmament
School of International Studies,
Jawaharlal Nehru University
New Delhi - 110 067

PROF. ARJUN SENGUPTA
Supervisor

Dedicated to my Parents.

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LIST OF ABBREVIATIONS USED

CEDAW	Convention on the Elimination of Discrimination Against Women.
UNIFEM	United Nations Development Fund For Women .
CSW	Commission On The Status Of Women.
UDHR	Universal Declarations Of Human Rights.
ECOSOC	Economic And Social Council.
UNICEF	United Nations Children's Fund
UNESCO	United Nations Educational Scientific And Cultural Organization.
UNDP	United Nation Development Programme.
INSTRAW	International Research And Training Institute For Advancement Of Women.
NCRB	National Crime Records Bureau.
SITA	Suppression Of Immoral Traffic Act .
ITPA	Immoral Traffic Prevention Act.
IPC	Indian Penal Code.
NCW	National Commission For Women.
DWCD	Department Of Women And Child Development

CBI	Central Bureau Of Investigation.
FIR	First Information Report.
MTP	Medical Termination Of Pregnancy.
NGO	Non Government Organization.
AIDWA	All India Democratic Women Association .
Cr PC	Criminal Procedure Code.
WARLAW	Women Action Research And Legal Action For Women.
NAWO	National Alliance Of Women.
IWRAW	International Women Right Action Work.
YWCA	Young Women Christian Association.
MARG	Multiple Action Research Group.
NHRC	National Human Rights Commission.
etc	etcetera
i.e.	that is
vol.	volume

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The responsibility of any errors in this work however is mine.

CHAPTER I

Introduction

Ernestine L. Rose, the noted campaigner for Women suffrage of the 1850's said, " Humanity recognizes no sex; mind recognizes no sex, life and death, pleasure and pain, happiness and miseries recognize no sex; like man, woman comes involuntarily into existence; like him she possesses physical, mental and moral powers; like him she has to pay the penalty for disobeying nature's laws and far greater penalties she has to suffer from ignorance... like men she also enjoys and suffers with her country. Yet she is not recognized as his equal".¹

Not only are women denied equality which is basic to human rights², but from times immemorial have also suffered violations of their rights in the form of violence and discrimination which they have been subjected to outside the homes, in their homes and in every sphere of

¹ Ernestine L Rose , Second National Convention ,Friends of Women .Suffrage 1851,History of the Woman Sufferage:1,1881

² According to UDHR, 1948, Human Rights are fundamental and inherent rights to be enjoyed by all human beings of the global village – men, women and children and cannot be withdrawn, withheld or granted at someone's whim or will.

human activity all over the world and this still remains one of the perennial problems.

Violence Against women is a global phenomenon. (Table 1) This table shows the types of violence, which are being reported both inside and outside the family. The dots have been used to indicate the prevalence of that specific violence in that region. This table has been compiled on the basis of information given by countries on incidences of violence against women. However within the countries secrecy, insufficient evidence and social and legal barriers continue to make it difficult to acquire data and thus may not be very precise or accurate. Nevertheless, this table does show that violence against women is a common phenomenon. Although there are differences in the problems and condition of women, rooted as they are in different political, economic, social and cultural milieus, nonetheless violence against women is a common feature of every society, where women share common degradation, indignity and oppression simply because they are females. Some of the forms include domestic violence, trafficking, female genital mutilation; violence in armed conflict, such as rape, sexual slavery and enforced prostitution and pregnancy, sexual harassment; female infanticide, honour killings, dowry related violence

and prenatal sex, selection in favour of male babies. As United Nations Development Programs Annual Report (1995) also commented. "In no society are women secure or treated as equal to men. Personal insecurity shadows them from cradle to grave.... From childhood through adulthood, they are abused because of their gender".

Violence against women is the most pervasive violation of women's human rights and is so systematic and deeply embedded in culture and traditions of discrimination that millions of women all over the world suffer violence as part of their daily life realities.

Human Development Report in 1995 captured the extent of this pandemic, "It happens daily, it happens at home, in the neighborhood and is defended in the name of culture and tradition".

India is no exception to this problem and suffers violations and abuse of women's rights. Women in India too suffer countless acts of violence everyday. *The Government of India's Department of Women and Child Welfare* often reports the problem statistically ³. According to the Department, in India during 1991 there was:

³ "Police Unit Action Aid, India, May 1994" in Women victims of Violence, File name CEDAW13, Compiled by Women's Health and Development Resource Centre of CHETNA, an NGO in Gujrat.

- One Rape every 54 min.
- One Molestation every 20 min.
- One Kidnapping/Abduction every 43 min.
- One Act of Eve-teasing every 5 min.
- One Dowry death every one hour 42 min.
- One Act of Cruelty every 33-min.
- One Criminal Offence against women every 7 min.

Throughout history there have been periodic attempts through various social movements to improve the status of women in different parts of the world. The most significant of these was the 19th century feminist movement of Europe and America, which influenced the position of women, and they gained a number of rights previously denied to them. But it failed to gain much movement in India. It was during the middle of 20th Century that the concept of human rights embracing equal rights for men and women gained universal recognition. Though pioneering

efforts were put in by the League of Nations, which looked into issues like prevention of trafficking in women, fair and humane working conditions for both men and women, but these were dealt more as a matter of labour welfare and not as human rights per se. It was the United Nations Charter, which became the first international instrument to define equal rights of men and women in precise terms. Since then United Nations has come a long way and brought about momentous changes in the status of women worldwide. The United Nations Charter was followed by various international instruments adopted by the United Nations, which further reinforced women's rights and helped the international community recognize the need to eliminate age-old practices of violence and discrimination against women.

One such remarkable instrument was the **Convention on Elimination of Discrimination against Women (CEDAW)** adopted on 18 December 1979, which is comprehensive in its content and universal in its application.

As of April 2000, 165 Countries have ratified this convention, India is one of them (India ratified it in 1993). Although the applicability of the human rights machinery to the abuse of and violence against women

was first seriously addressed internationally at the United Nations Nairobi Conference 1985, yet when it comes to women and her rights, the Convention holds a very important place in bringing women into the focus of human rights concern. As according to the chair of CEDAW, the convention has the greatest potential for **'Making the human rights machinery effective for women** (Evatt. 1990).

It does not include specific provisions on violence, but has several provisions, which in effect provide sanction for violence directed at women. Furthermore, the United Nations Committee on Discrimination against Women whose purpose is to implement the Convention, resolved at its Annual Session in Vienna in 1989 that violence was clearly an item for its agenda (Women's Watch, 1989).

United Nations specialized agencies have also been very active in this direction, of these UNIFEM (United Nations Development Fund for Women) is very important. It is exclusively dedicated to the cause of women. The UNIFEM provides direct financial and technical support to development and programs to highlight violence against women as a violation of women's human rights, mainly in developing countries. India is a very significant part of it.

This study attempts to analyze these and numerous other institutions and mechanisms adopted by the United Nation for advancing women's rights in general and controlling and combating violence against women in particular. A modest attempt is also to discuss and analyze the problem of violence against women in India and to contextualize the application of International norms and standards, mainly in reference to CEDAW and UNIFEM within that understanding.

These and related issues are subject of this study. This study includes the following chapters:

Chapter-II

Addressing Violence Against Women: the role of the United Nations towards the inclusion of Women's Rights as Human Rights. This chapter will look into the role of the United Nations in addressing the problem of violence against women.

Chapter-III

Violence against women: India

This chapter will focus on the following-

- Nature and extent of violence against women in India.
- Constitutional and legal foundation of rights of women and their actual practice.
- Identify the causes and kinds of violence against women.

Chapter-IV

CEDAW, UNIFEM and the problem of Violence against Women in India

This chapter will look into the following issues:

1. India's role and commitment to respect and enforce international standards as spelled out in major international institutions. Is it possible to integrate international standards into the Indian context?
 - To analyze the scope and application of CEDAW in India, and does it address the problem of violence against women in India.
 - To analyze the role of UNIFEM in India.

Followed by the Concluding observation and assessment.

	Domestic violence	Incest	Homicide in family	Sexual assault and rape	Sexual harassment	Trafficking and Forced Prostitution
Developed regions						
Australia	•		•		•	
Austria	•		•		•	•
Belgium	•	•		•	•	•
Canada	•	•	•	•		•
Finland	•			•		
France				•		•
Germany Fed Rep of Germany	•	•	•		•	•
Greece	•		•	•		•
Italy		•		•		•
New Zealand	•		•			•
Poland	•					
Portugal				•		
Spain					•	•
United Kingdom	•			•	•	
United States	•	•	•	•	•	•
Africa	•					
Kenya	•		•			•
Nigeria	•					•
Uganda	•					•
Latin America and Caribbean						
Argentina	•					•
Brazil	•			•		•
Chile	•	•	•			•
Colombia	•	•		•		•
Dominican Republic			•			•
Ecuador	•					
Jamaica	•	•		•		•
Peru	•					•
Puerto Rico	•		•			•
Trinidad and Tobago	•	•		•		
Venezuela				•		•
Asia and Pacific						
Bangladesh	•		•			•
China			•			•
India	•		•	•	•	•
Israel	•					
Kuwait	•					
Malaysia	•			•		
Philippines				•		•
Thailand	•		•			•

(Table 1)

Types of violence against women reported

Source: Compiled by the Division for Advancement of women, Centre for Social Development and Humanitarian Affairs of UN Sect., from National reports to UN on 1988, in "The World's Women: Trends and Statistics. 1970-1990". UN/DPI. NY. 1991: p-19

Chapter – II

Addressing Violence against Women: the role of the United Nations towards the inclusion of Women's Rights as Human Rights.

Ever since its founding in 1945, the United Nations has been instrumental for the worldwide promotion and protection of human rights and fundamental freedoms. This was also the beginning of the international concern for the advancement of women. Since then, the United Nations has been facilitating the global movement for women's rights and in raising international awareness of their conditions worldwide. In its Preamble, the members of the United Nations declared their faith in "*fundamental human rights, in the dignity and worth of a human person and in the equal rights of men and women*"¹.

Although the United Nations began focusing on women's rights from its inception, it did not specifically address the problem of violence against women as a violation of women's human rights. The

¹ Charter of the United Nations and Statute of the International Court of Justice, Published by

UN/DPI October 1997:p.3

applicability of the human rights machinery to the abuse of and violence against women (one of the most gruesome blow to women's human rights) was addressed internationally much later, at the United Nations Vienna Conference in 1993, but the seeds were sown during the Nairobi Conference in 1985, which acknowledged that violence against women exists in various forms in everyday life in all societies and thus the Governments should adopt measures to prevent it. Since then the issue of violence against women has become a part of the international human rights agenda and the focus of all the United Nations activities.

For many years, before the Nairobi Conference, the United Nations role was mainly focused on civil and political rights of women, which later broadened to include the development of social and economic rights and recognition of significance of women's role in it. While the issue of violence against women was addressed during these years, it was very specific and was not categorized as a violation of women's human rights. Even the Convention on the Elimination of Discrimination against Women which was adopted in 1979 and which represented the

first comprehensive international Convention to place women's rights on the global agenda and in articulating the principle of non-discrimination against women, did not explicitly mention violence against women (except in its Article 6, where it dealt with prostitution as one of the forms of violence).² But during the Nairobi Conference, violence against women became a part of international agenda and the years that followed witnessed the inclusion of women's rights as human rights and violence against women as a violation of human rights.³

This chapter is thus an attempt to study the United Nations role in addressing violence against women.

But before we proceed on this, let us briefly understand what is 'violence against women'. To do so it is necessary to define 'violence'.

² CEDAW: An Orientation, "A report of workshops held in India", International Women's Rights Action Watch Asia Pacific, July, 1995. p-4.

³ Bunch Charlotte, "Foreword", in 'Local Action Global Change, Learning about the Human Rights of Women and Girls' Mertus Julie, pub by UNIFEM and Centre for Women's Global Leadership, 1999. p-v.

The *Encyclopedia of Social Sciences* defines violence as “ illegal employment of methods of physical coercion for personal or group ends “ (1935:265)

While the *Collins dictionary* defines it as (1) Behavior which is meant to hurt or kill people (2) a great deal of energy used in doing something – usually because you are angry (3) words, action or other forms of expression which are critical or destructive.

The *Chamber’s Twentieth Century* dictionary describes violence as excessive unrestrained or unjustifiable use of force. Infliction of injury on other people is the essence of violence. It may be either physical or mental.

And the *Oxford dictionary* defines violence as (1) the quality of being violent (2) violent conduct or treatment, outrage, injury (3) a) the unlawful exercise of physical force (3) b) intimidation by the exhibition of this.

The *Roget ‘ s Thesaurus* adds a few more dimensions to the concept offered by these three .It indicates that, the noun violence connotes vehemence, vagueness, excess destructiveness, turmoil, severity, brute force, savagery, explosion.

Understood from the above text, the connotation of violence comes across as coercive, destructive behavior with a great deal of powerful aggressive energy and force, destroying in a merciless manner what it is directed at and is disorderly, outrageous and unlawful in its functioning. Or can be understood as excessive use of force, injury that may be physical or mental, illegal employment of method of force, as exploitation and something that violates human rights of life, liberty and dignity.

Numbers of scholars have also defined violence in their own ways. While some have defined violence as “injurious and destructive behavior which damages the victim physically, mentally or financially”⁴. Others have called it “a mechanism to assert one’s will over the other in order to prove or feel a sense of power. It can be perpetuated by those in power against the powerless or by the powerless in retaliation which attempts to deny powerlessness”.⁵ Still a few others

⁴ Indian Report of a study on Women and Violence: sponsored in India and Korea by UNESCO, Bangkok

⁵ Pooncha Veena(ed) 1991 Women and Violence, Bombay: SNDT University in ‘Violence Against Women in Delhi-Determinants and Remedies’, Centre for Social research, ND. P-46.

have taken the term in a broader sense saying it can be defined, as the entire spectrum of assertive, intrusive and attacking behavior that may be overt or covert such as defamatory act as sarcasm, self directed attacks and dominant behavior.⁶

On summarizing the above definitions on violence, it can be derived that violence is an aggressive form of behavior, with an element of force, whether overt or covert, to wrest from the individual something that a person does not want to give of her own will. It can vary from causing physical harm or injury to a person, to the act where there is no actual hitting such as verbal abuse, or mental, psychological and emotional violence.

With this understanding of the term violence', 'violence against women' may be described as, "an act of verbal or physical force, coercion or deprivation directed at an individual woman or girl that causes physical and psychological harm, humiliation or arbitrary deprivation of liberty that perpetuates female subordination. (Heise, Raikes, Watts and Zwi, 1994), or it may also suggest an act of illegal, criminal, use of physical force which also includes exploitation,

⁶ Sinha Pushpa, Violence Against Women ,1989, Patna, p 107.

discrimination, upholding of an unequal economic and social structure, creation of an atmosphere of terror, a situation of threat, reprisal and other forms of religious, cultural and political violence". It can be expressed in number of ways, it can simply be eve teasing or as grave as rape or dowry death. In any form it has to be understood in the framework of larger social & familial structures that nurtures exploitative relationship between sexes.⁷

In effect it can be said, that violence against women is an act, which is specifically aimed at women or girls to cause harm or serious injury. Its parameters are much wider, and are not merely physical but also psychological, mental and moral. Violence against women effects the overall growth of women and hampers the enjoyment of their rights and thus leads to a violation of women's human rights.

The United Nations has summed up the gist of violence against women during the Vienna Conference in 1993. It defined violence against women as '*any act of gender based violence that results in or is likely to result in physical, sexual or psychological harm or suffering to*

⁷ Kelkar Govind and Maitreyi Krishnaraj, 'Women and Violence', Economic and political Weekly, vol XX, No. 12, March 1985.

women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.⁸

With this understanding, let us now study the United Nations role in addressing this issue.

Struggle for women's Rights: Prior to UN

Women began struggling for their rights centuries ago. Though the ideals of emancipation⁹ can be traced back to Renaissance,¹⁰ women's fight for their rights gained considerable momentum from the eighteenth century onwards. But it was above all the 19th century, which was particularly, influenced by the rise of women's activism due to feminist movement¹¹ in Europe and America, which gained a number of rights, previously denied to them. At this time feminist won

⁸ "Declaration on the Elimination of Violence Against women adopted by in UN General Assembly in 1993", in Platform for Action and the Beijing Declaration. UN/DPI, NY 1996. p-73.

⁹ From the Latin world emancipate: free restraint, specially legal, social or political Consice Oxford Dictionary . 9th ed.

¹⁰ Chirstine de Pisan (1365-1430) , a prolific and versatile French poet and author and she wrote of Women for their heroism and virtue (The new Encyclopaedia Britannica Vo.3, P. 182).

¹¹ The term feminist movement "appeared in the 19th century to describe the social movement that sought equal rights for Women, giving then equal status with men and freedom to decide their own careers and life patterns (The New Encyclopedia Britannica, Vol. 12, p.733).

a major victory when girls and women gained access to education at all levels like the creation of secondary schools for girls, admission of young women into the world of higher education, entry into boys schools etc.¹²

But it was at the turn of the 20th Century, that the international efforts to address the problem involving status of women began. In 1902, different governments meeting in the Hague, Netherlands adopted a series of conventions aimed at setting international standards for marriage, divorce and custody of minor children. Soon after in 1904 and 1910, measures concerning abolition of trafficking in women and children were adopted respectively.

Then in 1919, the League of Nations was founded. The league took several steps on behalf of women, beginning with adoption of its Covenant on 28th April, 1919, which declared that member countries should work to guarantee fair and humane working conditions for men, women and children. Since 1919 International Labour Organization also adopted several conventions relevant to social and professional

¹² For e.g. Encyclopaedia Universalis, Corpus 7, p.831. In 1872, Cornell University was the first school in the eastern United States to become co-education.

status of women¹³. The League further adopted some other instruments to deal with protection of women¹⁴. In fact, much of the conceptual groundwork for the Charter's language on women's right grew out of the pioneering efforts of the League¹⁵. But the League failed in its primary task to maintain peace and the Second World War broke out which abruptly ended the league's work.

The Second World War witnessed tremendous losses of lives and ruthless degradation of human rights. This made the post war world community realize the essentiality of promoting and protecting universal human rights and thus charged, this universal organization of international community, the United Nation with the responsibility in the matter of human rights.¹⁶ During the war in many countries, men

¹³ Equal pay for equal work (1919), Maternity Protection Convention (revised 1952)

¹⁴ International Convention on suppression of trafficking in Women & Children 1921, 30th December, International Slaving Convention (1926, though not directly related to Women, but aimed at her protection). Convention on Nationality of Married Women 1935.

¹⁵ UN and Advancement of Women 1945- 1996 UN /DPI, UN Blue Book Series, Vol – VI, revised edition UN, NY P.9.

¹⁶ Encyclopedia of Social Sciences, vol.8, p:541.

and women worked, fought and suffered together as equal, which was not the case earlier. Thus there was a hope that, end of war will be energized by the same spirit, where women would enjoy same freedom and status as men. This vision was soon woven into the fabric of the organization's founding document.

And this Charter of the United Nations signed on 26th June 1945, became the first international instrument to define equal rights of men and women in precise terms and to date remains unmatched. According to the United Nations Blue Book series, Vol. VI on Women, no previous legal document had so forcefully affirmed the equality of all human beings, or so specifically outlawed sex as the basis for discrimination than the United Nations. The equality of rights is also explicitly asserted in Articles (1,13,55 and 76¹⁷) of the Charter which calls for realization of human rights and fundamental freedoms for all, without distinction as to race, sex, religion or languages.

Not only the Charter ensures, universal respect for human rights but also co-operation to achieve this and other aims (By Art. 56 of the

¹⁷ Charter of the UN & Statue of International Court of Justice, UN/DPI, UN October 1997 P: 5, 14, 37 and 49 respectively.

Charter, the state parties pledge themselves to take joint and separate action in co-operation with the United Nations for the achievement of this and other aims).

Thus, right from its birth, the United Nations Charter has helped to universally recognize non-discrimination and that all states have a right, indeed a duty, to be concerned about respect for human rights in other countries. In pursuance of the objective to ensure that women's issues remained prominent on the global agenda, the United Nations began its challenging journey.

Early Years: 1945 to 1960's

When the United Nations began its role, violence against women was not the area of concern, rather, the emphasis was on establishing legal and civil rights of women in areas such as political participation, work, education, nationality and marriage. It focused on these areas because at the time of its birth in many regions of the world women faced numerous obstacles in law and in fact. For e.g. inequality in laws and customs concerning marriage and family. In the field of education, they were denied the same opportunity as men and boys, they found barriers in employment and pay. Even in politics they were denied the right to

vote, to hold office etc. Again the member states as well the non-governmental organizations were also focusing on promoting these rights of women. Thus the United Nations moved to address these areas of discrimination on a worldwide basis. These factors shaped the activities of various United Nation bodies during the early years.

An early task of the United Nations was the establishment of a mechanism to reach a global consensus on human rights standards and to oversee their implementation. The body created for the purpose was the **Commission on the Human Rights**, a subsidiary body of United Nations, Economic and Social Council, established in June 1946 under Article 68 of the charter.

Soon the Council realized that the Commission on the Human Rights would require “Special Advice” on problems relating to the status of women and this would necessitate creating a special body. Thus, in 1946, **Commission on the Status of Women**¹⁸(CSW) was set-up to monitor the situation of women and promote their rights in all societies around the world. The reflections of the above factors were highly

¹⁸ In Feb. 1946, a Sub commission was established which was replaced after 4 months by the Commission Status of women. The first seven members of the Sub –Commission were women.

visible in the working of the Commission. The Commission performed two basic functions:

To prepare recommendations and reports to Economic and Social Council on promoting women's rights in political, economic, civil, social and educational fields, and

To make recommendations on urgent problems requiring immediate attention in the field of women's rights.¹⁹

Most of the recommendations were based on the vast research and polling efforts to assess the status of women worldwide. A unit, set up in 1946 itself, within the United Nations Secretariat dealing with the status of women supported this work of the Commission, which was later named as the Division for Advancement of women.

The CSW began to advocate legal and civil equality, right from its inaugural meeting in 1947, where it decided to work “to raise the status of women, irrespective of nationality, race, language or religion”, to promote “equality with men in all fields of human enterprise, and to

¹⁹ UN and Advancement of Women 1945- 1996 UN /DPI, UN Blue Book Series, Vol – VI, revised edition UN, NY Doc.6 p112

eliminate all discrimination against women in the provisions of statutory law, in legal maxims or rules, or in interpretations of customary law.²⁰

To accomplish this, the CSW with the help of the unit undertook a global survey on the status of women's rights. The main focus was to look into the extent to which law and custom block women's political, civil, economic and social rights and educational opportunities. While the survey was being conducted, the CSW was also involved with the other United Nations discussions on the issues relevant to women. It was the result of these discussions, which helped shape the language of one of the biggest achievement of the United Nations, the Universal Declaration of Human Rights (UDHR), adopted by the General Assembly on 10th Dec. 1948. ²¹The CSW ensured the inclusion of provision on women's equality in the UDHR. The UDHR enshrined "the principle of equality between men and women and prohibited discrimination against women". It offered what the General Assembly

²⁰Ibid, Doc. 8 p 113.

²¹ UDHR, has a Preamble and 30 articles. The rights embodied have been set forth in two covenant – The International covenant on civil and political rights and International Covenant on Economic social and cultural rights which were adopted by General Assembly on 16th Dec. 1966.

called “a common standards of advancement for all people and all nations”. The UDHR was the first and overarching United Nations document on human rights, which made explicit reference to equality for women not only in its Preamble but also in several articles.

By the time United Nations has reached the 50’s, these fact-finding efforts produced a detailed country by country picture of the political and legal status of women, cataloging the gains and identifying the remaining obstacles. It was on the bases of these findings that the CSW adopted three international conventions,²² which granted equal rights to women vis-à-vis men in number of areas.

²² Convention on Political Rights of Women, 1952 the first instrument of International Law. It says women have a right to vote, run elections to any office and hold public office on equal basis with men.

Convention on equal remuneration in 1951. ILO on recommendation of commission approved it. It ensures the principle and practice of equal pay for work of equal value.

Convention of Nationality of Married Women, 1957 which aimed at protecting women’s rights to retain her nationality if she wished even though it differed from her husband , and also.

Convention and Recommendation on Consent to Marriage, minimum age for marriage and registration of marriages adopted in 1962 decrees that no marriage may occur without full and free consent of both parties.

Another result of the findings was that the CSW and the other United Nations bodies began to focus on violence against women. This was the first time, that the problem of violence against women was being addressed at the United Nations level. The focus was on problems of customs, ancient laws and practices harmful to well being of women and girls. These practices included, genital mutilation, early childhood marriage, widow burning, violence related to dowry and other inhumane practices. There was a consensus that these practices were wholly inconsistent with the universal human rights principle. But to question the existence of these practices embedded deeply in culture and tradition was a delicate issue and thus aroused resistance.

However, in May 1952, the ECOSOC on recommendation of the Commission on the Status of Women called member states to “take immediately all necessary measures to abolish progressively.... all customs which violate physical integrity of women and which thereby violate the dignity and worth of a human person as given in the Charter and the UDHR”²³.

²³ UN's and Advancement of women 1945 – 1996, UN /DPI UN Blue Book Series Vol. 6 rev. ed. NY. doc. 25. p. 164.

The Council adopted a similar resolution on 17th Dec. 1954 to take appropriate measures to abolish practices that violated human rights. This was after the Commission started collecting data in preparation for discussion of the rights of women in family law. Though there was a wide agreement that harmful practices must be abolished, at the same time there was no consensus on how it should be done. This was because of different views that were held among the delegates present. Some delegations argued that elimination of custom would come only as a result of education and other preparatory steps and cannot be abolished at one go. While the others felt that such issues as tradition and custom were not only delicate but also fell within the domestic limit of individuals and countries and hence outside the human rights purview. Thus it was cautioned that interfering in such issues would raise questions about the possible violation of provision of the Charter that prohibits interference in domestic affairs of the member states. But despite disagreement the resolution was adopted. The resolution included no special references to practices such as genital mutilation but cited issues as ensuring freedom to choose spouse, elimination of child marriages, betrothal of young girl before puberty, abolishing

practice of bride burning, or dowries and guaranteeing widows custody of their children as well as rights to remarry²⁴.

Even though these two resolutions were adopted, there was no consensus as to whether the question of such practices harmful to women should have a prominent place on the international human rights agenda. As a result, the matter was put aside for a long time.

During the first few years, no substantial improvements were made in regard to violence against women. Only the specific form of violence, and physical harm that the violence causes was dealt with and the problem was not tackled beyond that. But at the same time, the United Nations gained success in the promotion of legal and civil rights for women. But mere granting of these rights was not enough, rather there was a need to enable women to make use of their rights. This realization made it clear that legal status was an element of a larger theme and advancement of women was needed within a broader social and economic context. Thus, with the beginning of the 60's the United Nations has widened the sphere of activities to include the problems of newly independent nations, who became the members of the United

²⁴ Ibid, doc. 28, p.167.

Nations and there by the role of women in development became a major concern to achieve equality between men and women.

The Commission broadened its mandate to include issues like women's need in community and rural development, agricultural work, family planning, impact of science & technological advances in women gained prominence. While the overall United Nations role was seeing a transformation from civil and political to social and economic rights, the issue of violence against women did not gain prominence and remained hidden behind the other issues. To foster the development process, the United Nations also initiated Development and Assistance programs with other bodies like UNICEF, UNDP, etc in developing countries. ECOSOC also called on women's non-governmental organizations to help supplement United Nation efforts by sponsoring regional, local, national & if possible international seminars.

At the same time the CSW also continued its efforts to establish women's legal equality to deal with discrimination. This was attended to, when the General Assembly adopted the **Declaration on the**

Elimination of Discrimination against Women in 1967²⁵. The Declaration proclaimed that discrimination against women was fundamentally unjust and constituted an offence against human dignity, and thus all customs, regulations and practices promoting these must be abolished.

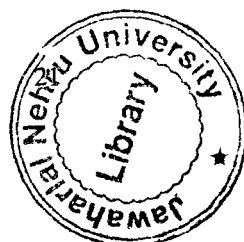
In terms of violence against women, the Declaration did not address the problem on a very broad scale, but it did highlight a very important form of violence against women and gave a call to take appropriate measures to combat all forms of trafficking in women and exploitation of women in prostitution. Since, 1968 the ECOSOC has been asking the national government, non-governmental organizations and the special agencies concerned, to report to the Secretary General about efforts & steps in disseminating the Declaration & pursuance of its principles.

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Similar to the earlier decade, in the 1960's also the United Nations addressed the problem of violence against women from a limited angle and at no time looked at it as a violation of women's human rights or the fact that it might be more harmful than merely physical. While its

²⁵ Res. 2263 (XXII) of 7 Nov. 1967 in / Simonizes & volodin

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role remained more or less stagnant on the problem of violence against women during these decades of its existence, overall its role in promoting women's rights was growing.

This expansion of United Nations role was also visible when the United Nations entered the 70's.

United Nations role: 70's and 80's

The 1970's marked a new phase in the United Nations existence. This period witnessed two major transformations at the international forum, one of which was soon to change the perspective on violence against women. While one of the transformations called for a shift from a belief that development served to advance women, to a new consensus that development was not possible without full participation of women. In other words, for the first time an explicit reference to the integration of women in development was made. The second fundamental transformation was of the United Nations itself from an organization in which government set policies and agendas to the one in which policies and directions were also generated from the grassroots levels and the NGOs. The NGOs brought the voice of women suffering from discrimination, poverty and oppression to the attention of the United

Nations. At the national levels NGOs worked to implement the United Nations policies enhancing women's human rights. This marked a turning point in the development of the international movement to end violence against women.

Towards mid of the seventies, i.e. during 1975, the women's movement had also started growing and participating in the United Nations activities. The United Nations as the International Women's Year, with the theme declared this year: Equality, Development and Peace and sub-theme of Employment, Education and Health.

As the United Nations was focusing on these specific issues, the issue of violence against women was not on its agenda. Thus when the International Women's World Conference was convened in Mexico in 1975, the proceedings merely reflected a global consciousness on issues such as rape and abortion and a general awareness that domestic violence was problematic and women would benefit more from family counseling and responsive family courts.²⁶ The Mexico Conference main focus thus remained the implementation of the objectives of the

26. Heyzer Noeleen, "Working towards a world free from violence against women: UNIFEM's contribution" in *Gender and Development*, UNIFEM. P-18.

International Women's Year, for which it came forward with the World Plan for Action. The Plan proved to be the most enduring legacy of the conference. Its objectives were general & specific because it felt that while integrated program for benefit of all members of society should be the basis for action, special measures on behalf of women will also be necessary. General objective included:

- To promote equality between men & women
- To ensure integration of women in total developmental efforts
- To Increase women's contribution in strengthening world peace

Specific aims were: equal access for women at every level of education & training, to ensure women's political participation, increased employment opportunity, improving health services, sanitary housing, nutrition & family planning. To ensure national & international actions to achieve these objective & further advance the status of women the United Nations declared the period 1976-85 as the **United Nation's decade for women: Equality Development & Peace.**

While on the one hand this decade witnessed the coming together of the United Nations, governments, inter governmental organizations and NGOs who joined in the broad array of activities to strengthen international commitments to improve the status of women and to deal with the problem of violence against women, on the other, this decade came out with some of the most effective tools for promoting women's equality.

One such tool was the **Convention on the Elimination of Discrimination against Women**,²⁷ which was adopted on 18th Dec. 1979. It was the most comprehensive treaty on women's human rights. It represented the culmination of many years of consistent work by the United Nations, particularly the CSW to place women's right on the global agenda. The Convention called for equality between men & women in the enjoyment of civil, political & economic, social and cultural rights and abolition of all forms of discrimination both in private and public life by states who have ratified it. This made the convention unique. As mentioned earlier, that the Convention did not explicitly mention violence against

²⁷ Convention On The Elimination Of All Forms Of Discrimination Against Women , UN Treaty Series , vol. 1294 , no.20378

women except for Article 6 (It called for the elimination of trafficking in women and their exploitation through prostitution).

To monitor the implementation of Convention of Elimination of Discrimination against Women, **Committee on Elimination of Discrimination Against Women** was also set up in 1982. The Committee's main task, as described in Article 18 of the Convention, is to consider reports submitted by governments concerning "legislative, judicial, administrative or other measures which they have adopted" to comply with the Convention, and to submit reports that "may indicate factors and difficulties affecting the degree of fulfillment of obligations".²⁸

Besides this, the decade also witnessed the creation of two bodies dedicated exclusively to the advancement of women.

One of them was the *INSTRAW*, established in 1975, to undertake research & training programs especially in issues related to women & development with particular attention paid to problems facing women in developing countries. For e.g., establishing training programs, to

²⁸ UN's and Advancement of women 1945 – 1996, UN /DPI UN Blue Book Series Vol. 6 rev. ed.

NY. Doc. 69. p. 244.

increase opportunity for women to acquire new skills & establish information system on women.

While the other body was the *UNIFEM* established in 1984, as the Development Fund. The work list of the UNIFEM included training and working with NGO's to enhance cooperation between citizens, organization and Government and to provide technical and financial support to women in developing countries.

Over the years, these two bodies have come to play a vital role uplifting the standards of women in developing countries. UNIFEM, since 1998 has also undertaken major works to eliminate violence against women. (Details will be dealt with in the fourth chapter).

Towards 1985, when the United Nations Development decade was coming to an end, the international women's movement to end violence has gained strength, public awareness of the dimensions of the problem had grown at all level of society. Countries began to acknowledge that violence was one of the major obstacles to all three goals of the Decade for women. Isolated reports had begun to filter back of women who were bringing changes within their own societies.

These developments & many more of its kind were reflections of the increasing awareness of women. Women individually & collectively were beginning to transform their lives and conferences offered them a forum in which women organizations had a voice in raising such issues & in shaping the work of the United Nations. There was also pressure from regional, national & international activities. All these efforts culminated in the development of international movement to end violence against women which was included in 1985 Nairobi Conference and since then there is growing global movement to place the issue of violence against women on international human rights agenda. Along with this, there was also a realization that no development was possible till women face violation of their rights.

Side by side an effort was also going on to understand the magnitude of the problem and evaluate the accomplishment in this direction. One way adopted for this was to collect the statistics. The statistical office in 1985 came forward with the data meant for the 1985 World Conference to Review and Appraise the achievements of the United Nations Decade for Women: Equality, Development and Peace and to suggest forward looking strategies for women. At this juncture there was a worldwide ferment on women's issues and it was recognized

that women faced oppression due to caste, class sex, ethnicity, religion, foreign occupation.

The Nairobi forward-looking strategies acknowledged that “ Violence against women exists in various forms in every day life in all societies & urged governments to adopt legal measure to prevent violence and to assist women victims”. It called such abuses as beatings, mutilation, burnings, sexual abuse and rape as a major obstacle to peace for which preventive policies should be elaborated and institutionalized forms of assistance to women victims provided.²⁹

The Nairobi Conference also recognized domestic violence as an obstacle to equality and an intolerable offence to human dignity. In 1985 the United Nations General Assembly passed its first resolution on violence against women, advocating concerted and multidisciplinary action, within and outside the United Nations system to combat domestic violence.³⁰ Violence against women in the family was also included, as an issue related to peace. Despite the progress, there still

²⁹ The Nairobi Forward Looking Strategies for the Advancement of Women, UN/DPI, NY. Sept, 1993.p-60.

³⁰ Heyzer Noeleen, “Working towards a world free from violence against women: UNIFEM’s contribution” in Gender and Development, UNIFEM. p-18.

remained a drawback, as it did not explicitly categorize violence against women as a human right abuse, which finally happened in the 1990's. This was because the Conference was focusing on other issues like development in employment, health, education, industry, communications, environment and social services. Within equality, it aimed at social and political participation.

United Nations role: 1990's

This fervour which was created and seen during the Nairobi conference was also visible during the 1990's, where the global women's movement had become a force to contend with. This decade witnessed the integration of woman's human rights into the mainstream efforts of all the organization's agencies and bodies. Similar to 1980's, in this period also, surveys were conducted which indicated that prevalence of violence has reached alarming proportions. Thus need arose to document the problem in a major way and this prompted an increasing number of women to proclaim: "*Women's Rights as Human Rights*".³¹ The Global campaign for women's human rights undertaken by a loose coalition of women's

³¹ Bunch C, *Women Rights as Human Rights* HR Quaterly, 12,1990,p 491.

human rights advocates from around the world, succeeded in making the governments acknowledge that violence against women is a fundamental violation of their human rights.³²

This vision was given a fundamental shape and became a major theme of the United Nations World Conference held in Vienna in 1993 and the Beijing Conference 1995,³³ and also of all those United Nations bodies which earlier did not focus on violence.

Both the Documents defined violence against women as a violation of women's human rights and they recognized that violence devastates the lives of women and girls, fractures communities and is a barrier to development in every nation. They also included concrete steps that international agencies, governments, civil society and others can take to stop this vicious cycle from continuing.

During this period, the United Nations bodies had also started acknowledging the problem of Violence against Women. As in 1986, ECOSOC also declared that Violence in the family was a grave

³² Bunch C and Reilly N, *Demanding Accountability :the Global Campaign and Vienna Tribunal for Women* UNIFEM/Centre for Global leadership ,NY 1994.

³³ *Ending Violence Against Women, in the Trust Fund in support of Actions to Eliminate Violence Against Women*, UNIFEM.

violation of Rights of Women. Then in 1989, the United Nations Committee on Discrimination Against Women whose purpose was to implement the Convention, resolved at the Annual Session in Vienna in 1989, that violence was clearly and item for its agenda (Women's Watch 1989).

Then in 1991, the Commission on the Status of Women recommended, that expert meeting be convened to determine what international instrument is needed to confront the problem. Again in 1992, CEDAW adopted a General Recommendation No. 19 in which it elaborated on the meaning of discrimination to include issues related to violence against women (the detail of this will be dealt with in the fourth chapter)

In 1993 when the World Conference was held in Vienna it recommended, that measures to assure "the equal status of women and the human rights of woman" be integrated into the mainstream of the United Nations system. At this time, on the 20th of December **the United Nations adopted the Declaration of Elimination of Violence against Women**, which defines the phenomenon and recommends

measures to combat it .The Declaration recognizes three instances of Violence against Women³⁴

- In families, which include battering sexual abuse of female children, dowry related violence, marital rape, female genital mutilation, non-spousal violence and violence related to exploitation.
- In Communities, which include rape, sexual abuse, and sexual harassment at work and educational institution, trafficking in women and forces prostitution.
- Violence that to perpetrated as condoned by the State including armed conflict. Within these spheres the instances of violence that have been receiving a great amount of attention internationally are domestic violence, female genital mutilation, violence due to preference for males and sexual violence during armed conflict.

A new phase began in the United Nations commitment to the growing campaign against violence in March 1994, as the General Assembly appointed a Special Rapporteur on violence against women to examine, its causes and consequences, to collect most comprehensive data and to

³⁴ “Violence Against women” in Rights of Women ,A Guide to the most important treaties on Women Human Rights, pub by InternationalTribune Centre NY,1998.p;148

recommend measures at the national, regional and international level.

³⁵Ms Radhika Cooramaraswamy is the special Rapporteur on violence against women in Asia. In November 1994, proposal was put forward by the Rapporteur to formulate an Optional Protocol to the 1979 Convention that would allow individual, victimized by violence the right to petition once local remedies had been exhausted. The Commission on the Status of Women endorsed the proposal in 1995 resolution. The Optional Protocol was finalized in March 1999. It was opened for ratification in October 1999, and by May 2000, 35 Countries had signed it. Besides this, till now the Rapporteur submitted three reports to the United Nations High Commission. During 1994 and till Fourth world Conference on women the following issues remained of special concern, violence perpetrated against certain groups of women including migrant workers, and trafficking which had become highly organized phenomenon in 1995 and thus focus of attention has shifted to the international dimension of the problem.

In 1995, Fourth World Conference on women was held in Beijing from 4th to 15th Sept. Thousand of women and men around the world

³⁵ United and the Advancements of women 1995 –1996 ,UN / DPI ,UN Blue book Series ,volume vi, rev.ed , NY doc 110 pg 492.

met to assess how women's lives have changed over the past decade. NGO's were the most active & visible forces behind this drive. Almost 30,000 NGO's were drawn to the forum, The Conference moved the global agenda for the advancement of women into the twenty-first century and beyond. 189 countries unanimously adopted this Declaration. According to the Declaration, violence against women is an obstacle to the achievement of the objective of Equality, Development and Peace. It both violates and nullifies the enjoyment by women of their human rights and fundamental freedoms. It identified violence against women as a critical area of concern along with eleven others areas and made recommendations to eradicate the problem in its Platform for Action, calling long standing failure to protect women's rights and freedoms in this area as a matter of concern for all States³⁶. The Platform for Action recognized that "all governments, irrespective of their political, economic and cultural system are responsible for promotion and protection of women's human rights. The Platform for Action also aimed to accelerate the implementation of the Nairobi Forward Looking Strategies. It also

³⁶ United Nations , Report of the Fourth World Conference on Women, Beijing4-15 Sept. 1995 (UN pub, Sales No. 96. IV. 13), chapter 1,res I, annexes I and II.Feb. 1996.

upheld the CEDAW and stated that its implementation at national level, in conformity with human rights and fundamental freedom is the sovereign responsibility of the states. Its strategic objectives for Elimination of Discrimination included access to education, equal development, measures aimed at preventing and eliminating violence and all form of traffic, advancement of women's economic rights, elimination of job discrimination, full implementation of human rights instruments. Lastly, the Convention also placed special emphasis on the elimination of discrimination against girls. In other words the Platform for Action reaffirms that "human rights of women and girl child are an inalienable, integral and indivisible part of the universal human rights. As an agenda of action, the Platform seeks to promote full enjoyment of women's human rights all through their life cycle"

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Observation

From the above survey of the United Nations role it is evident that the United Nations all through its existence served as a cohesive vehicle to carry the advancement of women worldwide. This long journey of

³⁷ Platform For Action ,Fourth World Conference on Women ,Beijing ,China 4-15 Sep 1995.

the United Nations has taken many directions. In the early years and till the Nairobi Conference, the United Nations activities focused on the promotion of Legal measures, Mobilization of public opinion and international action, Research and training and direct assistance to Disadvantages groups, while the issue of violence against women remained overshadowed by these issues. Where as in the years that followed the Nairobi Conference, witnessed a change of the international concern on the issue of violence against women and this problem gained prominence on the international agenda. It is now considered a violation of women's human rights. This has been the result of various changes and activities that were taking place within and mainly outside the United Nations till finally women's rights became a part of human rights.

The United Nations has undertaken a number of activities and made undeniable progress, but net result does not commensurate the amount of activities undertaken and there still remain a lot to be done. Women continue to face discrimination and violence in all walks of life. The United Nations has made a beginning in attaining the goals because it has laid the basic framework by providing international standards and institutions for improvement of women's status worldwide. It is now

for the individual states to adopt and adapt the principle at national and local levels. The United Nations alone can make little contribution unless nations do not have the will to improve the position of women.

CHAPTER III

VIOLENCE AGAINST WOMEN: INDIA

INTRODUCTION

Violence against Women and her subjugation is a global phenomenon and India is no exception to it. Even after so many years of independence, India is known for inflicting the worst forms of violence and indignities on women, which is a gruesome blow to her human rights. Indian newspapers are full of reports of the heinous crimes such as rape, flesh trade, feticide, female infanticide, wife battering, dowry deaths, sexual harassment, prostitution etc. And such acts of violence against women are escalating rapidly. The data compiled by the *National Crime Records Bureau* clearly indicates the phenomenal increase of violence year after year in India. According to the National Crime Records Bureau, the incidences of crime per lakh of population have gone up by 8.3% in 1998 over 1997. Whereas from 1990 to 1998 there has been an absolute increase of 33% in the incidence of rape, 11% in kidnapping, 8.6% in dowry, 31% in molestation, and 41.2% in sexual harassment.¹ It further says that in Delhi, which is the capital of

¹ As reported by the National Crime Records Bureau in *The Asian Age*, 11th may 1999

the nation, violence against women is growing in alarming proportions. Delhi accounted for more than 90% of the total crimes in all Union Territories. Whereas in the states, Uttar Pradesh reported the highest incidence (13.3%) of these crimes followed by Madhya Pradesh (12.1%) and Maharashtra 10.9%) . These horrifying figures are but a tip of an iceberg for most of the crime is hidden and goes unreported. As according to various women's organizations, an equal number of crimes go unreported, mostly on account of the refusal of the police to register cases, or even when they do register a case, they try to minimize the offence, for example, over 90% of the cases of the women burnt were registered as accidents, only 5% were noted as murders and 5% as suicides.²

Despite the fact that Constitution guarantees 'equality for women' and the State has enacted various legislative measures and laws to protect women against various forms of violence and discrimination, the saga of the Indian women is riddled with cruel, inhuman and pathetic attacks on her life, be it mental, physical or emotional. In the words of Krishna Iyer " The poignancy of the Indian woman's condition is that she is a

² *Indian Express, Editorial, 27th April, 1994.*

slave, bonded labor, bought, sold, raped and murdered, eve teased and dowry burnt".³

This Chapter is thus an attempt to:

1. Look into these Constitutional and Legal foundation of rights of women and its actual practice in India since independence. And,
2. To state and analyze the causes of violence against women that tramples her human rights

The public outcry and global awareness has brought the issue of violence against women to the forefront. Various measures have been initiated internationally (by United Nations as pointed out in the previous chapter) and nationally to deal with this menace. Like many other countries, India too followed the United Nations footsteps, and has provided various Constitutional provisions and legal safeguards for women. The spirit of equality has been incorporated in the Constitution, and number of laws has been enacted by the state from time to time to protect women against violence and discrimination.

CONSTITUTIONAL PROVISIONS

³ Justice Iyer Krishna, "Women Unbound: A Plea for Gender Justice" p. 64.

The Preamble to our Constitution resolves to all its citizens:

Justice: social, economic & political.

Liberty: of thought, expression, belief, faith and worship.

Equality: of status & of opportunity and to promote among them all

Fraternity assuring, the dignity of the individual & the unity & integrity
of the nation

To attain these national objectives the Constitution guarantees certain
fundamental rights to all its citizens. Indian women are beneficiaries to
these rights as Indian men. These constitutional rights for women are:

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Art 14: State shall not deny to any person equality before law or the
equal protection of the laws within the territory of India.

Art 15 prohibits discrimination against any citizen on grounds only of
religion, race, caste, sex, place of birth or any other of them.

Art 15 (3) empowers the State to make any “ special provision for
women and children

⁴ SOURCE (*Women Employees in Government Monograph NO. 3-86, Dept. of Personnel and Training, Government of India, New Delhi in “Women in India: Statistical Profile”, 1997.p-449.*

This clause is very significant for women's human rights as it empowers the State to make laws in favour of women to provide socio-economic justice to them.

Art.16 (1) guarantees equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

Art.16 (2) guarantees right to equal opportunity in matters of public employment.

Besides these fundamental rights, there are Directive Principles of State Policy. Some of these concern women indirectly or by necessary implication while few others are specific to women. The ones, which are of direct concern and have special bearing on their status, are:

Art.39 (d) directs the State to ensure equal pay for equal work for both men and women.

Art.39 (e) directs the State to ensure that the health and strength of workers, men and women and tender age of children are not abused.

Art.42 directs the State to make provision for ensuring just and humane conditions of work and maternity relief.

And also article 51.A (e) in part IV-A, the new chapter in Fundamental Duties provides that it is the duty of every citizen to renounce practices derogatory to the dignity of women.

The Constitution of India has thus given women an equal position with men in society and in the eyes of law. By doing this the Indian Constitution has upheld the basic principles enumerated in the UDHR, and codified in International Covenant on Civil and Political Rights and International Covenant on Social and Economic Rights and those mentioned in the CEDAW.

LEGAL PROVISIONS

Inspired by the constitutional provisions and to uphold constitutional mandate the state enacted various legislative measures and laws to improve the status of women and ensure equality to counter social discrimination and forms of violence and atrocities. These measures could be divided into two Categories. -

1. Under Special laws
2. Under Indian Penal Code

SPECIAL LAWS

The Government of India has enacted number of acts dealing with women, of which the following are of the direct concern to this study.

Immoral Traffic (prevention) Act (SITA): This Act was passed with an objective of prevention of exploitation of person from sexual abuse. It is a new name for the Act earlier called Suppression of Immoral Traffic

in Women and Girls (1956). Under this Act prostitution is a crime. It defines prostitution as the act of a female who offers her body for promiscuous sexual intercourse for hire whether in cash or kind. But this act had loopholes. It penalized the victim and subjected her to further exploitation and forced her to live like a criminal, but did not punish the client. Even the pimps and touts went scot-free. Thus SITA was a penal statute and welfare provisions were alien to it. But there was soon a lot of public outcry and pressure from various women organizations. As a result of pressures from these and the other progressive sections of society, the scope of definition of 'prostitution' was broadened by Amendment Act of 1986 and the Act was renamed as Immoral Traffic Prevention Act. It recognized that children or even men along with women can be sexually exploited, and thus provided an increase in the prison term for offenders convicted for procuring majors. An important provision of the Act was that it included a clause on rehabilitation of prostitutes.

In 1961, *Dowry Prohibition Act*⁵ was passed, to curb the evil of dowry. It was the first penal legislation to ban this practice. But even after so many years the problem exists. In this, a narrow definition of dowry

⁵ Dewan Paras "Laws Relating too Offence Against Marriage, Orient Law House, N.D. 2000 p.90

was given as “property given in consideration of marriage and as a condition of marriage taking place”. Under this Act, any presents in the form of ornaments or other articles were excluded from its purview and both giving and taking of dowry was an offence (non-cognizable and bail able). The maximum punishment was six months and a fine of Rs.500. Prior sanctions of the government were necessary for prosecuting a husband for demanding dowry. The aggrieved person could only file a complaint within a year of the offence (sec.7 [b]). But soon it was felt that the Act was full of flaws and lacked teeth.

During the end of the seventies, the Parliamentary Committee was appointed to study in great detail the defect of the Act and recommend amendments. The Committee studied the problem and recommended a number of changes. There was pressure from social organizations and demands from women groups and press, to prevent inhuman treatment of women in the name of dowry. As a result of such demands and to plug some of these loopholes, amendments were made in 1984 and in 1986. The important recommendations of the committee were included like, for dealing with cruelty of married women by husband or relative of the husband, for not getting sufficient dowry, were given effect by introducing changes in the IPC, the Cr. PC and the Indian Evidence

Act.⁶ The Amending Act of 1984 redefined (Sec.2) and brought all such presents made at the time of marriage within the scope of dowry. The phrase 'in connection with the marriage' was also substituted for 'as considerable for the marriage'. Dowry was made cognizable offence, there was an increase in punishment to five years and fine was increased to Rs. 10,000. The limitation of one year was also removed. The prior sanction of the government for prosecuting husband was also dropped. The 1986 Amendment Act further modified (sec.2) of 1961 Act and substituted the phrase 'any time' after the marriage for "after the marriage". This brought the continued demand for dowry even long after the marriage within the ambit of law. Fine has been increased to Rs. 15000, and the burden of proving the offence has shifted to the accused and it was made a non-bail able offence. Thus making the definition of dowry, wide and inclusive, has made the law stringent.

The Medical Termination of Pregnancy Act 1971: The killing of infants was a practice prevalent in India long ago. Decades after it was banned, this violence in the form of murder of female infants is still being committed in a more sophisticated manner, as sex determination test. Although these tests are meant for detecting genetic deformities, they

⁶ Saxena Shobha, "Crime against women and protective laws", Deep and Deep publications .1995:p.117

are being used to determine sex of an unborn child, which in most cases leads to an abortion, if the fetus is female.⁷ Abortion was an offence under the Indian Penal Code (IPC) until 1971, but this Medical Termination of Pregnancy Act (MTP) 1971 laid down liberal grounds through which women obtained the right to safe, scientific and legal abortions, in case of grave risk or injury to her physical or mental well being or to the child.

The Criminal Law (Amendment) Act, 1983 is very important. The Parliament responded with the Criminal Law (Second Amendment) act 1983, and for the first time gave legal recognition to domestic violence by making cruelty inflicted by the husband or his relative, an offence. (Chapter XXA of IPC, Sec 498A).⁸ This section states that husband or any of his relatives who willfully subject a women to such abuse as is likely to drive a woman to commit suicide or cause grave injury or danger to her life, whether mental or physical, or who harasses a woman with a view to coercing to meet any unlawful demand of dowry is guilty of cruelty. Further the Law of Evidence was also amended to provide that if a married women commits suicide within seven years of

⁷ Gandhi Nandita and Shah, 'violence against female foetus', *Indian Express magazine Sunday Oct 1991*

⁸ *Crime against women Statistical profile National Crime Records Bureau, Ministry of Home Affairs, 1998 p.155.*

her marriage the presumption in law will be that her husband or her relative abetted the suicide (Sec 113 A) of the Indian Evidence Act.

Besides this, the Criminal Law (Amendment) Act also amended laws on rape (in IPC), the code of criminal procedure and Indian Evidence Act. This was the result of reformist activism, which had led to an awareness of the deprived condition of women and demand for an active reconsideration of women's rights and responsibilities. A further boost to this demand came in 1979 with the Supreme Court judgement in the Mathura Case⁹, in which the High Court of Bombay had convicted two policemen who were accused of raping a minor in the police station. But Supreme Court revised the judgement of Bombay High Court and acquitted the police by arguing that there was no clear evidence against those two policemen. The judgement was read as reflecting insensitivity of even the judiciary¹⁰. As a result there were strong rallies, and the public opinion was created against this. During this case it was argued for the first time that rape is a violation of the human right of woman to have control over her own body¹¹. This outrage resulted in awareness of the need for amendments to rape laws

9. *Tukarama v State of Maharashtra AIR 1979 Supreme Court 185*

¹⁰ *Rape a legal study, National Commission of Women 2000. p.10.*

¹¹ *Datar Chhaya: Anti Rape Campaign in Bombay type script 10 New Delhi.p.373.*

and its effectiveness. Thus in 1983 a few measures including stringent laws were introduced. These changes included protection of the victim from the glare of publicity during investigation and trial, change in definition of rape to remove the element of consent, addition of crime of “custodial rape” enhancement of punishment of crime and shifting the proof on the accused. These changes are a step forward in recognizing that women victims of rape deserve a different kind of treatment.

This was followed in 1986 by another Act ‘ *Indecent Representation of Women (Prohibition) Act*.¹² This is an Act to prohibit indecent representation of women through advertisement or in publication, writings, paintings and figures or in any other manner and for matters connected therewith or incidental thereto. This Act vests government with wide powers, as a result of which enforcement machinery can enter any home and seizes any material on the ground that it constitutes indecent representation of women.

The most recent case of law being enacted to protect women is the law against the practice of widow burning or Sati. This is *Commission of Sati Prevention Act*¹³ passed in 1987. This Act followed an Ordinance

¹² *Ibid*

¹³ *Ibid*, p 439

promulgated by the Government of Rajasthan and subsequently passed by Rajasthan legislature after Deorala incident in which Roopkanwar, a young widow was burnt alive. The Act defines the term glorification and provides punishment for attempt (abetment) and glorification, on the lines of section 309 (attempt to commit suicide) and section 306 (abetment to suicide) of IPC 1860. Abetment has been defined to include acts such as inducement, allurement for spiritual gain, encouragement, obstructing widow from detaching and making attempt to save her life and preventing law enforcing agencies from discharging their duties.

Under Indian Penal Code

Although women may be subjected to various acts of violence, but those, which are specifically directed against women, have been identified under the Indian Penal Code. Such crimes and their safeguards under IPC are as follows:¹⁴

- Rape (Section 375 and 376 IPC)
- Kidnapping and Abduction for different purposes (Section 363-373 IPC)

¹⁴ *Crime against Women: A Statistical profile 1998, National Crime Records Bureau, M H.A. p.156.*

- Homicide for Dowry , Dowry deaths or their attempts (Section 302/304 – B IPC)
- Torture both mental and physical (Section 498 – A IPC)
- Molestation (Section 354 IPC)
- Sexual harassment (referred in the past as ‘Eve- Teasing’) Section 509 IPC
- Importation of Girls (up to 21 years of age) Section 366-B IPC

From the above section we see, that not only are there so many provisions in the Constitution granting equality to women vis-à-vis men, but there are many laws also, to which amendments have been done to curb violence against women. The objective of these laws is laudable, but this is one side of the story, for the other side reflects that women are still subjected to a great deal of violence. There has not been significant progress in the condition of women. The National Crime Records Bureau reflects a similar picture. (Table 2)¹⁵. This table indicates an increase in crime under various sections of IPC as well as the Laws. The incidence of reported crimes during 1996-98 along with percentage variation is presented in the table. It can be seen that violence against women in 1998 reported an increase of 8.3% and

¹⁵ *The Hindustan Times, ND, March 6th 2000*

4.8% over previous years 1997 and 1996 respectively. In absolute numbers, an increase of 10,073 cases was reported at all India level in 1998 over 1997.

The available data indicates an increasing trend during the last three years in all the IPC crimes against women except "Rape", "Sati (prevention) Act" and "Importation of Girls" which reported a declining trend during this time. Whereas all the other crimes reported under Special and Local laws also resulted in increasing trends during these three years except "Indecent Representation of Women (p) Act" which reported a declining trend. This table at times mislead us to believe, that violence against women is declining for example in the case of Sati, the table indicates that Sati has been committed only once. Although there is no doubt that Sati does not happen much, it certainly does not mean that there has been no other Act of Sati committed except for the one reported. Because this table is only an indication of the cases which come to the knowledge of the police and against which the First Information Report (FIR) is lodged. Unlimited number of acts of violence still remains hidden from the eyes of law not only in regard to Sati but any other crime also.

But why is it that despite so many laws to protect women, the condition of women in reality is so pathetic and still suffers physical, sexual and psychological abuse and remain deprived of their basic human rights.

In the following pages an attempt is thus to study the causes of violence against women.

Causes

There is no single cause for the problem of violence against women. Though it is rooted in the traditions of discrimination that has been going on for centuries, there are many more reasons for violence against women like, inferior status of women in a male dominated society, increasing criminalisation of society, media images of violence, inadequate means to address the cause and consequences of violence, poor enforcement of legal provisions, consumerism and erosion of traditional values have all added to the problem. It is thus a complex mixture of social, economical, cultural, biological and legal factors that accounts for violence against women. These problems are all related to one another and will be studied under the clusters: social, personal and psychological and legal.

Social causes:

Patriarchy and Social Conditioning: The term 'patriarch' suggest inclusive powers of the family's father. ¹⁶Indian society is male dominated and this is responsible for subdued position of women. Man occupies a superior status and women experience subordinate position in the family and society. The Director General of UNESCO in International Women's year 1975 observed that "we live in a society that is still patriarchal and it roots a system which perpetuates male domination and female inferiority."¹⁷ Women subordination is accepted as a social norm, which affects the position of women as well as determines it, irrespective of whether the woman is in the domestic fold or functions outside of it. As a result women have a low position in society which results in lower life expectancy, lack of access to education, health and employment opportunities, female neglect and abuse, battering leading to female suicides and bride burning as the ultimate fate for hundreds of powerless women every year.¹⁸

Violence in a society is initiated by those who have the power or those who want to retain power and women do not have that power. In India,

¹⁶ Mac Iver R.M. *Charles H Society* Macmillian 1974, p 240

¹⁷ Sinha Pushpa 'Role of media and Violence against Women' in *Women and Violence* by Niroj Sinha p.108.

¹⁸ Desai Meera and Krishana R Maitrayi, "Women and Society in India" Ajanta Pub. 1987, 185

where men are consciously taught to be aggressive and tough, violence becomes a means to show his power over her, for example, rape. Man also conforms to this stereotype in his marital relationship, where women become victims of domestic violence. In such cases men treat women as their property and their action enjoy social status also. The idea that women belong to men and those men are superior continues to flourish practices as wife beating. A Delhi based NGO, Saheli, points out that wife beating is the reflection of the power relationship between a husband and a wife that mirrors a women secondary social status.

In patriarchal societies, domestic violence has been used as the most powerful instrument for suppressing the rights of women as equal partners in family structure, says Ambrose Pinto of Indian Social Institute. In case of violence in the home because of inherent inequality upon which the family structure is based, it acquires social sanction and women suffer pain silently. In fact “The more she suffers, the more her status goes up, for e.g. the burning of the widow on her husband’s pyre and then defying her as ‘Sati’, building temple for her and worshipping her”¹⁹

¹⁹ *Women Speak, United Voice against Globalization, Poverty and Violence in India, AIDWA publication, p-56.*

While patriarchal social order is responsible for violence against women, in one of the seminars it has also been pointed out, that unless men and their attitude change violence against women will continue to exist.²⁰

Lack of Moral Value: The process of commercialization, industrialization and urbanization has pronounced impact on traditional societies including India. Not long ago spiritual and religious values had considerable influence on the social and individual life of Indian people. But it is not the same anymore. Sacramental marriages and close family ties are weakening, spread of materialistic values is gaining strength and people are becoming more and more self-centered. Lust for money is growing, which have steadily weakened the whole value system of society. As a result violence is growing which affects weaker section more and women are a part of this section. Under the influence of materialism, a person is valued not for his / her virtues, but for material possessions. This ideology is applied in matrimonial alliances also, the result is more and more demand for dowry. And this becomes a cause of violence. "This role of consumerism propelled by

²⁰ Niroj Sinha, *A Seminar cum Workshop on Legal Rights of Women: Prevention of Atrocities Against Women, Patna Women's College, Dec 6-10, 1987.*

market mantra has spread the dowry demands”²¹. When the obsession becomes stronger and stronger, the dowry death happens.

As pointed out in the *Manushi*, that oppression of wives for bringing inadequate dowry is another excuse for using violence against women.²²

Not only this, in a study of dowry victims in Delhi, Ranjana Kumari commented²³ that dowry has become inseparably interlinked with general status and violence against women in our society. Her study shows that in a sample of 150 dowry victims, 1/4th were murdered or driven to commit suicide and more than half were thrown out of their husband’s house after a long period of harassment and torture. Dowry deaths may also result from frustration due to the unfulfillment of their expectations which in-laws feel have spent on their son’s upbringing

²⁴At this point it can be noted that there is a growing no. of cases being registered under section 498 A of the IPC which indicts a husband or relative of a husband for cruelty against a wife. All India Police Data under this head available since 1989 records a steady increase in such cases. Not only this but commercialization and urbanization as a factor

²¹ *Women’s Link Oct-Dec 1999, published by Social Action Trust, ND p.28*

²² *Krishan Raj in (Manushi) 1986. ND*

²³ *Manushi 1989, ND, p- 88-91*

²⁴ *Kumar, P. "Dowry, Roots and Causes." Mainstream, 51. 20th Aug. p. 31*

also has an impact on conservative social morals and increasing rate of rape.²⁵

Again, the disregard of moral values and lack of religious sanctions will not deter a person from committing crimes like rape or infanticide for the basic attitude towards women is that of pleasure or contempt.

Cultural lag and conflict of ideas: The social realities of life have changed, and societies are passing through a phase of cultural transition. Although the view of women and their role in the family and society is becoming liberal, there is no change in the old thinking about the submissive and dependent role of women. This has become a cause of violence for women both outside and inside the house. Outside, because women are increasingly participating in educational, social and economic activities which calls for their movement outside the house – a fact that provides occasions and opportunities to unscrupulous elements with a distorted mindset. Hence women fall prey to a range of violence from eve teasing and molestation to kidnapping and rape. Women are exploited, as they are more vulnerable. This is more true in case of women belonging to lower caste because they are more in need of money and thus succumb to the demands of their owners.²⁶ And

²⁵ Ahuja Ram 'Crime Against Women', 1987, p-28.

²⁶ Women and violence AIDWA publication series vol. 7 Dec 1998. p. 16

inside, they are becoming victims of domestic violence – in the form of battering, verbal abuse, physical torture etc, for there are problems due to conflicting demands on her as a house wife and an employee. Males feel threatened of losing their superiority and control over women and thus use brute force to keep them under control. Men cannot tolerate their failure before women and thus try to overcome them by reacting more in hostile and aggressive manner. Mackeller (1971) aptly verbalizes this tendency: A man who rapes does so because he lacks a better means for making the point, I am a man.²⁷ Conflict of ideas is also visible in urban and rural values, which has a lot to do with violence against women. This happens when people leave their native places and go out to earn money. Their cultural values are poles apart, but anonymity and desire to climb the social ladder in new environments make them ignore their cultural constraints. Thus they indulge in all kinds of activities which are not acceptable norms of behavior of society. Such activities are mostly directed at women, because there is no fear of recognition unlike their native place. This is one reason for why Delhi is so unsafe for women. It is inhabited by people from all parts of the country with different backgrounds and

²⁷ Quoted from Kumari Madhu, 'Patriarchy and Violence Against Women in India' in *Women and Violence* Niroj Sinha (ed) Patna, p-183.

thus lacks composite culture says Mr. Sewa Das, the former Addl. Commissioner of Police, Women's Cell, New Delhi.

Role of Media: The world of media has ushered in a sort of Cultural Revolution, yet it is not free of negative influences. Directly or indirectly, these have spawned a cult of violence. Media is responsible in portraying women as weak and dependent person who is always vulnerable to brutality of the society. Whereas men have roles, which are aggressive and bold, which, many a times they translate in their real life to subjugate women in order to prove their superiority. Moreover unhealthy impact of scenes of sex and violence on visual media has found entry into our households, which adversely affects the society as a whole. Women are used in most degrading forms in advertisements, pornographic literature to promote and campaign their products.²⁸ The opening up of electronic media to private companies has led to a spate of programs based on sex and violence. Several programs are running which extol bigamy, sexual harassment as a common pastime. All these do have an impact on social behavior²⁹. This has resulted in a large

²⁸ Ashraf Nehal 'Crime Against Women' Commonwealth publication New Delhi 1997 p. 138

²⁹ Women Speak United Voices against Globalisation, Poverty and Violence in India, March 2000. p. 54

segment of men taking to crime specially related to sex and violence against women.

This adverse effect of media is confirmed during the International Women's year. Enormous studies were conducted during this year which shows that media has enforced structural and behavioural violence against women. International Women's year 1975 condemns the degrading exploitation of women as a sex symbol, instrument of economic interest by certain media of social communication.

There was also a unanimous agreement that image of women projected by media constitutes a major obstacle in eliminating violence against women³⁰ not only in India but all over the world. The situation of women's imagery as created by media is deplorable. In a detailed analysis done by Madhu Kishwar, a well known activist and editor of *Manushi*, a few years back, of two government films on family planning found an emphasis on the importance of sons and under evaluation of female children and stress on the passive and self sacrificing character of women.³¹

³⁰ Paper prepared by Shanthi Dairiam, International Women's Rights Action Watch – Asia Pacific, for the Expert Group Meeting on Measures to Eradicate Violence Against Women. United Nations 4-8 Oct. 1993 in Background Paper, Regional Meeting "Ending Violence Against Women in South Asia" Oct. 21-24. UNICEF-SARO, Kathmandu.

³¹ *Manushi*, 1992 ND, p.9.

Not only during 1975 Conference but also during the 1995 World conference, Media was considered responsible for perpetuating violence. It outlined the Plan of Action in which it made an appeal to the governments and NGOs and to those in control of media to implement the goals mentioned in this Plan of Action. Some of the recommendations were: to project a more dynamic image of women and to access education for both men and women, to carry out national and international research to determine the image of women and men portrayed by media and to develop in women a sense of confidence and value as human beings.³² The mass media if used in the right way has great potential to bring about a change and can exercise a significant influence in helping to remove all prejudices and stereotypes and on the other to integrate women's changing and expanding roles.

Personal And Psychological Causes

Poverty and Unemployment: Violence and poverty are deeply related. Socio –economic factors continue to accentuate violence against women. Poverty, large family sizes, loss of unemployment of the male-earning members act as factors pushing them towards violence. It is viewed that men resort to violence when their aspirations regarding

³² Pushpa Sinha ' The Role of Media and Violence Against Women' in Women and Violence by Niroj Sinha p. 114.

work and living standards are not met. Thus, they commit violence out of sheer frustration and helplessness. But at the same time, they do not allow their women folk to work. Unemployed men have been found beating their wives over trivial domestic matters ³³ Women dependency and her low status makes her bear all this in silence. Moreover women's family obligation also makes her less mobile, they have less occupational choices due to customs and social practices. ³⁴ Not only this but such situations lead to constant friction and broken homes. Such homes are a breeding place and are not normal for the children might perpetuate the same crime that they have seen their fathers committing. On the other hand poverty may drive women into the vicious circle of violence too, like prostitution, and even sexual harassment. AIDWA Commission Paper in 1994 brings out poverty as a major cause of violence. As an example it mentions, that sexual harassment at work place largely go unreported due to the dependence of women or may be her entire family depends on her income. It is again these two factors, which compels a woman to compromise even

³³ *Violence Against Women in Delhi: Determinants And Remedies, CSR Delhi 1999*. p-43.

³⁴ Women's Link, ISI, vol 4, no 4, oct-Dec 1998. p-9.

during rape situations since alternatives are joblessness and concomitant starvation.³⁵

Alcoholism: Many acts of violence are committed under the influence of alcohol or drugs be it outside or inside the home; for example, excessive drinking inside the homes have been the cause of quarrels, battering and rapes. It has been pointed out that under the influence of alcohol men commit innumerable acts of violence.³⁶ In one of the studies conducted by Leela Vasaria of Gujrat Institute of Development found alcohol use to be a very important determinant of abuse of women.³⁷

Another cause of violence against women, which can be pointed out, is the role of women themselves. They possess negative self-image, which helps to maintain the very structure that victimizes them. Wrong social norms and values add to this. Women misperceive themselves and most of the time work as selfless devoted beings, and forget who they are, in terms of their relationship with husband and family whereas men understand themselves in terms of work they do.³⁸

³⁵ Women And Violence, AIDWA Publication Series, ND vol.7 p.48.

³⁶ Madhurima, "Violence Against Women", Gyan Publication 1996 New Delhi, p 45.

³⁷ Physical and Psychological Domestic Abuse: A Multi-Site Survey in India (PROWID), International Centre for Research on Women 1999.

³⁸ Aazmi Shabam, What is wrong with the Indian women Sunday, HINDUSTAN TIMES 28th march 1999.

Again most of the time they are not aware of their rights as a result, they cannot use them for their benefits. Smt Suman Krishna Kant, President of Mahila Samiti says, that lack of awareness of rights have made women more vulnerable. Besides, their lack of self-confidence, their poor self-image, feeling of helplessness further magnifies their problems.³⁹ Though women are becoming aware of their rights slowly, there is still a long way to go. There is mass illiteracy among women. They are not aware about various protections available to them under existing laws. They are ignorant of their rights and do not have easy access to justice. In fact, they have not realized the wider significance in social developmental terms.

Legal Cause

The legal system vis-a-vis violence against women has also played a contributory role in the upward swing of violence against women. There exist a wide gap between the law and its practice. The government has passed number of laws for protection of women. These laws are supposed to remove various legal lacunae but in practice this has not been the case. Social legislation has remained mainly on papers without any proper awareness about their provisions. One of the basic

³⁹During the two day conference on violence against women in Delhi : Determined and Remedies held on 29th and 30th april 1999 at India Habitat Center.

causes is the law itself, which despite good intentions are often badly conceived and poorly drafted.⁴⁰ Indian law continues to be insensitive to the social changes and enforces gender inequality instead of upholding equality between the sexes.⁴¹ Under the Dowry Prohibition Act it is difficult to actually prove link between dowry demand and event of marriage. The phrase 'in connection with marriage' is open to misinterpretation and thus not covers gifts on occasion of festival, childbirth and other ceremonies.⁴² Not only this, but in regard to section 304- B, since no record is maintained it is extremely difficult to prove a dowry death under the section. This section also presumes that women are harassed for dowry only within the seven years of marriage.

Not only dowry laws but also several Acts passed by the government have been under criticism. While the SITA has been criticized as an example of hurriedly passed law, which shows callous attitude of executive and enthusiastic reaction of the enforcement agencies. The criticism was made that even though the Act was passed early yet rules implementing the laws were not made for years. Not only this but even when it was amended it remained a paper tiger because there was no

⁴⁰ Nagar Vinita, *Violence Against Women ; a study of Delhi Mumbai and Bangalore . Centre for Policy Research , NewDelhi, 21 August 1999 . p-11.*

⁴¹ *Indian law endorses gender bias .The Pioneer 7th , 1999*

⁴² *"Within TheFourWalls :aProfile of Domestic Violence", MARG ,ND, 2000 pg.87*

responsible agency to monitor its abuse. Moreover the law starts with the presumption that it is an inevitable evil and cannot be curbed.⁴³ On the other hand, rape laws have also become a major area of concern. The existing laws do not cover new set of crimes like incest and other such related crimes. One loop hole which has been pointed out so many times is section 115(4) under the Indian Evidence Act which says ‘when a man is prosecuted for a rape or an attempt to ravish, it may be shown that the prosecutrix is of generally immoral character.’⁴⁴ The fact that this Act permits the character of the victim to be used as a defense under cuts positive amendments to the Indian Penal Code. Even Courts and Judges have strongly opposed this section. Former Justice A.M Ahemedi , holds that ‘ even a women of easy virtue is entitled to privacy which no one can invade as and when he likes. She is entitled to protect her person if there is an attempt to violate it against her wish .She is equally entitled to protection of law.’⁴⁵ Of late there has been a debate going on to make punishment more stringent. While Shri LK Advani has suggested a Capital Punishment, it has been opposed by

⁴³ *Ibid.*

⁴⁴ *Indian Law endorses gender bias, The Pioneer, 7th. 1999*

⁴⁵ *Sadiq Jilaini Syed “ Review of laws to Curb Crime against Women in –Determinants and Remedies, CSR,ND 1999. p-62-63.*

several other women organizations for they feel it might make process lengthy and judges reluctant to award the sentence⁴⁶

On the one hand the problem of women is aggravated due to inadequacies of legal provision, on the other it is a poor implementation and enforcement of these laws that worsen the situation. There has been in evidence a wide gap between enactment of laws for development of various sections of society, including women and their implementation.⁴⁷ The role of police and courts as enforcement machinery is very important. In fact ' police is considered the first agency for the administration of criminal justice and the first line of defense against crime'.⁴⁸ But in reality police portrays some other picture. Not only are they considered inefficient and corrupt but is also seen conniving with the guilty.⁴⁹ Besides, there is also police- politician nexus, which further adds to the violence against women.⁵⁰

At times these protectors of law turn into perpetrators of atrocities . Police not only evades their responsibility but also show insensitivity and even callousness towards the complainant. For e.g. when a women victim goes to the police station to file a complaint, she is not only

⁴⁶ This view was held by a famous lawyer Indrani Jaisingh of Lawyers collective.

⁴⁷ Bhatia S.C. (ed) *Social Audit of Dowry Legislation*, (1988) . p-15

⁴⁸ Pal N.C. *Crime Causes and Cure* (1983, p-47)

⁴⁹ *Ibid*

refused help and the right to lodge the F.I.R., but is also mentally and physically harassed. In such cases delays causes loss of valuable evidence which also makes the conviction difficult. This is more so in the case of domestic violence and rape, where victim is either told that it is a family affair or say it against the traditional concept of values, family, shame and honor. Thus to save themselves from additional harassment women refuse to go to police and seek legal help. They instead prefer to suffer in silence. Similarly the situation in courts is equally bad. The court trials are usually protracted, dragging for years, which puts the party including the victims to emotional tensions and uncertainty. Such court delays provide enough time to the culprits to wipe out the evidence of the crime. Speedy trials are the essence of the criminal justice and there is no doubt that delay in the trial by itself constitutes denial of justice. ⁵¹The inordinate delay of the legal proceedings has erased the fear of authority from the minds of the criminals. The criminal justice system seems to send out signals that one can get away by doing anything.

In effect it can be said, that the violence against women is not the cause of any one, but many factors. While the causes like patriarchy, lack of

⁵⁰ *Saxena Shobha, "Crime against women and Protective Laws," Deep & Deep Pub. 2000 P 41.*

⁵¹ *Hussain Are Khaloon and Others v Home Sect. State of Bihar, Patna AIR, 1979 SC 1360.*

moral traditional values, etc are at the root cause of this problem, its growth is a result of causes like materialism, broken homes, unemployment and poverty etc which have rendered women more vulnerable. While it is the legal inadequacies, which have become a final and crucial cause of spreading and aggravating this problem. .

Conclusion

Violence against women in India is a substantial and acute problem and is growing year after year. In post independence period Constitution of India guarantees equal rights to women vis-à-vis men in all spheres of life. This was followed by progressive legal enactments by the state to undo the injustices done to them since ages. Thus these constitutional and legal safeguards remove the barriers for Indian women to achieve equality and enable them to enjoy a privileged position in our society.

But this is a mere illusion for the reality is quite different. Reality is the realization of the fact that women all over India still suffers from evil of horrendous crimes that are committed against them every now and then. None of these laws seem to have resulted in a higher legal system and the state paraphernalia to present a more assuring image so that the innumerable cases that go unreported too can come under the purview.

This is the result of a complex operation of various social, economic, psychological, cultural and legal factors, which make life of a woman virtually a living hell. In the face of such realities women have suffered deeply. Violence against women is a blot on the face of every civilized society which must be done away with. This is a matter of utmost urgency and should be targeted both nationally and internationally.

Sl.No.	Crime head	Year			Percentage variation in 1998 over 1997.
		1996	1997	1998	
(1)	(2)	(3)	(4)	(5)	(6)
1.	Rape	14846	15330	15031	-2.0
2.	Kidnapping & Abduction	14877	15617	16381	4.9
3.	Dowry Death	5513	6006	6917	15.2
4.	Torture	35246	36592	41318	12.9
5.	Molestation	28930	30764	31046	0.9
6.	Sexual Harassment	5671	5796	8123	4.1
7.	Importation of Girls	182	78	146	87.2
8.	Sati Prevention Act	0	1	0	-100.0
9.	Immoral Traffic (P) Act.	7706	8323	8695	4.5
10.	Indecent Rep. Of Women (P) Act	96	73	192	163.0
11.	Dowry Prohibition Act	2647	2685	3489	29.9
	<u>Total</u>	115723	121265	131338	8.3

(Table 2)

Incidence of crimes against women - All India (1996-1998)

In absolute numbers, an increase of 10,073 cases was reported at All India level in 1998 over 1997.

Source: National Crime Records Bureau (M.H.A.)

Crime in India -1998, Pg 157

CHAPTER IV

CEDAW, UNIFEM AND THE PROBLEM OF VIOLENCE AGAINST WOMEN IN INDIA

Women's human rights and their violation in the form of violence against women have become one of the most pressing issues of concern all over the world. Host of international and national measures have been initiated and adopted to promote women's human rights and prevent and eliminate violence against women. (As pointed out in the first and the previous chapter respectively) .At the international level, the United Nations has dedicated itself to the cause of promotion and protection of human rights of women.

The United Nations has adopted various international laws, treaties, conventions and covenants for this cause. Among these, the Convention on the Elimination and Discrimination against Women (herein referred to as CEDAW or Convention) is the most significant and outstanding achievements of the United Nations. The United Nations General Assembly adopted the Convention on 18 December 1979. It is often described as the International Bill of rights for women and is a significant milestone in articulating the principle of equality for and

non-discrimination against women. The Convention by virtue of its ratification is one of the most popular conventions. The ratification of the Convention makes the state parties internationally accountable for initiating efforts to eliminate discrimination, at the de jure and de facto levels. But at the same time CEDAW also has the distinction of being one of the most reserved conventions. A reservation allows the state parties to modify or waive obligation in relation to certain parts of the treaty. This policy of reservation is one of the most unfortunate features of this Convention.

Although, the issue of violence against women is not explicitly mentioned in this Convention, (except for Art. 6 which specifies: state parties shall take all appropriate measures including legislation to suppress all forms of traffic in women and exploitation of women in prostitution).¹, its relevance to this problem cannot be undermined. The entire Convention prohibits discrimination against women and therefore violence against women as a symptom of discrimination. Moreover, on recognizing the interconnection between gender discrimination and violence against women, the Committee on the Elimination of All Forms of Discrimination against Women, the

¹ *Convention on the Elimination of All forms of Discrimination against Women, series I – 1999, series on reproduction of international convention. P-4.*

supervisory body set up under the Convention, issued a number of General Recommendations, addressing violence against women. In General Recommendation No. 12 ²(Annexure 1) the Committee considered “that articles 2, 5,11,12 and 16 (Annexure 2) of the Convention requires the state parties to act to protect women against violence of any kind occurring whether in the family, at the workplace, or in any other area of social life”. And mainly in the General Recommendation No.19 (G.R. No.19) (Annexure 3), the issue of violence against women has been formally included. General Recommendation No.19 deals exclusively with violence against women and measures to eliminate it. It states that “gender based violence is a form of discrimination that seriously inhibits women’s ability to enjoy rights and freedom on the basis of equality with men”.³It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivation of liberty. Gender-based violence may breach specific provisions of the convention, regardless of whether those provisions expressly mention

² (G.R. no.12) (*General Recommendation no. 12, eighth session, 1989, U.N. Doc HRI / GEN / I / REV.2, 29 March 1996*).

³ General Recommendation No. 19,eleventh session, 1992,UN Doc. HRI/GEN/1/Rev 2, 29 March 1996,para, 1.

violence. ⁴G.R.19 emphasizes that gender based violence impairs or nullifies the enjoyment by women of the human rights and fundamental freedom. In the G.R.19, the other Articles of the Convention have also been interpreted widely to show that violence against women is in fact a form of discrimination. Interpreting Article 5 of the Convention, G.R.19 states that “ traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision. Such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms.”⁵

G.R.19 emphasizes that discrimination under the Convention is not restricted to action by or on behalf of the Governments but extends to discrimination against women by any person, organization or enterprise. It argues that “ under general international law and specific human rights covenants, States may also be responsible for private acts

⁴ Ibid, para,6.

⁵ Ibid para 11

if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.”⁶ G.R.19 also recognizes that sexual harassment seriously impairs equality in employment.⁷

This Recommendation No.19 brings together the broadest canvas of violence against women within a single legal document, which becomes all the more significant in case of India, because among numerous hurdles in the realization of human rights of women and protecting them against violence, the most overwhelming hurdles placed before the Indian women are the legal ones, says Sakshi, a Delhi based NGO.⁸ Besides, CEDAW also has an Optional Protocol⁹, which serves as another tool in dealing with the violation of women’s human rights. It allows individuals and groups to directly bring complaints to the CEDAW Committee in the cases where governments fail to respond or are unwilling to recognize. Again the fact, that the CEDAW acknowledges the existence of violence in private sphere, which is a long overdue recognition of the invisible violence that

⁶ Ibid para 9

⁷ Ibid para18

⁸ An Alternative Report on CEDAW, ‘ Recommendation No.19, Violence Against Women’, compiled by Sakshi, ND. 1999; p-3.

⁹ CEDAW: An Orientation, A Report of Workshops held in India, IWRAW-Asia Pacific. July, 1995; p-6.

women face both in home and work, makes the CEDAW unique and a Convention worth referring to, in terms of violence against women¹⁰.

In this long and arduous journey of the United Nations, to promote and protect women's human rights, several United Nation bodies have also played a commendable role. One such body solely dedicated to the cause of women is United Nations Development Fund (UNIFEM), created as a voluntary fund, to provide financial and technical assistance in developing countries. Though primarily created as a fund, UNIFEM since 1990's is working actively to eliminate violence against women in these countries. India is a major part of it. Several projects and initiatives have been promoted by UNIFEM in India. Such activities of UNIFEM have generated wider awareness among people about this problem. A very important part of UNIFEM's project is the involvement of non-governmental organizations into the mainstream activities. This has helped to create an interface between Government and Non- Government Organizations.

At the national level, India has followed the United Nations footsteps. Indian leadership has pledged itself. "To achieve in corporation with the United Nations the promotion of universal respect for and

¹⁰ An Alternative Report on CEDAW, 'Recommendation No.19, Violence Against Women', compiled by Sakshi, ND. 1999; p-32.

observance of human rights and fundamental freedom.”¹¹ The Indian Constitution testifies to the fulfillment of the pledge. It recognizes the spirit of equality and prohibits discrimination between women and men on the grounds of religion, sex, caste, or place of birth and enables the State to allow affirmative discrimination in favour of women as a fundamental right. By these principle human rights as fundamental rights has been put on an equal footing for all (the various Articles in this regard have been referred to in the previous chapter).

India has also ratified significant international human rights instruments. Key among these and of the concern to this study is ratification of the Convention on Elimination of Discrimination Against women (CEDAW) in 1993. Besides CEDAW, India has also ratified several other instruments.¹² By doing this India has become a member of the inner circle of nations who have specifically endorsed United Nations role in the arena of human rights.

¹¹ L.N Singhvi “Indian Struggle for Freedom and Human Rights “ in S.C. Parasher (ed) *United Nations and India (Indian council of world affairs , ND , 1985 : p.350)*

¹² India has acceded to two International Covenants – *International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights (both were ratified on 10th April 1979).*

This chapter is an attempt to examine the application of international norms, in reference to CEDAW and the role of UNIFEM through national legislation in India.

India and CEDAW

CEDAW was adopted by United Nations General Assembly on Dec 18, 1979 and came into force on September 3, 1981 (as pt. earlier). India had shown keen interest and played an active part in the formulation of the Convention and also chaired one of the sessions of General Assembly when the Convention was adopted.¹³ When the Convention was opened for signature in 1980, India signed it in early 1981 but withheld its ratification. Though India recognized the need to eliminate violence and discrimination in all forms, it could not ignore the diversity of cultures, traditions, religious and customary practices which each community followed. Thus India did not interfere with them and followed the policy of non-intervention, which is a major hurdle in the application of CEDAW. Aware of this India did not ratify

¹³ CEDAW: *An Orientation, A report of workshops held in India, IWRAW-Asia Pacific initiative – Women in Development, Madras July 1995, p-10.*

the Convention for a long time. It finally ratified the Convention on June 25th 1993 ¹⁴. India did so because it could not ignore the pressure both at the internal level – from NGO's and feminist groups and at the external level from the United Nation and other State parties that was building up before and during the World Conference in 1993, which brought the issue of violence against women on the international agenda.

India ratified the Convention with two Declaratory Statements and one Reservation:

With regard to Article 16(1) ¹⁵ “ of CEDAW the Government of India declares, that it shall abide by and ensure these provisions in conformity with the policy of non -interference in the personal affairs of any community without its initiative and consent.” Thus, while acknowledging that women are discriminated in religion based family laws, the State has adopted a position of non- intervention until the communities themselves propose changes bestowing equality to their women.

¹⁴ *Ibid.*

¹⁵ *Art16(1) calls for “elimination of all discrimination against women in matters relating to marriage and family relations” CEDAW Convention. Series I,1999,p-8.*

With regard to Article 16(2)¹⁶ “of CEDAW Government of India declares that it agrees to the principle of compulsory registration of marriages. However failure to get the marriage registered, will not invalidate the marriage particularly in India with its variety of customs, religions and level of literacy. But at the same time, the State must be equally responsive to the difficulties that may arise in case of non-registration of marriages asserting legal claims.

With regard to Article 29(1)¹⁷ Government of India proposed the resolution that it does not consider itself bound by para 1 of this Article.

With the ratification of CEDAW, the Government of India is committed to ensure that all national laws, policies, practices and procedures meet the obligation as laid down in the CEDAW and to amend or repeal domestic legislation which are inconsistent with the Convention.¹⁸

¹⁶ Art 16(2) calls for making the registration of marriage in an official registry compulsory, CEDAW Convention. Ibid.

¹⁷ Art 29 of CEDAW established compulsory arbitration or adjudication by the International Court of Justice of Disputes concerning interpretation. Para 1 of this Article reads as “Any dispute between two or more state parties concerning the interpretation or application of the present Convention which is not settled by negotiation shall, at the request of one of them, be submitted to arbitration. If within six months from the date of the request for Arbitration the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the dispute to the International Court of Justice by request in conformity with the statute of the Court.

¹⁸ CEDAW: India First report 2000. para.1

In this direction number of initiatives have been undertaken at the government level to uphold the constitutional mandate, which incorporates in letter, and spirit various articles of the Convention.

Within the government, one such initiative is the “*Department of Women and Child Development*, (here after referred to as DWCD) which is the nodal agency for the implementation of the various articles of CEDAW.¹⁹ The DWCD coordinates with all ministries and departments to whom the text of CEDAW has been circulated for its implementation. The text of the Convention has also been translated into Hindi for its greater understanding.

Like other state parties, India is also obligated to submit the report to CEDAW Committee. It is this DWCD which prepares this report. Though India’s first report on CEDAW fell due in 1994, it was not submitted. This report was presented early this year in Jan 2000 in 22nd session of CEDAW.²⁰

The preparation of this report was preceded by wide ranging consultation not only among the various ministries/ departments of Government of India but also with a number of woman organizations. Meetings were held with these organizations which provided

¹⁹ *Platform For Action. Five Years After – An Assessment. Department of Women and Child Development, Ministry of Human Resource Development. Government of India. June, 2000 .p-62.*

Government and participants with considerable insight on a wide range of gender issues.²¹ The involvement of the voluntary sector and women's organization in the preparation of the report highlighted the importance and effectiveness of the role they can play in fulfilling the provisions of CEDAW.²² Kiran Aggarwal, Secretary to the DWCD while presenting country's initial report in compliance with the Convention gave an insight into the role India has played to implement the Convention. The report focused on the constitutional and legal framework and the number of steps the Government has taken with respect to various articles of the Convention.

In regard to Article 6 of the Convention (on trafficking on women and prostitution), the problem in India is being tackled through enactment of legislation and enforcement. In this context while Article 23 of the Constitution prohibits traffic in human beings and forced labour, there's also a Special law and a few sections under the Indian Penal Code which deals with this form of violence against women. (The details of these are mentioned in the previous chapter). Under the Special Law category is the Immoral Traffic Prevention Act, 1986,

Alternative NGO report on CEDAW, Jan. 2000, India. Co-ordinated by NAWO, ND; p-ii.

²¹ CEDAW report 2000. p-1.

²² Ibid p2

which has been amended to widen its scope. Whereas in the Indian Penal Code Section 366A and 366B have been provided.²³ State governments have also nominated number of police officers to deal with offences under this Act. Special Non-Official Advisory Committees have also been set up in various states comprising of NGOs and social workers to advise on acts.

India has also initiated other efforts, which comply with several other articles of the Convention, besides Article 6. Although these articles of the Convention do not directly cover violence, can be interpreted in terms of violence against women. For e.g.. India has interpreted Article 12 of the Convention on "Health". In this context female infanticide and feticide as forms of violence have been covered and this is considered an offence under the Indian Penal Code. India also expresses serious concern of strong preferences of male children, which results in neglect of female babies. Whereas in terms of Article 16 of the Convention on "Marriage and Family" India has passed Dowry Prohibition Act in 1961 to combat the problem of dowry and has been amended twice to make the punishment more stringent. Indian Penal

²³ Section 366A "Procuration of minor girls for illegal and improper purposes and section 366B importation of minor girls below 21 years of age. National Crime Records Bureau, MHA, New Delhi, Pg 156.

Code also has provisions to deal with this violence under Section 302 / 304-D (*homicide for dowry, dowry deaths or there attempts*) and Section 498A leading to mental and physical torture.

Other than these constitutional and legal provisions, institutional mechanisms have also been created at the national level in furtherance of fulfillment of commitment to CEDAW and elimination of violence against women. One such body is the *National Commission of Women (NCW)* set up in 1992 by the Government of India, as a high powered autonomous and statutory body, charged with the responsibility of overseeing the working of constitutional and legal safeguards and reviewing laws and regulations which are discriminatory to women whether arising out of conduct in public or individual servant.²⁴ Sixteen State Commissions have also been set up which work in tandem with the National Commission. All recommendations of NCW are taken up by DWCD for implementation. NCW has taken number of important measures in promoting and protecting women's rights. On the hearing of India's report in the Question and Answer session the Government also impressed upon the Committee the role that NCW has played and

²⁴ *Platform For Action. Five Years After – An Assessment. Department of Women and Child Development, Ministry of Human Resource Development. Government of India. June, 2000.p 6*

would be playing in realizing human rights within India.²⁵ NCW has played a leadership role in reviewing legislation and recommending improvements. The Commission has suggested amendments to 11 of the legislations, importantly Dowry Prohibition Act 1956, Indecent Representation of Women's Act 1986, Commission of Sati 1987 to make them more stringent. It has also initiated a countrywide legal awareness program in 1998, which aimed at legal literacy for women in national and regional languages with NGOs and women colleges²⁶ Several workshops have been organized from time to time. The most recent was the workshop conducted in April 1999 by the Commission in coordination with DWCD and CBI, the premier Crime Prevention Agency on the issue of violence against women, besides nation wide workshops on amendments to Rape laws.²⁷ It has also organized campaign in 1998-99 against dowry called 'Dahej Mukti Abhiyan'²⁸ and also conducted research studies on sexual harassment of women at workplace in 1998 and in 1999 on domestic violence.²⁹

²⁵ Department of Women and Child Development ,GOI,"Responses to Questions on India's First Report on CEDAW" by Ms. Kiran Aggarwal, Sect., on 22nd Session of CEDAW (24-31 Jan 2000) Jan 31st, NY .2000. Pg 4

²⁶ NCW brochure, Jan 2000.

²⁷ *Progress on Critical Areas of Concern Beijing Platform For Action, India country paper, SAARC, workshop on follow up action on 4th world conference on women 28th 29th September, 1999, New Delhi.*

²⁸ Annual Report, DWCD, 1998-99.

²⁹ *Ibid* p35

In the direction of application of CEDAW, Indian Judiciary too has played an important role.

Indian Courts have recognized the significance of the Convention. Though the Convention in the context of violence against women has not been invoked much but the one time it has been done, has become a landmark achievement. This was on August 13th 1997 when the Supreme Court gave a ruling on Sexual Harassment at workplace by way of Writ of Mandamus, incorporating the definition provided in General Recommendation No. 19 of CEDAW³⁰ In this path breaking judgment, Vishakha vs State of Rajasthan , viewed for the first time in the history of India – *sexual harassment as a violation of human rights*.

³¹ The Supreme court stated “*in the absence of enacted law to provide for the effective enforcement of the basic human rights of gender equality and guarantee against sexual harassment and abuse, more particularly against sexual harassment at workplace, we lay down guidelines and norms specified hereafter for due observance at all workplaces or other institutions until a legislation is enacted for the*

³⁰ GR no 19 defines sexual harassment as including “ such unwelcome sexually determined behaviour as physical contact and advances, sexually coloured remarks showing pornography and sexual demands whether by words or actions” in General Recommendation no 19 , 11th session , 1992 , UN doc. HRI/GEN/ Rev. 2 , 29th March 1996 , para 18.

³¹ *The See-Saw battle for CEDAW: Indian Express New Delhi February 13th 2000.*

purpose. This is done in exercise of the power available under Article 32 of the Constitution for enforcement of the fundamental rights and it is further emphasized that this would be treated as law declared by this court under Article 141 of the Constitution ³² In other words the significance of the international conventions were realized in the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces. According to the judges any international convention that was not inconsistent with the spirit and provision of the Constitution must read into existing law so as to enlarge its meaning and content. ³³

It can be seen that the Government has played a significant role in a field of women's rights and in integrating the CEDAW. The CEDAW Committee has also commended the achievements of India in the area of constitutional safeguards, for number of projects undertaken by Government and on establishing NCW among many others: At the same time the Committee has also called for actions to be taken in

³² "*Vishaka and Others vs State of Rajasthan and Others*", Supreme Court of India, Criminal Original Jurisdiction, Vol 6; 1997 writ petition no.s 666-70(1992). 13th Aug 1997. p-241.

³³ *The See-Saw battle for CEDAW: Indian Express New Delhi February 13th 2000.*

certain areas like an action plan for gender based violence and a more involved role for NCW.

Not only at the national level, but CEDAW related activities can be recorded at non-government level too, where the NGOs have played an important role. Their work gives deeper insight into the prevalence of the problem and the efforts of the government in this direction. In line with the provisions contained in CEDAW (which provides a space for NGO input) and in the spirit of the informal dialogue, for the first time in the history of India's Women's Movement the Indian NGOs have developed and submitted an alternate report to the Committee. In the process help was sought from various women groups all over India. The report was submitted during the same time in Jan 2000 along with the national report, but the activities of the NGO's in facilitating the CEDAW process were visible and can be recorded long before that. These activities included filing of writ petitions, workshops and conferences etc which were, held from time to time all over India.

In October 1994, WARLAW (Women Action Research and Legal Action for Women) filed a writ petition in the Supreme Court requesting the government to explain the action it has taken to promote CEDAW. This petition was heard for admission on 19th Aug 1996.

Subsequently an early hearing petition was filed in 1997 and 1998. The matter is due for hearing.

Several workshops were organized and conferences were held from time to time in this direction. On 11th and 12th July 1995, at Lucknow , a workshop was organized by a women's organization, Aali. The main aim was to familiarize women lawyers and others with the CEDAW and its jurisprudence in enforcing women's human rights. An immense interest was generated on CEDAW among women advocates and lawyers. In 1996 South Regional Conference was organized by the NAWO and Asmita , a women's resource center at Hyderabad . At this, the Convention was introduced to a large constituency of women highlighting the elements of quality and possibilities this Convention offered in seeking larger areas of equality for women.³⁴

Another Conference was organized in NorthEastern Region by NorthEast Network on Women's Rights as Human Rights, in Shillong between 18-22nd November 1997. During this, an Action Plan was drawn which focused specifically on taking forward the CEDAW process in the region. Then in Dec 1997 yet another lawyer's consultation and orientation was held at Chennai in TamilNadu to

³⁴ Growing Poverty and Violence among women ,Lobby Document:World March of Women ,in 2000 India p 50.

propagate the Convention. During the same time a workshop on CEDAW was organized at Bangalore. Large number of activists, lawyers and legislators attended this meeting.

Other than these, two national conferences were also organized. The first of these conferences was organized by NAWO between 17-19 Feb 1997, in which a special session on CEDAW was taken by Ms Shanti Dhariwal, Director IWRAW. This conference brought together women from all over India. The conference adopted many actions to be pursued at various levels, on issues related to women. For e.g. violence against women in all spheres, demand for State Commissions to be set up in all states and review of existing State Commissions, media to enhance more positive role in promoting gender justice etc. The second conference on CEDAW was organized recently at New Delhi on 13th to 15th Nov 1999 with active collaboration of NAWO, IWRAW-Asia Pacific and UNIFEM, South Asia Regional Office. Around 65 Women groups attended the conference and many among these were party to the mandate of the alternative report. The main feature of this conference was that the dialogues and discussions were held both at governmental and non-governmental levels. On the first day, meetings were held with the government and other two days were

for NGO interaction and discussions on alternative CEDAW report. Hundreds of women were reached and information was sought on aspects of CEDAW Articles, which resulted in wider awareness on the subject. In this meet women expressed hope that by the time government will submit its next report, substantive changes will be brought about. Women also demanded a time frame within which government will implement its program.

Another workshop was held in Delhi on 23rd to 25th Feb in 1999, at the Conference Hall of the YWCA, hostel. This was a training workshop with the objective to enhance understanding and application of the Convention among the participants so that they could transfer the skills to the local groups and use it in monitoring CEDAW at different levels. Orientation of the international Convention, their relevance to the national law and their effectiveness as instruments to access justice and equality was imparted to the participants.

Besides the above-mentioned efforts, IWRAW Asia Pacific in collaboration with national NGOs has also started "a facilitating project". The main objective of this project was to create the climate for policy changes and disseminating information with the help of NGOs that can be used by government, international treaty bodies and NGOs

themselves. The project also called for greater interaction between government and NGOs.

This project was implemented in India since 1998 with the formation of core groups in the country and production of base line reports on selected items. The core groups in India have produced three baseline reports on women- Women in armed conflict, political participation of women and rights of women in marriage.³⁵ Some of these conferences and workshop contributed to the development of CEDAW Report that also reflects the involvement and contribution of thousands of women.

One such Alternative Report was developed by an NGO called the National Alliance of Women (NAWO), which gives a critical view of the report submitted by the government. It says, that Government report is more descriptive than analytical and lists out several program of DWCD. . This Alternative Report comments that government has failed in its commitment to the Convention to spell out specific action which were required for removing violence and discrimination³⁶ It also points out the various loopholes in the Constitution, and in the legal system which compliments the CEDAW. On Article 6 of the Convention for

³⁵ Information Dissemination on CEDAW.p 3.

36. Alternative NGO Report on CEDAW, Initial Submission to the CEDAW Committee . Jan 2000,India (coordinated by NAWO)

e.g. the Report says that although legal and constitutional safeguards, there are many loopholes which makes the implementation of the provisions difficult. For e.g. it says that law suggest medical examination of all women and girls from brothel area, but is not done because medical assistance is sporadic and rescued women are kept in government or NGOs shelters where condition are not exactly the best. As a result they are subjected to a great deal of sufferings and have number of health problems. The Report expresses concern on high prevalence of violence and several causes that compound this evil. While reporting under General Recommendation 19, it gives the data on various forms of violence, like, sexual harassment, rape, dowry deaths, domestic violence and female infanticide to show that even now women are subjected to so much of violence and points out various causes responsible for this. Caste has been highlighted as a major reason causing violence more so in the case of dalit women. It makes certain recommendations, like, training and counseling centers should be set up for trafficked women, speedy recovery of the cases should be done, punishment should be made more stringent for traffickers and mass media to promote gender equity and protect women in right perspective. It has also been recommended that NCW should make its

role more effective. Most importantly it expresses an urgent need to gender sensitize the whole system on the women's issues.

All together the report brings out that even if the Articles of the Convention do not imply violence there is no area of human activity which has remained untouched, or reflects attitudes of gender blindness, be it in the area of health (Article 12), education (Article 10) etc. Although this report critically looks into the government endeavors, it also guides the future course of action. Besides, the recommendations if properly used can make a substantive difference.

UNIFEM and Violence against Women

UNIFEM was established in 1976 as an innovative and catalytic fund for women 's empowerment and gender equality.³⁷ UNIFEM became an autonomous body in association with the UNDP in 1985. This was in response to the calls of thousands of women all over the world, for a fund within the UN system to help improve the living standards of women in developing countries and to address their concerns. UNIFEM has supported numerous projects throughout the developing world to promote the political, economic and social empowerment of women.

³⁷ *General Assembly Resolution, A/Res/39/125*

has supported numerous projects throughout the developing world to promote the political, economic and social empowerment of women.

The UNIFEM's role underwent a change in the 1990's, as a result of the Beijing conference. At Beijing, UNIFEM's role was significant not only to the official UN conference but to the parallel NGO forum on women at Huaririo also. Much effort was put in by the UNIFEM to disseminate information about this Beijing conference, to open channels of communications among women's groups and create networks, to collect statistics and to sensitize government delegates, officials and journalists.³⁸ Thus after the Conference, the Beijing Platform for Action became central to UNIFEM supported activities for the past ten years and still remains so. In order to fulfill the recommendations of Platform for Action, it has focused on three areas:

- Enlarging women's economic capacity
- Creating new opportunities in leadership and governance.
- Promoting women's human rights to eliminate all forms of violence against women and transform development into a more peaceful, equitable and sustainable process.

³⁸ "Carrying the Beijing Torch in South Asia" UNIFEM, South Asia Regional Office, ND, p5

It is within this context, that the UNIFEM- South Asia Regional Office defined its role, identified priorities and supported a range of activities in the countries of the South Asia region.³⁹ India is one of these countries.

Of the three areas of concern, mentioned above, the UNIFEM's work in the human rights arena began through its work on violence against women particularly at the time of 50th anniversary of UDHR in 1998, which provided the UNIFEM the strategic opportunity to achieve a broad impact in promoting women's human rights and highlighting the persistent and pervasive human tragedy- violence against women in its many forms. Over the past few years, the UNIFEM has been at the forefront of work on violence against women within the UN system, supporting initiatives to combat violence against women. NGO's and the Government are engaged in these work and taking significant steps to incorporate issues into its program.

Apart from funding projects, which combat violence against women, the UNIFEM has also launched Regional Awareness Campaign as a means of prevention. One such campaign was to curb gender based violence in Africa, Asia and the Pacific, Latin America and the

³⁹ *"Powering the momentum-UNIFEM South Asia Regional Office promotes the global agenda for women's advancement" Best Practices :South Asia Series I UNIFEM ND ,p,8.*

Caribbean⁴⁰. These UN inter-agency regional campaigns generated a public outpouring on issues which were earlier considered a taboo, and also inspired to make public pronouncements to end such evil practices harmful to women.

Some of the other flagship programs developed by UNIFEM during 1998 were:

UNIFEM's Trust Fund: established at UNIFEM in 1996⁴¹ by the United Nations General Assembly Resolution, as an operational agency to strengthen activities that address gender-based violence. The Trust Fund has received growing recognition as a multilateral mechanism that provides funding for innovative projects. These projects focus on wide range of initiatives in the area of education, capacity building, violence prevention and deterrence awareness raising and reversal of ingrained attitudes and research. The Fund began funding project in 1997, and to date, says Noeleen Heyzer, Director, UNIFEM supported 59 projects in 49 Countries.

The second component of UNIFEM's work on violence against women is the *Regional Awareness Campaigns* to prevent and eliminate

⁴⁰ " UNIFEM: working For women's Empowerment and Gender Equality Annual Report, 1998, New York, P.5'.

⁴¹ *Trust Fund in Support of Actions to Eliminate Violence Against Women, Funding Principles and Guidelines*, UNIFEM, NY.

violence against women and this complements the Trust Fund. The campaigns seek to introduce the issue of violence against women to the agendas of the governments all over the world through raising awareness in the media, civil society, educational institutions and private as well as public and government sectors. Each campaign highlights region specific manifestation of violence against women and informs the public at large about harmful consequences for women and society on the whole. The Campaign activists also ensure that continuing attention is drawn to existing commitments made by groups to rectify or improve their compliance with CEDAW. The UNIFEM has tried to make this international document into a blue print that can and should be implemented at national levels. That is why UNIFEM is supporting projects to raise awareness about CEDAW all over the world.

The UNIFEM has also developed the Trust's Fund *Learning Component*, which analyses the results of Trust Fund initiatives, and suggest ways for shaping more effective strategies for combating violence against women.⁴²

⁴² Ibid.

UNIFEM Activities in India

Although UNIFEM activities in India were visible right from the beginning of 90' s, it gained momentum during the end of 90' s. In a run up to Beijing, the UNIFEM – South Asian Regional Office (SARO) supported the creation of a productive and responsive partnership between the Government and NGO sectors in respective regions.

In India, the UNIFEM –SARO was part of the Inter Facilitation Committee for Beijing (IFCB) which comprised donors as well as the Coordination Unit (CU)- a technical, issue based, time bound unit to facilitate the process to Beijing. In India, several sub-national lobby-training workshops were conducted by UNIFEM, which culminated in the national lobby workshop held in August 1995 prior to Beijing conference. This meeting brought together women from grassroots, government's representatives, 400 NGO delegates, activist and representatives of international agencies. It helped the Indian Government in implementing and delineating their activities, through disseminating high-grade documents and information. UNIFEM shared the Plan of Action by India with other countries in the region. It also helped the Government in preparing their national reports on the

implementation of Platform for Action through a process of transparency and active participation of NGO's, in a consultative manner. For this purpose, the UNIFEM has even funded the running of National NGO's Co-ordination Bodies.

The Post- Beijing period offered UNIFEM many opportunities to enhance women's rights and capacities. Based in New Delhi, India, UNIFEM has initiated several projects to combat violence against women and promote strategies for its elimination. But this has been done not in isolation but in collaboration with the National Government and the NGO's at the government level.

This was a genesis of a significant initiative: Engendering India's Ninth five- year Plan (1997 to 2002)⁴³ which provided the necessary entry point for articulating gender concern in policies and programs both at central and state levels

It all began, in August 1995 when preparation for Ninth plan was going on. UNIFEM decided to work in tandem with the Planning Commission, the Government involving some of the most distinguished leaders of women's movement & grassroots women's group. The UNIFEM created a Think Tank. Through the creation of a

⁴³Powering the momentum –UNIFEM –south Asia regional office promotes the global agenda for women's advancement. UNIFEM, New Delhi, P14

Think Tank, women's voices from different walks of life were fed into the planning process at different levels. All through 1996-1997, national & regional meetings were held throughout the country discussing key areas concerning women, which were then communicated to the Planning Commission in a form of a document. The Think Tank members interacted with the DWCD, and made efforts to ensure that voices and perspectives, which they represented, were reflected in the Working Group Report submitted to the Planning Commission. In regard to violence against women, the recommendation made was: - violence against women at societal and household levels to be eliminated through strengthening of institutional capacity, involvement of women and review of certain exiting legal provision. The Think Tank process helped women outline their long term and identified some immediate priorities giving UNIFEM a strong mandate for ensuring on going support. Some such priorities were, women's right to information and employment must be guaranteed, democracy has to be deepened by decentralizing real powers to the panchayats, gender sensitization of all functions of government etc.

As a major follow up, UNIFEM collaborated with the Department of Women and Child Development and initiated a Pilot Project in 1998 in the capital as well as states, To enhance the efficacy of community based strategy-involving setting up of Mohalla Committees to create Zero Violence Zones. This project was implemented in three of the states in India ⁴⁴(“Stree Aadhar Kendra” in Maharashtra , “Sewa” in Uttar Pradesh and “Astha” in Rajasthan.) This scheme was devised after careful study of Ideal Village Scheme, an experiment of Mohalla (neighborhood) committees in Bhiwandi, Maharashtra. This scheme is an initiative to eradicate violence against women, by encouraging local people to participate. Garnering funds from Ford Foundation, the UNIFEM received support for the first time from the India’s Home Ministry and State Police in this initiative .In fact the UNIFEM portfolio increased dramatically after this .The plan, thus afforded an opportunity to create several new partnerships between the Planning Commission on the one hand and the Women’s Organisation and the UNIFEM on the other. For the first time, the UNIFEM began working with the official’s of the highest level in Planning Commission.

⁴⁴Platform for Action, Years After-An Assessment). Dept. of Women and Child Development, Ministry of Human Resource Dev. GOI June 2000.p33

Not only at the Government level, but, as pointed out earlier the UNIFEM brought together many NGO's on a common platform to work towards this end. In dealing with this problem, the UNIFEM also took help of various educational institutions', media etc, and thus involved the whole country to generate awareness to eradicate this menace of violence against women.

It worked with NGO's, like Sakshi, Multiple Action Research Group (MARG), National Alliance of Women (NAWO) etc. In 1993, there was a workshop organized by Sakshi, which was attended by women activists from all over India. A package for training of volunteers for counseling and intervention in the area of violence against women was developed. The results of this workshop were documented in the Report, “ *Sexual Violence: Communication and Counseling*”.⁴⁵

Recognizing that violence cannot be tackled in isolation, Sakshi networked with other organization in this area. The main idea was to integrate skills and experiences of others to develop good quality skills. In order to address the problem of sexual violence in colleges- a Questionnaire was developed and a survey was carried out in six colleges in Delhi. This was useful in establishing the need for a forum

⁴⁵ UNIFEM “Celebrating 20 years of commitment in South Asia” , UNIFEM-SARO,ND. P-20.

of expression and redress for victims of sexual violence in colleges. The workshop and range of other activities were supported by UNIFEM.

Another, project began in 1996, with a survey leading to the publication of the Sakshi report on "*Gender and Judges: a Judicial point of View*" with the series of workshops, regional meetings and followup programs. This project received its funding for the second and third phases by UNIFEM. The aim was to train the judges, both male and female in legal remedies and law enforcement methods, which protect women. This report confirmed that there was pervasive gender bias in the attitude of judges to violence against women. It also highlighted that 78% of the judges never heard of the CEDAW, the 22% who had, knew it by name, but were unaware of its contents.⁴⁶ Thus it endorsed the need for gender equality education. In addition, UNIFEM has supported the publication and dissemination of a Gender Resource Directory, listing of services in metropolitan Calcutta area for women freeing from violent home situation and follow up program.

One of the most important of the UNIFEM activities on violence against women in India was the '*Global Campaign*' for the

⁴⁶ Says Aanchal Kapur, an action researcher and trainer on women's issues and has worked with NGO's and other development agencies in India for the past 8yrs, *Sakshi, Violence Intervention*.

Elimination of Gender based violence in South Asian Region- from 25th November –10th December 1998. In these sixteen days of activism, government, women activist, NGOs, youth, men, UN, children, police and civil society were all involved.

As part of this Global Campaign sponsored by UNIFEM, National Alliance of Women linked up almost 10 states of the country and conducted diverse public events to focus on this concern. Several government bodies cooperated and joined in the program. Several youth were involved in this project for elimination of Gender Based Violence, UNIFEM reached out to number of schools, colleges, in Delhi and across India. The innovation and insight of Indian Youth contributed immensely and brought light to that area's which have not been touched upon by UNIFEM earlier. Such issues included the different ways in which males and females socialized, impact of media on behavior and attitudes of youth etc. The role of youth helped realize the value of their participation in the process of social change.

During this campaign various media and educational intervention were used to spread awareness and sensitize people against violence on women. Several materials were disseminated. UNIFEM material included sashes, stickers, and information kits, banners, public service,

announcement and a documentary film to broadcast the message of the campaign. With the help of Indian Social Institute, Delhi, UNIFEM screened the film 'Nasreen O Nasreen' in slum schools, colleges, club, police station etc., which reflected on the nature of law enforcement in relation to violence against women. The main aim was to sensitize the police officers to both the complexities of gender violence and the role that they have in its elimination.

Again, in collaboration with another NGO, MARG, and a powerful poster depicting women's rights vis-à-vis police was launched. This poster designed by MARG was unveiled by the then Indian Home Secretary. It was translated into 14 languages and 40,000 copies of this poster were disseminated through out the country. This poster is the long-term endeavor to raise the awareness for women and police alike. Another NGO 'Jagori' also has worked with UNIFEM and together they distributed posters in English and Hindi and an audiotape for the purpose of this campaign.

Media was also utilized during the campaign. The UNIFEM embraced many communication formats in an attempt to shatter the silence around domestic violence. The UNIFEM took part in a diversity of television and radio programs, conducted chat shows on issues related

to violence against women , the UNIFEM and the Women Feature Service, as a part of this campaign, commissioned a number of opinion pieces to eminent writers which were published in the leading news papers.

Thus, we see that from 1998, UNIFEM has sponsored several projects directly and indirectly and has immensely contributed in raising awareness to deal with violence against women .Its activities touched every corner of the country and included government, non-government organizations activists, educational institutions etc. This has helped not only to create a bridge between Government and NGO's but has also brought people on a common platform where they could share their problems and expectations together. One of the results of UNIFEM activities is visible at College and University levels. A joint initiative was under taken by University Grants Commission and National Human Rights Commission to introduce human rights in the curriculum of studies at various academic levels. The NHRC has taken a lead in this matter and has issued guidelines to UGC for courses in human rights. Number of Centers and Cells have been setup for women's studies to undertake research, develop curricula and organize

training. Indira Gandhi National Open University has also introduced a course on the subject through Distant Education Mode.

An innovative measure has also been taken to revise the curriculum textbooks at school levels, in the NCERT so that the future generation will view women as equal to men.

Conclusion

After going through the chapter a few things may be seen. While India has accepted the issue of women's rights, by incorporating the principle of equality in the Constitution and by ratifying the CEDAW , it cannot be denied that prevalence of violence is still a cruel fact of our lives .Two reports have been referred to in the chapter which bring out two different pictures of the role India has played in compliance with CEDAW. While the National report presents a positive picture, the NGO report is not that encouraging.

In regard to CEDAW, India has ratified it, but with Reservation and Declarations. This is a major hurdle in the implementation of the Convention and in eliminating violence against women. There is a need for India to reconsider its stand. Moreover most of the laws have remained on paper only and have not filtered down to executive arms of the state effectively which again is a hindrance in achieving the goal.

As far as UNIFEM activities on violence against women are concerned, it has played a crucial and effective role in India. Not only has it helped in raising awareness on the issue it has brought together Government, NGOs as well women and civil society on a common platform.

In all it can be said, that though India has made efforts to integrate international norms, there still remains a lot to be done and a long way to go before this problem can be eliminated. CEDAW is landmark convention on women's rights and must be utilized in the best possible way not only because it offers sufficiently broad document with tremendous scope for interpretation but also because it addresses the problem of violence against women in India. It gives recognition to those areas of abuse and neglect which were never acknowledged as gender violence in India such as family violence, sexual harassment, violence as a health issue and sexual exploitation.

CHAPTER V CONCLUSION

An attempt here is a recapitulation of what we have traversed so far and the challenging road that lies ahead to reach the goal of eliminating violence against women and in securing women's human rights.

In this study, it is evident by now that, violence against women is a global phenomenon, which impairs and violates women's human **rights** and fundamental freedoms. Women experience it throughout their life cycle in different forms and in varying degrees both outside and inside their homes. Numerous measures were initiated at the international and the national levels to deal with the problem of violence and discrimination against women.

United Nations along with its specialized bodies played an instrumental role in elevating the cause for women's rights to the very center of the global agenda. Beginning with the codification of civil and legal rights, United Nations has indeed come a long way to finally recognizing women's rights as human rights and that violence against women is a violation of human rights. (At the Beijing Conference in 1995). The effort of United Nations has produced some groundbreaking conventions, declarations and other such instruments for the cause. One such landmark Convention is the 1979 Convention on the Elimination

of Discrimination against Women. It must be noted, however, that number of reservations expressed by Governments in adopting the Convention was the highest, providing just one indication of the considerable obstacles women face on the road to full equality.

India has followed the United Nation footsteps and has ratified several United Nation conventions. It has tried to integrate the international norms in the Indian scenario by incorporating the spirit of equality in the Constitution and by providing several legal safeguards to protect women against violence and discrimination. Noteworthy progress has been achieved but hardships still remain. Women still continue to face violence and discrimination in all walks of life.

All this is a result of varying combination of social, psychological, personal and legal factors. There is still a gap between what should be according to the law and policy and what is. The law is too inadequate to give protection to the suppressed women in India and the law enforcing agencies are probably not sufficiently concerned and awake to the gravity of the situation. Besides, one is confronted with socio cultural realities that have evolved over millennia and strong religious roots that are embedded deep in traditional society.

The problem of violence against women has no tailor-made solutions. The multi-causal and multidimensional characteristics of this problem defy any single agency's efforts to have a lasting change. Each type of violence requires its own remedy. Some solution might come through the legal system of the state. Others might require the use of public institutions like educational systems to influence values and attitudes. Still others might require opinion leadership by the mass media. One way of dealing with the problem of violence is the meticulous implementation of the CEDAW and Beijing Platform For Action, which provides for actions to be taken by the governments to prevent and eliminate violence against women. To this is needed the will, determination and cooperation by government, NGOs, and international organizations to shield women from this cultural cancer which has spread its tentacles deep into our lives.

Besides this, following steps can be taken. If these steps are taken in a right sense, accepted in a desired way and practiced earnestly, will go a long way in providing women a dignified status, the desired recognition and a decisive say:

Creating awareness in society: This is one very important step to deal with this problem, because it is society that maintains and perpetuates

violence. Thus remedial measures are to be evolved from within the society. The discrimination and violence that has found roots in our homes and in our society should be removed. If violence has to be stopped, it must end where it begins-in the home. Parents should provide equal opportunities to both male and female and in no time during the life of a girl should she be regarded as a liability and inferior to the boy. Right social values should be inculcated. Women should be taught and encouraged to stand on their own feet, to be self-dependent, to earn a living and not to submit to any brutality, injustice and harassment even by their husband or relatives. For this purpose education should be used as an important means. The better a woman's education the greater is the availability of social opportunities, which in turn brings needed attitudinal change both in society and in the lives of women. This change of attitude may result in conflicts with existing institutions, restraints and social taboos, but at the same time it encourages women to be prepared to accept challenges – social and political. And ones they have the strength and desire, their status is bound to improve. Thus it is all the more necessary that all girls must be sent to school and curriculum harping on male chauvinism should be

changed. Instead it should include education in the equality of the sexes, with gender neutral and pro-parity content.

Changing the role of media: While media has played a negative role in perpetuating violence against women, they can also be a valuable resource for addressing and reducing the problem. Rather than exploiting women for sole commercial purposes it should act as a catalyst to bring about awareness among women. It should carry out campaigns, programs and presentations to bring out true potentialities and powers of women. Media should be utilized in building links between government departments, planning agencies, professional bodies and educational institutions .It should play the role of opinion builders and become a source of pressure on government for implementing progressive legislation. It should bring to the focus of people those areas, which remain hidden and thus create an opinion for or against them. Media should be used to publicize various laws that have been enacted to protect women. Audio video resources like TV, Cinema, Radio and Cultural forums should be exploited to overall spread message of legal literacy. Not only this, but women's access to media should also be encouraged to help reshape men's understanding to female conditions.

Strengthening the Non Governmental Organizations: In this study we have seen how NGOs have dealt with the issue of violence and women's human rights both at international and national level. This indicates their potential in dealing with this problem. But there still is a need for strengthening and motivating them to fight for just causes. In the light of their rich experience in dealing with people, they can be the voice of the voiceless. They have a primary role to play both at preventive and rehabilitative levels. In fact they are the best suited for this, because they are near to local communities, work at grassroots and are more accessible to people. They can promote consciousness among people through their association. Most of the problems of women will automatically find answers, once the level of public consciousness reaches certain level. NGOs can play a vital role in raising this public consciousness through various awareness programs, which will make women not only aware of their legal rights but also how to exercise them. In this context men should also be involved because without desired change in their attitude, the problem will remain unresolved. NGO's should create opportunities for education and career and be more active in providing counseling, legal support, shelters and short stay homes for victims of violence or any related problem.

Strengthening the legal system: The legal system of our country does not reflect a very positive picture. Right from the making of the laws, to its implementation and enforcement, there are too many loopholes as we saw in this study. So to combat the problem of violence there is a need to reform and sensitize the whole system. Laws should be simple, but effective and within the reach of the common man. Again, the Government must work to eliminate corruption at all levels- in law enforcement, the legislature and the judiciary so that the laws that are enacted may be enforced. Law enforcement agencies should play their assigned roles well. Police and judiciary should be highly sensitive towards women and should render help whenever asked for. Special training should be imparted to the police personnel for this. And above all, the working of the whole system should be made more transparent to the common man.

To conclude, it can be said, that to stop violence against women, each society, and indeed each home needs to look at itself to bring about a transformation in our social psyche and to challenge those values and beliefs and the system that reinforce violence. But no remedy will yield results till women take charge of their lives and stand up to fight for their rights.

At this stage a few lines from the poem titled “Shobola”, written by the great poet Rabindranath Tagore may be quoted:

Why must you curtail her rights

And keep women from conquering her own fate

Oh divine Ruler?

Why should we stand forlorn by the wayside

With bowed heads?

Waiting for our weary patient dreams

To be fulfilled on some

Auspicious Day ?

Must we always stay into vacant space ?

Can we not choose for ourselves

The paths to our fulfillments?

It is indeed the right time for women to choose the path to fulfill their dreams and stand against any injustice, to make the world a better place for themselves. At this juncture it can be said that women have begun this journey...

BIBLIOGRAPHY

BOOKS

1. Symonides Janusz and Volodin Vladimir, **Human Rights of Women, A Collection International and Regional Normative Instruments**, Paris, UNESCO: 1999.
2. Peters Julie and Andrea Wolper, **Women's Rights Human Rights**, New York, Rout ledge Publishers: 1995.
3. Joanne Kerr, **Ours by Right**, Zed Books: 1993
4. Ahuja, R. **Crime Against Women**, Jaipur, Rawat Publications: 1987.
5. Pandey Rekha, **Women: From Subjection to Liberation**, New Delhi, Mittal Publishers: 1989.
6. Diwan Paras, **Women and Legal Protection**, New Delhi, Deep and Deep Publishers: 1994.
7. Tanwar Reicha, **Women: Religion and Violence**, New Delhi, Nirmal Book Agency: 1998.
8. Sen Shankar, **Human Rights in Developing Society**, New Delhi, APH Publishing Corporation: 1998.
9. Sharma P. Rajendra, **Crime Against Women**, New Delhi, APH Publishing Corporation: 1994
10. Kaul L.Jawahar, **Human Rights and Perspectives**, New Delhi, Regency Publishers: 1995.
11. Bhatnagar J.P., **Law Relating To Women & Their Rights**, New Delhi, Ashoka Law House Second Edition: 1998.
12. Sharma SwaranLata, **Gender Discrimination and Human Rights**, New Delhi, K.K. Publishers: 2000.

13. Dewan V.K., **Laws Relating to Offences Against Women**, New Delhi, and Orient Law House: 2000.
14. Saxena Shobha, **Crime Against Women and Protective Laws**, New Delhi, Deep and Deep Publishers: 1995.
15. Asraf Nehal, **Crime Against Women**, New Delhi, Commonwealth Publishers: 1997.
16. Neshla, **Atrocities Against Women**, New Delhi, Harman Publishing House: 1997.
17. Kalpana Roy, **Women Oppression and Protective Law**, New Delhi, Rajat Publication: 1999
18. Stanko A Elizabeth, **Intimate Intrusion: Women's Experience of Male Violence**, London, Routledge Publishers, 1985.
19. Pachauri S.K., **Violence and Human Rights**, New Delhi, APH Publishing Corporation: 1999.
20. Cranston Maurice, **"What are Human Rights"** Bodley Head, London, 1973.
21. **"Ending Violence against Women, A Resource Guide"**. The global Fund for women. Shaler Adams Foundation, Mehlo Park, California. Feb 1992.
22. Mair Mathurin Lucille, **"International Women's Decade: A Balance Sheet"**. Centre for Women's Development Studies, New Delhi, 1985.

DOCUMENTS

United Nations Documents:

1. UN and the Advancement of Women, 1945 – 1996 UN / DPI, UN Blue Book Series, Volume VI, revised edition, UN, New York.

2. UN reference guide in the field of human rights – yearbook of United Nations, UN/DPI, volume 49, 1995.
3. The United Nations and the Human Rights, 1945 – 1995, UN / DPI, New York.
4. Women – Challenges to the year 2000, UN / DPI, New York, Dec.1991.
5. Yearbook of the United Nations, 50th Anniversary, Edition UN / DPI, 1995.
6. Charter of the UN and Statute of the International Court of Justice DPI / UN, New York – 17, 1997.
7. Basic Facts about the United Nations, Pub. By UN/DPI, New York, July 1998.
8. A World Free of Violence against Women, United Nations Inter – Agency Global Videoconference, UNIFEM, International Women’s Day, 8 March 1999.
9. United Nations, The World’s Women: Trends and Statistics.1970-1990, United Nations Publication, New York 1991.
10. A Life Free of Violence, It’s Our Right, Global Campaign for the Elimination of Gender – based Violence in the South Asia Region, UNIFEM, South Asia Regional Office. New Delhi, 1998.
11. Celebrating 20 Years of Commitment in South Asia, UNIFEM South Asia Regional Office, New Delhi, 1996.
12. Rights of Women, Published by International Women’s Tribune Centre, New York, 1998.
13. Carrying the Beijing Torch in South Asia, Accountability to the World’s Women: A Series for the Five Year Review of the Beijing

Platform for Action, UNIFEM –South Asia Regional Office. New Delhi, 1999.

14. Best Practices: South Asia. Series I. UNIFEM, South Asia Regional Office, New Delhi.1998.
15. United Nations, The World's Women 2000:Trends and Statistics. United Nations Publication, New York 2000.
16. Violence against Women in the family, UN/DPI. New York, 1989.
17. United Nations, The World's Women 1995:Trends and Statistics. United Nations Publications, Sales No.E.95.XVII.2.
18. United Nations, The Nairobi Forward –Looking Strategies for the Advancement of Women, As adopted by the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, Nairobi, Kenya, 15 –26 July 1985.Published by UN/DPI, New York, Sept. 1993.
19. Platform for Action and the Beijing Declaration, Fourth World Conference on Women, Beijing, China 4-15 Sept 1995.UN/DPI, New York, 1996.
20. “Committee On Elimination of Discrimination Against Women Continues Consideration of India Report”(Wom/1162), General Assembly Meetings Coverage. UN/DPI, 21 Jan 2000.
21. Convention on Elimination of all forms of discrimination against women CEDAW / C / IND / 1. 10th March 1999

Government of India Documents:

22. Department of Women and Child Development, Ministry of Human Resource Development, Government of India. “ Platform For Action, Five Years After- An Assessment”. Jan 2000.

23. National Crime Records Bureau (Ministry of Home Affairs), "Crime In India", Statistical Profile .1998.
24. CEDAW: India's First Report 2000.
25. Department of Women and Child Development (Ministry of Human Resource Development), Government of India. Statement by Secretary on "Hearing of India's First Report under CEDAW"(at the 22nd Session of CEDAW). 24th and 31st Jan.2000, New York.
26. "Plan Of Operations- A Program for Children and Women in India", Government of India in cooperation with the United Nations Children's Fund. 1999-2002.
27. Department of Women and Child Development (Ministry of Human Resource Development), Government of India, Platform For Action - Strategies For Implementation, New Delhi.1995.
28. National Commission For Women, "Rape a Legal Study", New Delhi, 2000.
29. Department of Women and Child Development, Government of India, "Responses to the Questions on India's First Report on CEDAW"(at the 22nd Session of CEDAW), 24 -31 January New York, 2000.

Non- Government Organization Documents:

30. Women and Violence, AIDWA Publication Series, New Delhi, December 1998
31. Women Speak, United Voices Against Globalization, Poverty and Violence in India, Published by six women organizations, New Delhi, March 2000.
32. Violence Update , No.1, April 2000, Centre for Social Research , New Delhi,

33. Violence Update Volume 1, No. 4, June 1998, Center for Social Research, New Delhi.
34. Domestic Violence in India, A summary Report of Three Studies, International Center for Research on Women and The Centre for Development and Population Activities, Washington, DC, Sept 1999.
35. Kali's Yug, Women and Law Journal, Aug. 1998, WARLAW, New Delhi.
36. Within The Four Walls, A Profile of Domestic Violence, Multiple Action Research Group (MARG), New Delhi, 1998.
37. "Growing Poverty and Violence among Women", Lobby Document: World March of Women in 2000 India, The National Alliance Of Women (NAWO) New Delhi, 2000.
38. Violence Against Women in Delhi: Determinants and Remedies, Centre for Social Research, New Delhi, 1999.

JOURNALS, ARTICLES and REPORTS

1. Karlekar Malavika. "Speaking Out: But are the Voices heard? Perceptions of Violence against Women in India", **Journal of Asian Women Studies**, volume 8, 2000-2, 1-23.
2. Kelkar Govind. "Violence Against Women: An Understanding of Responsibility for their Lives", **Samya Shakti**, volume 2 No 1 : 1985.179-189.
3. **Journal of the Institution of Human Rights**, Volume II, No. I: 10 Dec. 1999
4. "Sexual Harassment: A Wrong Beyond Discrimination" **Journal of the Indian Law Institute** Volume 41, No 3 and 4, July – Dec 1999. 478-488.
5. Srivastava K. Yogendra. " Harmful Traditional Practices Against Women and Children" **The PRP Journal of Human Rights**, Volume 4,

- No. 2 April –June. 2000. 5-9.
6. Nigam Shalu. “Functioning of National Commission for Women” **The Radical Humanist**, Volume 63, No 12 March 2000. 9-14.
 7. Mehra Madhu. “And Miles To Go...Challenges Facing Women’s Human Rights” **Journal of the Indian Law Institute**, No. 1-4 Jan – Dec 1998. 121-130.
 8. **MANUSHI**, No. 42-43 1987.
 9. **WOMEN’S LINK**, Volume 4, No 2, April – June 1998
 10. **WOMEN’S LINK**, Volume 5, No. 4, October –December 1999.
 11. **UNIFEM Annual Report 1995**
 12. **UNIFEM Annual Report 1999**
 13. **Progress of the World’s Women 2000, UNIFEM Biennial Report.**
 14. Delhi Commission for Women, **Annual Report 1998-99**.New Delhi.
 15. Central Bureau of Investigation **Bulletin**, volume vii, No. 4 –April 1999. New Delhi.
 16. “Violence Against Women”, Advancement of Women in India, **A draft Report** from the World’s Women’s Movement August 1999. 62-71.
 17. **POPULATION REPORTS**, Series L, Number 11, volume xxvii, Number 4, December 1999.
 18. CEDAW: An Orientation, A report of workshops held in India. (International Women’s Rights Action Watch Asia Pacific): July 1995.
 19. “Integration of the Human Rights of Women and the Gender Perspective: Violence against Women”. Report of the Special Rapporteur on violence Against Women, its causes and consequences

- (E/CN.4/2000/68/Add.1). ECOSOC, United Nations, 27 Jan.2000.
20. Report of PFA Implementation in India- The National Alliance of Women (NAWO), 1995-2000, New Delhi.
 21. Alternative NGO Report On CEDAW, Initial Submission to the CEDAW Committee, January, 2000. Co-ordinated by The National Alliance Of Women, New Delhi.
 22. Agnes Flavia, "Violence Against Women-Review Of Recent Enactments" Paper presented during the Proceedings of National seminar on Women & Law, 3-4 Dec 1994. Organized by Indian Social Institute, New Delhi. 83-86.
 23. Human Rights: From Words to Deeds, Proceedings of the seminar organized by the United Nations Information Centre, New Delhi. 24 Sept. 1998, UN Conference Hall.
 24. Statistical Profile –Incidence of Crime against Women, Seminar on Crime Against Women, 11 May, 1990 L.B.S N.A.A., Mussorie. 1-10.
 25. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in Relation to Violence Against Women: Ratification, Reservation and Interpretation. Background Note, Regional Meeting "Ending Violence Against Women and Girls in South Asia" October 21-24, UNICEF Regional Office for South Asia, Kathmandu.

Newsletters, Pamphlets and Clippings

1. UN Newsletter, volume 54; Number 10, 13 March 1999
2. The United Nations and the Status of Women, UN/DPI. March: 1995.
3. Women: Conference to set Women's Agenda into Next Century; UN/DPI, Oct. 1994.

4. A Newsletter of the USAID office of Women in Development 'Gender Action' Vol. 1 No. 4, summer 1997
5. The Trust Fund in Support of Actions to Eliminate Violence against Women, UNIFEM, March; 1999
6. Telegraph, 31 Oct; 1999.
7. The Pioneer, Tuesday Sept.7, 1999.
8. The Indian Express, Sunday Feb.13, 2000.

Annexure 1

General Recommendation NO. 12 (Eighth session, 1989): Violence against women

The committee on the Elimination of discrimination against women Considering that articles 2,5,11,12 and 16 of the convention require the states parties to act to protect women against violence of any kind occurring within the family, at workplace or in any other area of social life.

Taking in to account Economic and Social Council resolution 1988/27, Recommends to the states parties that they should include in their periodic reports to the Committee information about:

1. The legislation in force to protect women against the incidence of all kinds of violence in everyday life (including sexual violence, abuses in the family, sexual harassment at workplace, etc);
2. Other measures adopted to eradicate this violence;
3. The existence of support services for women who are the victims of aggression or abuses
4. Statistical data on the incidence of violence of all kinds against women and on women who are the victims of violence.

ANNEXURE 2

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

PART 1

Article 2

States parties condemn discrimination against women in all its forms , agree to pursue in all its means and without delay a policy of eliminating discrimination against women and , to this end , undertake:

- a. To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure , through law and other appropriate means , the practical realization of this principle;
- b. To adopt appropriate legislative and other measures , including sanctions where appropriate , prohibiting all discrimination against women;
- c. To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d. To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e. To take all appropriate measures to eliminate discrimination against women by any person , organization or enterprise;
- f. To take all appropriate measures , including legislation , to modify or abolish existing laws , regulations , customs and practices which

constitute discrimination against women ;

- g. To repeal all national penal provisions which constitute discrimination against women.

Article 5

State parties shall take all appropriate measures:

- a. To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women;
- b. To ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.

PART 3

Article 11

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of unemployment in order to ensure , on the basis of equality of men and women , the same rights , in particular:
 - a. The right to work as an inalienable right of all human beings;
 - b. The right to the same employment opportunities , including the application of the same criteria for selection in matters of employment;
 - c. The right to free choice of profession and employment , the right to promotion job security and all benefits and conditions ,

of service and the right to receive vocational training and retraining , including apprenticeship , advanced vocational training and recurrent training;

- d. The right to equal remuneration , including benefits , and to equal treatment in respect of work of equal value , as well as equality of treatment in the evaluation of the quality of work;
- e. The right to social security , particularly in cases of retirement , unemployment , sickness , invalidity and old age and other incapacity to work , as well as the right to paid leave;
- f. The right to protection of health and to safety in working conditions , including the safeguarding of the function of reproduction .

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work , states parties shall take appropriate measures:

- a. To prohibit , subject to the imposition of sanctions , dismissal on the grounds of pregnancy or of maternity leave and discrimination in dismissals on the basis of marital status;
- b. To introduce maternity leave with pay or with comparable social benefits without loss of former employment , seniority or social allowances ;
- c. To encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

- d. To provide special protection to women during pregnancy in type of work proved to be harmful to them.
3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.

Article 12

1. States parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure , on the basis of equality of men and women , access to health care services , including those related to family planning.
2. Notwithstanding the provisions of paragraph 1 of this article , states parties shall ensure to women appropriate services in connection to pregnancy , confinement and the post natal period , granting free services where necessary , as well as adequate nutrition during pregnancy and lactation.

Part 4

Article 16

1. State parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure , on a basis of equality of men and women:
 - a. The same right to enter into marriage ;
 - b. The same right freely to choose a spouse and to enter into marriage only with their free and full consent;
 - c. The same right and responsibilities during marriage and its dissolution;

- d. The same right and responsibilities as parents , irrespective of their marital status , in matters relating to their children in all cases the interests shall be paramount;
 - e. The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information , education and the means to enable them to exercise these rights;
 - f. The same rights and responsibilities with regard to guardianship, ward ship , trusteeship and adoption of children , or similar institutions where these concepts exist in national legislation ; in all cases the interest of the children shall be paramount;
 - g. The same personal rights as husband and wife , including the right to choose a family name , a profession and an occupation;
 - h. The same right for both spouses in respect of the ownership , acquisition , management , administration, enjoyment and disposition of property , whether free of charge or for a valuable consideration.
2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action , including legislation , shall be taken to specify a minimum age for marriage and to make the registration of marriage in an official registry compulsory.

Annexure 3

General Recommendation No. 19(Eleventh session, 1992):

Violence against women

Background

1. Gender –based violence is a form of discrimination that seriously inhibits women’ s ability to enjoy rights and freedoms on a basis of equality with men.
2. In 1989, the committee recommended that the states should include in their reports information on violence and on measures introduced to deal with it (General recommendation 12. eight session).
3. At the tenth session in 1991, it was decided to allocate part of the eleventh session to a discussion and study on article 6 and other articles of the Convention relating to violence towards women and the sexual harassment and exploitation of women. That subject was chosen in anticipation of the 1993 World conference on Human Rights , convened by the General Assembly by its resolution 45/155 of 18 December 1990.
4. The Committee concluded that not all reports of states parties adequately reflected the close connection between discrimination against women, gender –based violence, and violations of human rights and fundamental freedoms. The full implementation of the convention required states to take positive measures to eliminate all forms of violence against women.
5. The committee suggested to states parties that in reviewing their laws and policies, and in reporting under the convention, they

should have to the following comments of committee concerning gender –based violence.

General comments

6. The Convention in article 1 defines discrimination against women .The definition of discrimination includes gender –based violence that is directed against a woman because she is a woman or that affects women disproportionately .It includes acts that inflict physical, mental, or sexual harm or suffering ,threats of such acts, coercion and other deprivations of liberty .Gender –based violence may breach specific provisions of the convention .regardless of whether those expressly mention violence.

7. Gender –based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the convention. These rights and freedom include:

- a. The right to life ;
- b. The right not to be subject to torture or to cruel , inhuman or degrading treatment or punishment;
- c. The right to equal protection according to humanitarian norms in time of international or internal armed conflict.
- d. The right to liberty and security of person;
- e. The right to equal protection under the law.
- f. The right to equality in the family
- g. The right to the highest standard attainable of physical and mental health.
- h. The right to just and favorable conditions of work

8. The convention applies to violence perpetrated by public authorities. Such acts of violence may breach that state's obligations under general international human rights law and under other conventions, in addition to breaching this convention.

9. It is emphasized, however, that discrimination under the convention is not restricted to action by or on behalf of Governments (see article 2(e), 2(f) and 5). For example, under article 2(e) the Convention calls on states parties to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise. Under general international law and specific human rights covenants. States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation.

Comments on specific articles of the convention

Article 2 and 3

10. Articles 2 and 3 establish a comprehensive obligation to eliminate discrimination in all its forms in addition to the specific obligations under articles 5 – 16.

Articles 2(f), 5 and 10(c)

11. Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks, and female circumcision. Such prejudices and practices may justify gender – based violence as a form of protection or control of women. The effect of such violence on the mental and physical integrity of

women is to deprive them of the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms. While this comment addresses mainly actual or threatened violence the underlying consequences of these forms of gender-based violence help to maintain women in subordinate roles and contribute to their low level of education, skills and work opportunities.

12. These attitudes also contribute to the propagation of pornography and the depiction and other commercial exploitation of women as sexual objects rather than as individuals. This in turn contributes to gender-based violence.

Article 6

13. States parties are required by article 6 to take measures to suppress all forms of traffic in women and exploitation of the prostitution of women.
14. Poverty and unemployment increase opportunities for trafficking in women. In addition to the established forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries, and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity. They put women at special risk of violence and abuse.
15. Poverty and unemployment force many women, including young girls, into prostitution. Prostitutes are especially vulnerable to violence because their status, which may be unlawful, tends to marginalize them. They need the equal protection of laws against

rape and other forms of violence.

16. Wars, armed conflicts and the occupation of territories often lead to increased prostitution, trafficking in women, and sexual assault on women, which require specific protective and punitive measures.

Article 11

17. Equality in employment can be seriously impaired when women are subjected to gender-specific violence, such as sexual harassment in the work place.

18. Sexual harassment includes such unwelcome sexually determined behavior as physical contacts and advances, sexually colored remarks, showing pornography and sexual demands, whether by words or actions. Such conduct may be humiliating and may constitute a health and safety problem; it is discriminatory when the woman has reasonable ground to believe that her objection would disadvantage her in connection with her employment, including recruitment or promotion, or when it creates a hostile working environment.

Article 12

19. States parties are required by article 12 to take measures to ensure equal access to health care. Violence against women puts their health and lives at risk.
20. In some states there are traditional practices perpetuated by culture and tradition that are harmful to the health of women and children. These practices include dietary restrictions for pregnant women, preference for male children and female circumcision or genital mutilation.

Article 14

21. Rural women are at risk of gender-based violence because traditional attitudes regarding the subordinate role of women that persist in many rural communities. Girls from rural communities are at special risk of violence and sexual exploitation when they leave the rural community to seek employment in towns.

Article 16 (and article 5)

22. Compulsory sterilization or abortion adversely affects women's physical and mental health, and infringes the right of women to decide on the number and spacing of their children.

23. Family violence is the most insidious forms of violence against women. It is prevalent in all societies. Within family relationships women of all ages are subjected to violence of all kinds, including battering, rape, other forms of sexual assault, mental and other forms of violence, which are perpetuated by traditional attitudes. Lack of economic independence forces many women to stay in violent relationships. The abrogation of their family responsibilities by men can be forms of violence, and coercion. These forms of violence put women's health at risk and impair their ability to participate in family life and public life on the basis of equality.

Specific recommendations

24. In light of these comments, the committee on the elimination of discrimination against women recommends:

- a. States parties should take appropriate and effective measures to overcome all forms of gender-based violence, whether by public or private act.

- b. State parties should ensure that laws against family violence and abuse, rape, sexual assault, and other gender-based violence give adequate protection to all women, and respect their integrity and dignity. Appropriate protective and support services should be provided for victims. Gender-sensitive training of judicial and other public officials is essential for the effective implementation of the convention:
- c. State parties should encourage the compilation of statistics and research on the extent, causes and effects of violence , and on the effectiveness of measures to prevent and deal with violence ;
- d. Effective measures should be taken to ensure that the media respect and promote respect for women;
- e. State parties in their report should identify the nature and extent of attitudes, customs and practices that perpetuate violence against women, and the kind of violence that result . They should report the measures that they have undertaken to overcome violence, and the effect of those measures
- f. Effective measures should be taken to overcome these attitudes and practices . States should introduce education and public information programmes to help eliminate prejudices which hinder women's equality (recommendation no. 3 , 1987);
- g. Specific preventive and punitive measures are necessary to overcome trafficking and sexual exploitation;
- h. States parties in their reports should describe the extent of all these problems and the measures including penal provisions , preventive and rehabilitation measures , that have been taken to protect women engaged in prostitution or subject to trafficking and other

forms of sexual exploitation. The effectiveness of these measures should be described;

- i. Effective complaints procedures and remedies, including compensation should be provided;
- j. State parties should include in their reports information on sexual harassment , and on measures to protect women from sexual harassment and other forms of violence of coercion in the workplace;
- k. States parties should establish or support services for victims of family violence , rape , sex , assault and other forms of gender-based violence , including refuges , specially trained health workers , rehabilitation and counseling;
- l. States parties should take measures to overcome such practices and should take account of the committee's recommendation on female circumcision (recommendation no. 14) in reporting on health issues;
- m. States parties should ensure that measures are taken to prevent coercion in regard to fertility and reproduction , and to ensure that women are not forced to seek unsafe medical procedures such as illegal abortion due to lack of appropriate services in regard to fertility control;
- n. States parties in their report should state the extent of these problems and should indicate the measures that have been taken and their effect;
- o. States parties should ensure that services for victims of violence are accessible to rural women and that where necessary special services are provided to isolated communities;

- p. Measures to protect them from violence should include training and employment opportunities and the monitoring of the employment conditions of domestic workers;
- q. States parties should report on the risks to rural women , the extent and nature of violence and abuse to which they are subject , their need for and access to support and other services and the effectiveness of measures to overcome violence;
- r. Measures that are necessary to overcome family violence should include
 1. Criminal penalties where necessary and civil remedies in case of domestic violence;
 2. Legislation to remove the defense of honour in regard to the assault or murder of a female family member;
 3. services to ensure the safety and security to the victims of family violence , including refuges , counseling and rehabilitation programs ;
 4. Rehabilitation programs for perpetrators of domestic violence;
 5. Support services for families where incest or sexual abuse has occurred;
- s. State parties should report on the extent of domestic violence and sexual abuse , and on the preventive , punitive and remedial measures that have been taken;
- t. That state parties should take all legal and other measures that are necessary to provide effective protection of women against gender-based violence , including , inter alia:

1. Effective legal measures , including penal sanctions , civil remedies and compensatory provisions to protect women against all kinds of violence , including , inter alia , violence and abuse in the family , sexual assault and sexual harassment in the workplace;
2. Preventive measures , including public information and education programs to change attitudes concerning the roles and status of men and women;
3. Protective measures , including , refuges , counseling , rehabilitation and support services for women who are the victims of violence or who are at risk of violence ;
4. That state parties should report on all forms of gender-based violence , and that such reports should include all available data on the incidence of each form of violence , and on the effects of such violence on the women who are victims;
5. That the report of states parties should include information on the legal, preventive and protective measures that have been taken to overcome violence against women, and on the effectiveness of such measures.