

CHAPTER III: STATE RESPONSE TO PREVENT VIOLENCE AGAINST WOMEN: NATIONAL & INTERNATIONAL SCENERIO

In this chapter, an elaborate discussion is made to understand the national and international responses to prevent violence against women. For the convenience of presentation, this chapter has been divided into six sections. Section I deals with the constitutional provisions for women in India, Section II deals with the gender specific laws in India, Section III focuses on Personal Laws available for women, Section IV looks into the relevant sections of IPC and CrPC for crime against women, Section V deals with various national and state initiatives for development of women, Section VI focuses on various International provisions for women.

It has been discussed in previous chapters that in Indian patriarchal society violence against women is a common phenomenon. In spite of women contribution in all spheres of life, they are the most deprived group in Indian society. In fact, women constantly suffer from discrimination in all areas of her life before and after coming on this earth. In recent years there has been an alarming increase of dowry deaths, sexual violence, domestic violence and harassment of women etc. which reveals a large scale societal breakdown. It has been estimated that more than ten million married women undergo from pain and serious injury from their husband and in-laws every year in India. Numerous laws have been enacted by the legislature but the position of women in society remains unchanged.

After independence, India has taken the responsibility to make laws for the protection of women. The Constitution makers while drafting the Constitution were sensitive to the problems faced by women and made special provisions for them. The Constitution provided equal rights of men and women and also entrusted the duty upon the state to adopt measures of positive discrimination in favour of women. As a result, in India various central as well as state laws, development policies and Plans and programmes have been formulated for development of women in every sphere.

I

Women Protection under Constitutional Law

The Indian constitution is a basic document which provide for equal rights and opportunities irrespective of their sex, community or place of birth. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only guarantees equality to women, but also empowers the State to adopt measures for overall development of women. The constitution contains many provisions for women.

Preamble

The Preamble contains the essence of the Constitution and ensures the principles of quality for all. The Preamble starts with “We, the people of India”, which reflects that the source of our Constitution is the people, both men and women of India. The Preamble contains the goal of Equality, Liberty, Justice and Fraternity to all citizens irrespective of sex, caste, class and place of residence. These goals have been incorporated to give equal rights to women and men in terms of status as well as opportunity.

The Fundamental Rights

Fundamental Rights guaranteed under Part-III of the Indian constitution ensures Justice for all the citizens irrespective of sex. There are six groups of fundamental rights which are available to every citizen of India irrespective of caste, class, race, religion and gender. In this study we are concerned only with the question of gender. *Justice Bhagwati* stated “These fundamental rights represent the basic values cherished by the people of this country (India) since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent”.⁵⁴

Article 14: Article 14 expressly states that there shall be equal protection of the law and equality before the law.⁵⁵ That is to say that whenever a woman approaches a law

⁵⁴ Maneka Gandhi vs Union of India, AIR 1978, S.C.597

⁵⁵ Article 14, Constitution of India

enforcement officer or the judicial court then she should receive the same protection as any man. None of the laws make a distinction between who commits a crime and against whom. If a stranger beats up a woman or her husband beats her up neither the Constitution nor the law make a distinction. Under the Indian Penal Code it is still a crime when the husband of a woman beats her up, injures or harms her in any way. When the Constitution guarantees equal protection of the law it simply means that when she approaches a police station to register her complaint the officer on duty has to record it as he would if a wealthy man from the upper caste were to come of the police station to register a first information report (FIR) against a stranger who had caused him physical harm or injury. This is what is meant by equal protection of the law and equality before the law. There cannot be a different standard of justice or even denial of justice on the basis of the gender of the complainant. This right to equality is the touchstone against which all the laws and practices in India have to be tested. Any law or practice which is not in consonance with this provision of the Constitution can be challenged in a court of law as it would be unconstitutional and violation of a Fundamental Right guaranteed by the Constitution of India.⁵⁶ The Supreme Court in the case of *G. Dasaratha Rama Rao*, Stated that Article 14 is available to all, irrespective of whether the person claiming it is a citizen or not.⁵⁷

Article 15: Article 15 guarantees the right against discrimination.⁵⁸ Reading the Right to Equality with this right will necessitate the striking down of any law or practice that is discriminatory in character. This is the context in which the *Vishaka and Others vs. the State of Rajasthan and Others (1997)* case is noteworthy. The Supreme Court declared the offence of sexual harassment at the workplace as violation of the Right to Equality and Right against Discrimination.⁵⁹

Article 15 (3): Nothing in this article shall prevent the State from making any special provision for women and children.⁶⁰ However, in spite of the right to equality and the right against discrimination the members of the constituent assembly thought it necessary to provide for special protection for women in Article 15(3) of the Constitution. They realized that a mere formal equality and right against

⁵⁶ **Internet Source:** http://www.lawyersclubindia.com/profile.asp?member_id=4450/ Eveenzar, A review of Gender Justice since Independence, 28th February, 2008

⁵⁷ *G. Dasaratha Rama Rao vs. State of Andhra Pradesh*, AIR 1961 SC 564

⁵⁸ Article 15, Constitution of India

⁵⁹ *Vishaka and Others vs. the State of Rajasthan and Others*, AIR, 1987, SC, 656 at Pp. (658-659)

⁶⁰ Article 15, Constitution of India

discrimination guaranteed in the Constitution would not safeguard the women from being exploited and treated unequally. The members were sagacious enough to realize that thousands of years of discrimination and subordination of women will not be ended by the mere guaranteeing of equality in the Constitution and therefore they inserted this article so that the State would be given the space to make laws, policies and programmes for the enhancement of the status of women and enable them to access their rights under the Constitution. It is in this context that the 74th amendment which provided for reservation for women in the Panchayats was made possible. By such a protection it enables women who desire to stand for elections and participate in the decision making processes to do so. This was made possible by a Constitutional provision itself.⁶¹

Whenever controversy arises our government and judiciary come to help women by upholding the validity of special measures under Article 15(3) of the Indian constitution. Supreme Court stated that the power of state under Article 15(3) is wide enough to include the entire range of state activity. Consequently, the state has introduced provision for reserving 1/3rd seats for women in public employment, in administration to educational institutions and the legislatures at least at the local self Government level, among other schemes for their benefit. However, the power conferred upon the state under Article 15(3) cannot be whittled down in any manner by Article 16. However, Supreme Court further stated that since Article 15(1) and 15(3) go together, the protection of Articles 15(3) would be applicable to employment under the state falling under Articles 16(1) and 16(2) of the constitution.⁶² In *Anjali Ray vs. State of West Bengal*, the court held that Article 15(3) enables the state to make special provisions favouring women, it cannot be interpreted in a manner so that it denies the right already guaranteed to them under Article 15(1). Secondly, Article 15(1) discrimination only against women will be unconstitutional. Thirdly Article 15(1) be read as supplementary to Article 14, hence, it cannot deviate from the Principal guarantee.⁶³

Article 16: Article 16(1) provides equality of opportunity in matters relating to employment or appointment to any office under the State. Article 16(2) provides

⁶¹ **Internet Source:** http://www.lawyersclubindia.com/profile.asp?member_id=4450/ Eveenzar, A review of Gender Justice since Independence, 28th February, 2008

⁶² A.P. vs. P.B. Vijoy Kumar AIR1995,S.C.1648

⁶³ Anjali Ray vs. State of West Bengal, AIR1952 CAL.825

specific grounds on which citizens are not to be discriminated against each other in matter of opportunity and office under the State. These are religion, race, caste, sex, decent, place of birth and residence or any of them. In this Article discrimination on the basis of sex has been specifically prohibited under the Constitution. Basic reason behind this is to bring the women at par with men. In the case of *C.B.Muthamma vs. Union of India*,⁶⁴ Justice Krishna Iyer observed that we do not mean to universalize or dogmatize that men and women are equal in all occupation an all situation and do not exclude the need to pragmatise where the requirements of particular employment, the sensitive's of sex or the handicaps of either sex may compel selectivity, but save where the difference in demonstrable, the rule of equality must govern.⁶⁵ In case of *Air India v. Nargesh Meerza*⁶⁶ the Supreme Court struck down the Air-India Regulations relating to retirement and the pregnancy bar on the services of Air-hostesses as unconstitutional on the ground that the conditions laid down therein were entirely unreasonable and arbitrary. The impugned Regulation 46 provided that an air hostess would retire from the service of the corporation upon attaining the age of 35 years or on marriage, if it took place within 4 years of service, or on first pregnancy, whichever occurred earlier. Under Regulation 7, the Managing Director was vested with absolute discretion to extend the age of retirement prescribed at 45 years. Both these regulations were struck down as violative of Article 14, which prohibits unreasonableness and arbitrariness.

Article 19: Article 19 guarantees the freedom of speech and expression, to assemble peaceably and without arms, to form associations and unions, to move freely throughout the territory of India, to reside and settle in any part of the territory of India and to practice any profession, or to carry on any occupation, trade or business.⁶⁷ This civil right is essential for functioning as a human being in a democratic society. It has been considered as one of the most essential rights along with the Right to Equality. In the context of domestic violence and sexual harassment at the workplace this Fundamental Right of women is most often than not violated. Women are forced to change their jobs or seek transfers on account of Sexual Harassment. Married women subjected to domestic violence find that while the

⁶⁴ C.B.Muthamma vs. Union of India, AIR 1979 S.C. 1868

⁶⁵ *ibid*

⁶⁶ Air India v. Nargesh Meerza, AIR, 1981 4 S.C 335

⁶⁷ Article 19, Constitution of India

Constitution guarantees them the right to freely move throughout the territory of India their husbands and families don't recognize this right.

Article 21: The right to life is guaranteed under Article 21 of the Constitution of India. It includes everything which makes a human being's life meaningful. This article clearly stated that No person shall be deprived of his life or personal liberty except according to procedure established by law. The Supreme Court in the case of *Sunil Batra* declared that 'right to live' includes the right to live consistently with human dignity.⁶⁸ In *Kharak Singh case*, Supreme Court of India held that the word life means right to live with human dignity.⁶⁹ The Supreme Court has in its interpretation widened the scope of this right by stating that the Right to Life means the right to live with dignity in the *Bandhua Mukti Morcha v. Union of India (1984)* case.⁷⁰ In *Francis Mullin* case, Supreme Court of Indian explained. 'Right to life' includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter over the head and facilities for reading, writing and expressing oneself in diverse forms freely moving about, mixing and co-mingling with fellow human beings.⁷¹ In *Chairman, Railway Board vs. Chandrima Das case*, the Supreme Court awarded compensation of ten lacs to an alien woman under Article 21 of the Constitution who has been a victim of rape.⁷²

Article 23: This Article guarantees the prohibition of traffic in human beings and forced labour-(1) Traffic in human beings and beggars and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law;⁷³ In *Gaurav Jain v. Union of India* case the condition of prostitutes in general and the plight of their children in particular was highlighted. The Court issued directions for a multi-pronged approach and mixing the children of prostitutes with other children instead of making separate provisions for them. The Supreme Court issued directions for the prevention of induction of women

⁶⁸ Sunil Batra vs. Delhi Administration, AIR, 1978, SC1575

⁶⁹ Kharak Singh vs. State of U.P, AIR, 1963, S.C. 1295.

⁷⁰ Bandhua Mukti Morcha vs. Union of India, AIR 1984, SC 1676

⁷¹ Francis Mullin vs. Union Territory of Delhi, AIR 1979, SC 746

⁷² Chairman, Railway Board vs. Chandrima Das, AIR 200 SC 988

⁷³ Article 23, Constitution of India

in various forms of prostitution. It said that women should be viewed more as victims of adverse socio-economic circumstances than offenders in our society.⁷⁴

Article 24: Article 24 lays down the prohibition of employment of children in factories. It states that no child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment,⁷⁵ The Constitution of India strictly prohibits the employment of children below the age of 14 years. The provision under Mines Act, 1952 or the Factories Act, 1948 prohibits the employment of female child below the age of 14 years as well.

Under this article 23 and 24 lays down the fact that the founding fathers were concerned not only to ameliorate the condition of this lot in totality. In pursuance of the above objective, the State has enacted the Prevention of immoral Traffic in Women and Girls Act, 1986.⁷⁶ Even the Supreme Court in the case of *Bandhua Mukti Morcha vs. Union of India*, observed that the Central government is bound to ensure observance of various social welfare and labour laws enacted by the Parliament for the purpose of seeking to the workmen a life of basic human dignity in compliance with the Directive Principles of State Policy.⁷⁷

Article 32: However, the most important of all the Fundamental Rights is the Right to Constitutional Remedies in Article 32. This right guarantees the enforcement of the Rights enumerated in Part III of the Constitution as Fundamental Rights by providing for the right to move the Supreme Court or the High Court through a Writ Petition for enforcement of any one of the Fundamental Rights. The Supreme Court has further strengthened this right through the *Bandhu Mukti Morcha v. Union of India* case by stating that the Court can allow any member of the public acting bona fide to espouse the cause of persons who on account of their poverty or disability are unable to do so.⁷⁸

Thus it is not only that the Constitution has guaranteed various rights to women as citizens of India so as to protect their interests as human beings and individuals but the Judiciary in the course of its functioning as another wing of our Government has

⁷⁴ Gaurav Jain v. Union of India, 1997 (8) SCC 114

⁷⁵ *ibid*

⁷⁶ Earliar to this legislation it was known as the Suppression of Immoral traffic in Women and Girls Act, 1956, SITA,

⁷⁷ *Bandhua Mukti Morcha v. Union of India*, AIR 1984, SC 802

⁷⁸ *ibid*

interpreted the Constitutional provisions so as to enable the implementation of the rights and also to facilitate the access to these rights in various cases that have come before it in the form of writ petitions filed by individuals or groups.

Directive principle of State Policy - In addition to the Fundamental Rights various other provisions of the Constitution in Part IV that deals with the Directive Principles provide directions to the State in formulating policies and programmes in the interest of women. However Directive Principles of State Policy are not enforceable in any court of law they are essential in the governance of the country and provide for the welfare of the people, including women. Some of these would be useful to consider here.

Article 38: It requires the State to secure a social order in which justice - social, economic and political - for the promotion of welfare of the people. It requires the State to strive to eliminate inequalities in status, facilities and opportunities. Clearly the intention of the makers of the Constitution was to ensure that equality would not be only of opportunity but in reality. The Supreme Court in *Delhi Domestic Working Women's Forum vs. Union of India* suggested the formulation of the scheme for awarding compensation to rape victims. The court suggested the setting up of a Criminal Inquiries Compensation Board under Article 38(1) of the Constitution.⁷⁹

Article 39: Article 39 puts down the principles of policy to be followed by the State which include that the State should direct its policy toward securing the right to an adequate means of livelihood, that there is equal pay for equal work, that the health and strength of workers men and women, are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength. The Supreme Court said that the principle of "Equal pay for equal work though not a fundamental right is certainly a constitutional goal and therefore, capable of enforcement through constitutional remedies under Article 32 of the constitution".⁸⁰ It directs the state to protect the health and strength of workers men and women.

Article 42: The State shall make provision for securing just and humane conditions of work and for maternity relief. Article 42 of the Constitution incorporates a very important provision for the benefit of women. It directs the State to make provisions

⁷⁹ *Delhi Domestic Working Women's Forum vs. Union of India*, AIR 200 S.C 1697

⁸⁰ *Randhir Singh vs Union of India*, AIR 1982, SC 879

for securing just and humane conditions of work and for maternity relief. The State has implemented this directive by incorporating health provisions in the Factories Act, Maternity Benefit Act, Beedi and Cigar Workers (Conditions of Employment) Act, etc.

Article 44: The State is to endeavour to secure for all citizens a uniform civil code. Its particular goal is towards the achievement of gender justice. Even though the State has not yet made any efforts to introduce a Uniform Civil Code in India, the judiciary has recognised the necessity of uniformity in the application of civil laws relating to marriage, succession, adoption, divorce, maintenance, etc. but as it is only a directive it cannot be enforced in a court of law. But, unfortunately the state has not yet made any efforts to introduce Uniform civil code in India. Our Judiciary has already recognized the importance of uniform civil laws in several cases. In *Sarala Mudgal case, 192 S.C.* directed the central Govt. to take a fresh look at article 44 of the constitution, which enjoins the state to secure a uniform civil code which, according to the court is imperative for both protection of the oppressed and promotion of national unity and integrity.⁸¹

Fundamental Duties

Parts IV-A which consist of only one Article 51-A was added to the constitution by the 42nd Amendment, 1976. This Article for the first time specifies a code of eleven fundamental duties for citizens. Article 51-A (e) is related to women. It states that, “It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religion, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women”

Article 51(c): The State is to respect international law and treaty obligations. The Government of India and the State Governments are obligated to the commitments contained under the Convention on the Rights of the Child.

Article 243 D (3): Under this article not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat

⁸¹ *Sarala Mudgal vs Union of India, 1995, 3 SCC 635*

to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat.

Article 243 T (3): Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality.

By providing all these privileges to women is not the only solution of the discrimination and exploitation against women, but also all forms of gender based discrimination should be avoided. The effective implementation of the provisions of the constitution at all levels can be an enormous action towards the all round development of women. In the words of Kofi Annan⁸², "Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance."⁸³

II

Special Laws

Following the constitutional approach to women's rights the Indian legislature has passed various laws from time to time to protect and promote the cause of women. Many of these laws were government's social reform or labour welfare which were enacted in the earlier decades. However, in post independent era a number of important laws have been passed by the Indian legislature which has a bearing on the lives and status of women. Some of these women specific legislations have been highlighted here.

Resistance to violence against women is a recent phenomenon. In the modern age voices have been raised against atrocities against women and efforts made to bring about change by creating awareness, by educating people and, of course, through legal actions/reforms. While talking about India, it is Raja Ram-mohan Roy who can be called the pioneer of the movement for women's rights. He was to a great extent responsible for bringing about socio-legal changes pertaining to the de-legitimisation

⁸² seventh Secretary-General of the United Nations, from 1 January 1997 to 31 December 2006

⁸³ **Internet Source:** <http://ezinearticles.com/Women-Empowerment---Myth-Or-Reality>

of child marriage (Child Marriage Restraint Act 1929, also known as Sarda Act), sati ('Sati' was made a crime of culpable homicide punishable with fine, imprisonment or both in 1829) and legitimisation of widow remarriage(Hindu Widows Remarriage Act 1856). Roy's mobilisation of Hindu thought against the system of sati created the necessary public opinion to make the practice a criminal offence in 1829.⁸⁴ Various legislations have been enacted right from the 1950's to deal with the matters relating to violence against women. These laws are enacted by the statute to prevent and control any specific type of crime. Thus, it covers every issue in detail. These Acts describe and prohibit certain kinds of activities and also impose punishment for the violation of the provisions of the Acts.

The Child Marriage Restraint Act, 1929: Child Marriage Restraint Act 1929 popularly known as the Sarda Act after its sponsor RaiSahib Harbilas Sarda to the British India Legislature in India was passed on 28 September 1929, fixed the age of marriage for girls at 14 years and boys at 18 years which was later amended to 18 for girls and 21 for boys in 1949. It was the first social reform issue which was taken up by the organized women in India. The Act prohibits marriage below that age.⁸⁵

The Factories Act, 1948: The Factories Act 1948 was an Act of Parliament passed in the United Kingdom by the Labour government of Clement Attlee.⁸⁶ The objective of this Act is to regulate conditions of labour regarding health, safety and welfare facilities. This Act provides through Sections 19 and 42 for proper toilet facilities for women employees while Section 48 provides for crèches so that women may be able to look after their young children. Section 66 provides that no woman is to work between 7 p.m. and 6 a.m. unless the State Government specifically makes rules otherwise in certain specific contexts. The last section has not always worked to the advantage of women when it comes to the question of perks, increment and promotions as men are able to put in that extra work especially in certain industries like the Information Technology industry. That is the context in which the State

⁸⁴ **Internet Source:** [http://www.mainstreamweekly.net,2010/Protection of Women from Domestic Violence Act 2005—An Appraisal](http://www.mainstreamweekly.net,2010/Protection%20of%20Women%20from%20Domestic%20Violence%20Act%202005—An%20Appraisal), Rachana Kaushal, Mainstream, Vol XLVIII, No 11, March 6, 2010,

⁸⁵ **Internet Source:** http://en.wikipedia.org/wiki/Child_Marriage_Restraint_Act

⁸⁶ **Internet Source:** http://en.wikipedia.org/wiki/Factories_Act_1948

Government of Karnataka wanted to exempt women in the IT industry from this provision of the Factories Act.⁸⁷

The Immoral Traffic (Prevention) Act, 1956: In 1986, the Government of India amended the erstwhile Suppression of Immoral Traffic in Women and Girls Act 1956 (SITA), and renamed it as the Immoral Traffic (Prevention) Act (ITPA) to widen the scope of the law to cover both the sexes exploited sexually for commercial purposes and to provide enhanced penalties for offences involving children and minors. "Child" under ITPA means a person who has not completed the age of sixteen years and "prostitution" means the sexual exploitation or abuse of persons for commercial purposes. Section 3 of this Act prohibits running of brothel and makes it a punishable offence. Even if any person acts or assists in the keeping or managing of brothel will also be punished. So, any persons, being the owner, lessor, or landlord of any premises or being the tenant, lessee, occupier or person in charge of any premises with the knowledge uses or allows any other person to use such premises or any part thereof as brothel. Section 4 of this act also prohibits living on the earnings of prostitution. Under section 5 of this act the procreation for the purpose of prostitution is prohibited. It says if any person procures or attempts to procure for the purpose of prostitution or induces or takes or attempt to take or causes a person to go from any place with the intention that he / she may be used for the purpose of prostitution or to carry on prostitution will be punished with the imprisonment for a term of not less three years but can be extended up to 7 years. And if the act is done against the will of the person punishment can be extended up to fourteen years of imprisonment. And if the offence is committed against a child, punishment can be extended up to life imprisonment but not less than seven years. And if the offence is committed against a minor, punishment can be extended up to imprisonment of 14 years. The Section 21 says Establishment of Protective Homes for women and children by the State Government.

The Women's and Children's (Licensing) Act 1956: The Women's and Children's (Licensing) Act was enacted to provide for the licensing of institutions for women and children and for matters incidental thereto. The main object of this Act is to protect women and children from exploitation and inhuman conditions prevailing in

⁸⁷ **Internet Source:** http://www.lawyersclubindia.com/profile.asp?member_id=4450/ Eveenzar, A review of Gender Justice since Independence, 28th February, 2008

institutions. Under this Act "child" means a boy or a girl who has not completed the age of 18 years. An "institution" means an institution established and maintained for the reception, care, protection, and welfare of women or children.

The Maternity Benefit Act, 1961: To protect working women the Maternity Benefit Act was passed in 1961. This is to enable women who are employed to be able to safeguard the health of the foetus and their own before and after childbirth. This is to ensure that employed women will not face any disadvantages in comparison with their male colleagues of the need for hospitalization and post natal care in the context of pregnancy while also ensuring that the new born baby will also not miss out on maternal care during this period.⁸⁸

The Medical Termination of Pregnancy Act (MTPA) 1971: To check female foeticide the act was passed in 1971. It allows abortion if the doctor is of the opinion that the continuance of the pregnancy would endanger the life of the pregnant woman or involve grave injury to her physical or mental health; or there is substantial risk that the child would suffer from disabling physical or mental abnormalities. The anguish caused by pregnancy as a result of rape, or as a result of failure of any device or method used by a married couple for the purpose of limiting the number of children, may be presumed to constitute a grave injury to the woman's mental health. If the pregnancy is twelve weeks old, the opinion of one registered medical practitioner is sufficient; for pregnancy of between twelve and twenty four weeks, the opinion of two registered medical practitioner is required. The matter is thus purely between her and the medical practitioner and even the husbands' consent becomes unnecessary.

The Equal Remuneration Act, 1976: This Act aims to provide for the payment of equal wages to men and women workers and for the prevention of discrimination against women when the work is the same or of a similar nature.

The Bonded Labour System (Abolition) Act 1976: The Bonded Labour System (Abolition) Act 1976 was enacted to provide for the abolition of the bonded labour system with a view to prevent the economic and physical exploitation of the weaker sections of the people. This Act is based on Article 23 of the Constitution under which

⁸⁸ *ibid*

beggar and other forms of forced labour are prohibited. The 'bonded labour system' means the system of forced or partly forced labour under which a debtor has entered into an agreement with the creditor in consideration of an advance or other economic consideration obtained by the debtor or his lineal descendants or ascendants, to render labour or service through himself or any member of his family for a specified period or unspecified period with nominal wages or without wages. It is an offence to advance a bonded debt or compel a person to render any bonded labour under this Act. This offence is a cognizable and bail able offence. This Act abolishes the bonded labour system; any bonded debt which remains to be satisfied at the commencement of this Act is deemed to be extinguished.

The Karnataka Devadasi (Prohibition of Dedication) Act, 1982: Act of dedication of girls for the ultimate purpose of engaging them in prostitution is declared unlawful, whether the dedication is done with or without consent of the dedicated persons.

The Child Labour (Prohibition and Regulation) Act, 1986: The Act was formulated to eliminate child labour and provides for punishments and penalties for employing children below the age of 14 years in from various hazardous occupations and processes. The Act provides power to State Governments to make Rules with reference to health and safety of children, wherever their employment is permitted. It provides for regulation of work conditions including fixing hours of work, weekly holidays, notice to inspectors, provision for resolving disputes as to age, maintenance of registers etc. Through a recent notification, child domestic workers up to 14 years of age working in hotels and dhabas have been brought within the purview of the Act. It is one step towards the total elimination of child labour.

The Dowry Prohibition (Amendment) Act, 1986: Dowry death or related harassment is a unique kind of crime practised in the Indian society since past. A legal ban was put on the practice of dowry way back in 1961 (Dowry Prohibition Act, 1961). The Act was amended 1984 and then in 1986 to make it more stringent.

The Commission of Sati Prevention Act, 1987: 'Sati' means the burning or burying alive of a widow along with the body of her deceased husband or any other relative, or with any article, object or thing associated with the husband or relative. The practice of 'sati' was declared unlawful during the colonial period itself. No Act, however, was drafted in post-colonial India to prohibit the occurrence of sati. It was

only after the shocking incidence of sati in Rajasthan in 1987 that a law was enacted in 1987; that Act declares the observance, support, justification or propagation of sati as criminal activity.

The Andhra Pradesh Devadasi (Prohibiting Dedication) Act, 1989: The act penalise of imprisonment for three years and fine are stipulated in respect of anyone, who performs, promotes, abets or takes part in Devadasi dedication Ceremony.

The National Commission for Women Act, 1990: The Commission was set up in January, 1992 to review the Constitutional and legal safeguards for women.

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994: To prevent female foeticide and to restrict this misuse, the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act was passed on 20th September 1994. The Act forbids the communication of the sex of the foetus, but the enforcement of this act is not easy. It is not only that women face violence during their lifetime but also even before birth. A law was drafted for the purpose of curbing female foeticide unless medically required. This act allows abortion if the doctor is of the opinion that the continuance of the pregnancy would endanger the life of the pregnant woman or involve grave injury to her physical or mental health; or there is substantial risk that the child would suffer from disabling physical or mental abnormalities. The anguish caused by pregnancy as a result of rape, or as a result of failure of any device or method used by a married couple for the purpose of limiting the number of children, may be presumed to constitute a grave injury to the woman's mental health. If the pregnancy is twelve weeks old, the opinion of one registered medical practitioner is sufficient; for pregnancy of between twelve and twenty four weeks, the opinion of two registered medical practitioner is required. The matter is thus purely between her and the medical practitioner and even the husbands' consent becomes unnecessary.

The Information Technology Act, 2000: This act penalizes publication or transmission in electronic form of any material which is lascivious or appeals to prurient interest or if its effect is such as to tend to deprive and corrupt persons to read, see or hear the matter contained or embodied therein. The law has relevance to addressing the problem of pornography. India has also adopted a code of conduct for

Internet Service Providers with the objective to enunciate and maintain high standard of ethical and professional practises in the field of Internet and related services.

The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT Act) 2003: This Act prohibits and punishes deliberate sex selection, before or after conception. Its purpose is to prevent the misuse of ultrasound technologies that enable determination of the sex of a child before it is born. It is therefore illegal to test the sex of the foetus for the purpose of eliminating a female child. The law provides for imprisonment, which may extend to three years and a fine of up to Rs. 10,000 for the first conviction.

The Domestic Violence Act 2005: It has been mentioned earlier that before 1983, there were no specific provisions pertaining to violence within the home in India. Husbands could be convicted under the general provisions of IPC like murder, abetment to suicide, causing hurt and wrongful confinement. But none of these provisions take into account the real problem of domestic violence in its totality. While most of the Western countries passed laws against domestic violence in the 1970s, in India only violence in matrimonial relationship, particularly dowry related violence, remained the focus of the women's movements as well as that of legislative institutions. It was since the 1990s that efforts were being made to draft a bill on domestic violence exclusively. In the light of the "Government of India Report on Platform for Action: Ten Years after Beijing" and the crime scenario prevailing in the country the need was felt for an exclusive law on domestic violence. Initiatives in this direction began with the collaborative efforts of the UNIFEM and Lawyers' Collective Rights Initiative (LCWRI). A delegation of representatives from women's groups and State Women's Commissions met the then HRD Minister regarding the need to enact a law on domestic violence.⁸⁹ It finally resulted in the drafting of the Bill on domestic violence, that is, "Protection of Women from Domestic Violence the Act 2005", which was passed by Parliament in September 2005 and came into force in October 2006.

The definition of domestic violence appears to be comprehensive. The term "domestic violence" has been defined for the first time in such a detailed manner which includes

⁸⁹ Platform for Action: Ten Years after Beijing, India Country Report Dept. of Women and Child Development, Ministry of HRD, Government of India.

actual abuse or threat of abuse that is physical, sexual, verbal, emotional or economic. Even harassment by way of unlawful dowry demands to women or her relatives would also be covered under this definition.⁹⁰ The Act seeks to cover even those women who are or have been in a relationship with the abuser, where both parties have lived together in a shared household and are related by consanguinity, marriage or adaptation. Also, relationships with family members living together as a joint family are included. Legal protection is thus available to women who are sisters, widows, mothers, single women or living with the abuser. Besides, the Act protects the rights of women to secure housing. Moreover, the Act is not relying only on law enforcement agencies for protecting women against domestic violence. It refers to “protection officers” and allows registration of NGOs as “service providers for legal aid, medical examination or shelter for women in distress”.⁹¹

However, in a recent judgment of the Madras High Court in *Vandana Vs. Mrs. Jayanthi Krishnamachari*, it was observed that in view of Section 17, the married woman has a right to reside in the shared household and even if she has not physically lived in the shared household, she is deemed to have lived in the shared household as it is her de jure right.⁹² It suggests that the passing of protective and ameliorative orders of civil Courts, calculated to preserve the status quo for the benefit of women. Section 17 introduces the right of every woman in a domestic relationship to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

Despite the above mentioned positive features contained in the new law, still some lacunae can be seen in this law. Firstly, though the Act covers physical abuse, sexual abuse, verbal or emotional abuse as well as economic abuse, it does not speak anything regarding ‘forced sex’ or ‘sex without the wife’s consent’, that is, ‘marital rape’. While the West has legally recognised the consent of women even in marital relationship violation/rejection of which is equivalent to a criminal act, in India this is an area still awaiting legal recognition.

⁹⁰ Internet Source: [http://www.mainstreamweekly.net,2010/Protection of Women from Domestic Violence Act 2005—An Appraisal](http://www.mainstreamweekly.net,2010/Protection%20of%20Women%20from%20Domestic%20Violence%20Act%202005—An%20Appraisal), Rachana Kaushal, Mainstream, Vol XLVIII, No 11, March 6, 2010

⁹¹ *ibid*

⁹² Vandana vs. Mrs. Jasyanti Krishnamachari & Others, O.A No. 764/2007/ 6 MLJ 205 (Mad)

The Prohibition of Child Marriage Act, 2006: The object of the Act is to prohibit solemnization of child marriage and connected and incidental matters. To ensure that child marriage is eradicated from within the society, the Government of India enacted Prevention of Child marriage Act 2006 by replacing the earlier legislation of Child Marriage Restraint Act 1929. This new Act is armed with enabling provisions to prohibit for child marriage, protect and provide relief to victim and enhance punishment for those who abet, promote or solemnize such marriage. This Act also calls appointment of Child Marriage Prohibition Officer for implementing this Act.

The Rajasthan Compulsory Registration of Marriages Act, 2009: To stop the early marriage of children this act was passed by the Rajasthan government. Under Section 3 of the Act states that every marriage that is solemnized in Rajasthan needs to be registered to prevent child marriages. Section 8 of this Act states that once the children attain 21 years of age they can get their marriages registered. Again, if the person is below 21 years of age, the parents of the persons will apply for the registration. It takes away the right of girls between the ages of 18-21 from applying for their own marriage registration and registering a “choice marriage” where the girl and boy may be marrying against the wishes of their family and community.

The Protection of Women against Sexual Harassment at Workplace Bill, 2010: On November 4, 2010, the Government introduced protection of Women against Sexual Harassment at Workplace Bill, 2010, which aims at protecting the women at workplace not only to women employee but also to female clients, customer, students, research scholars in colleges and universities and patients in hospitals. The Bill was passed in Lok Sabha on 3.9.2012.

III

Women Protection under Personal Laws

In India the problem of domestic violence has always been looked upon from the perspective of both criminal and civil laws. Under Indian civil law also several provisions are available to deal with different types of domestic violence. With reference to inheritance, succession, laws relating to marriage and divorce, guardianship, custody, adoption etc since independence the State has been endeavouring to make the laws gender just. However, since the laws relating to these

subject matters are considered to be derived from the religious beliefs and practices it has not been possible to completely ensure equality in these areas.

The Indian Divorce Act, 1869: The act originally called the Indian Divorce Act was framed to cover all the Christians residing in India but excluding the princely states and the settlements occupied by Portugal and France. The act was mainly built upon the Matrimonial causes Act, 1857 which was applied in England. Getting into the details of the act Sec.10 provides for the grounds on which divorce can be applied under the act and they are 1.Adultery, 2.Cruelty, 3.Desertion for more than seven years,4.Insanity for more than two years, 5.Incurable leprosy for more than two years,6.Conversion to other religion, 7.Willful refusal to consummate the marriage, 8.Not being heard for seven years, 9.Venereal disease which is communicable for more than two years, 10.Failure to obey the order for restitution for conjugal rights . There are three more grounds but are exclusive to the wife and them being rape, sodomy and bestiality.⁹³

The Guardian and Wards Act 1890: It empowers the Court to appoint a guardian for the person and/or property of a minor when it is satisfied that the appointment of guardian is for the welfare of the child.

The Anand Marriage Act 1909: It was passed in 1909 by the Imperial (i.e. Governor General's) Legislative Council to establish legal validity of the marriage ceremony common among the Sikhs called Anand. All marriages, which may be or may have been duly solemnized according to the Sikh Marriage ceremony called Anand shall be and shall be deemed to have been with effect from the date of the solemnization of each respectively, good and valid in law.

The Muslim Personal Law (Shariat) Application Act, 1937: An Act to make provision for the application of the Muslim Personal Law (Shariat) to Muslims. Notwithstanding any customs or usage to the contrary, in all questions regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal law, marriage, dissolution of marriage, including talaq, ila, zihar, lian, khula and mubaraat, maintenance, dower, guardianship, gifts, trusts and trust properties, and wakfs (other

⁹³ **Internet Source:** <http://legalservices.bizandlegis.com/summary-on-indian-divorce-act-1869/GeejoFrancis>

than chartities and charitable institutions and charitable and religious endowments) the rule of decision in case where the parties are Muslims shall be the Muslim Personal Law (Shariat).

Dissolution of Muslim Marriages Act, 1939 (DMMA): However, the Dissolution of the Muslim Marriage Act, 1939 introduced many changes in this respect as well as restored right of divorce granted to the Muslim women under Shariat. Section 2 of Dissolution of Muslim Marriage Act, 1939 provides nine grounds under which a Muslim wife can obtain a decree for the dissolution of her marriage.

The Matrimonial Causes (War Marriages) Act 1948: The marriages to which this Act applies are marriages solemnized during the war period, where the husband was, at the time of the marriage, domiciled outside India, and the wife was immediately before the marriage, domiciled in India.

The Special Marriage Act, 1954: Special Marriage Act, 1954 deals with a form of marriage which is purely a civil contract for the people of India and all Indian nationals in foreign countries, irrespective of the religion or faith followed by either party. The Act is applicable to the entire territory of India (excluding the states of Jammu and Kashmir) and extends to intending spouses who are both Indian nationals living abroad. Any person of Indian origin irrespective of religion (Hindu, Buddhist, Jain, Sikh, Muslim, Christian, Parsi, or Jewish) can also perform marriage under the Special Marriage Act, 1954.

The Hindu Marriage Act, 1955 (HMA): This act is the first codified Hindu Law after independence. Registration of Hindu marriage is not compulsory under Hindu Marriage Act 1955, but the Act provides the facility for registration of marriage. Section 8 of the Act lays down that State Governments may make rules for registration of marriage and can make those rules compulsory. But failure to register a Hindu marriage shall in no way, affect its validity.⁹⁴ Under the HMA, cruelty is a ground for divorce as well as judicial separation (Section 10, HMA). However, the term 'cruelty' is not defined in the HMA. It is through decided cases that the term has been understood to mean acts of physical as well as mental cruelty.

⁹⁴ Section 8(v) of Hindu Marriage Act 1955

The Hindu Succession Act, 1956: This act gives male and female heirs equal rights of inheritance in acquired property while with reference to ancestral property daughters have no share except in a few states in Southern India like Karnataka and Andhra Pradesh wherein through amendment the State has guaranteed in law share for the female heirs even in the co-parcenary or inherited property. Under the Indian Succession Act which governs Christian's sons and daughters get equal share in the property of their father after giving the wife one-third of the property. In Muslim law women generally inherit half of what their male counterparts do whether it is ancestral or acquired property. Muslim men and women can bequeath through a will only one-third of their property. The father is considered to be the natural guardian of the child and only if the father has no objection during his lifetime can the mother act as the natural guardian. This too was provided through the interpretation of the Supreme Court in the Githa Hariharan case. Through amendments to the personal laws efforts have been made to ensure equal rights in marriage and divorce for men and women. However there are still a few provisions which continue to deal unequally with men and women.

The Hindu Adoption and Maintenance Act 1956: This act deals with adoption amongst Hindus. This Act applies to Hindus, Buddhists, Jains and Sikhs. Hindu Adoption and Maintenance Act empowers a Hindu wife to claim maintenance from the husband during her life time, regardless of whether the marriage was formed before this Act was enacted or after. She shall also be entitled to live separately from her husband without forfeiting her claim to maintenance unless she is unchaste or ceases to be a Hindu by conversion.

The Foreign Marriage Act, 1969: An Act to make provision relating to marriages of citizens of India outside India. A marriage between the parties one of whom at least is a citizen of India may be solemnized under this Act by or before a Marriage Officer in a foreign country,

The Family Courts Act, 1984: This Act to provide for the establishment of Family Court with a view to promote conciliation in, and secure speedy settlement of disputes relating to marriage and, family affairs and for matters connected therewith.

The Muslim Women (Protection of Rights on Divorce) Act, 1986: An Act to protect the right of Muslim women who have been divorced by, or have obtained

divorce from, their husbands and to provide for matters connected therewith or incidental thereto.

Besides this various other laws are also available for Christian women and Parsi Women like Chirtian Marriage Act, Parsi Women Marriage Act and so on.

III

Women Protection under Criminal Laws

In the words of Asha Bajpai, “She is a burden, a curse and a liability. She is used, abused, misused, married and murdered. Sure, we do have laws but she is guilty of a crime, a crime undefined in the Indian penal code –the crime of being born as a girl in India.”⁹⁵ Patriarchal Society and lack of consciousness of women result in discrimination, deprivation and exploitation of women. Most of the crimes against women happen within marriage lock. Bride burning, dowry deaths, sati, domestic violence, marital rape etc. are very common in the life of Indian married women. Of course there are some crimes which may happen in any case. A total of 2,44,270 incidents of crime against women (both under IPC and SLL) were reported in the country during the year 2012 as compared to 2,28,650 in the year 2011 recording an increase of 6.4percent during the year 2012. These crimes have continuously increased during 2008 - 2012 with 1,95,856 cases in the year 2008, 2,03,804 cases in 2009 and 2,13,585 cases in 2010 and 2,28,650 cases in 2011 and 2,44,270 cases in the year 2012. During 2012, there were 24,923 Rape cases, 38,262 cases of Kidnapping & Abduction, 8,233 cases of Dowry Death, 106,527 cases of Domestic Violence, 45,351 cases of Molestation, 9,173 cases of Sexual Harassment, 59 cases of Importation of Girls under Sec. 366-B IPC, 2,563 cases recorded under Immoral Traffic (Prevention) Act, 1956, 141 cases were recorded under Indecent Representation of Women (Prohibition) Act, 1986 and 9,038 cases were reported under Dowry Prohibition Act, 1961.⁹⁶ West Bengal with 7.5percent share of country’s female population has

⁹⁵ Asha Bajpai, *The Girl Child and the law* in report of the seminar on ‘Rights of the child, NLSU, Bangalore. , (1990)

⁹⁶ NCRB report, 2011

accounted for nearly 12.7percent of total crime against women by reporting 30,942 cases during the year 2012. Andhra Pradesh, accounting for nearly 7.3percent of the country's female population, has accounted for 11.5percent of total crimes against women in the country by reporting 28,171 cases in the year 2012. The rate of crime committed against women was 41.7percent in 2012. Assam has reported the highest rate of crime against women at 89.5percent during the year 2012 as compared to 41.7 crime rate at the national level.⁹⁷

However, to combat violence and exploitation against women both in public and private life, our Govt. has taken the following steps by making legislation. The provisions relating to crimes against women can broadly be classified into two categories (1) The crimes provided for under I.P.C, (2) Crimes identified under CrPc.

Indian Penal Code 1860

The crimes under Indian Penal Code are

Section 304B: Dowry death is particularly discussed in this section. If, death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death" and such husband or relative shall be deemed to have caused her death. Again, whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.

Section 305: Under this section, Abetment of commission of suicide of a person less than 18 years of age is punishable with death or imprisonment for life or imprisonment for a term not exceeding 10 years and fine. Again, Abetment is the instigating of a person to commit an offence or intentionally aiding a person to commit an offence. According to Section 305, IPC, often victims of domestic violence, especially brides harassed for dowry, are driven to commit suicide. Abetment of suicide of a delirious person is an offence punishable with death or life imprisonment.

⁹⁷ *ibid*

Sections 313-316: This section specially deals with female infanticide. Under these sections forcing the wife to terminate her pregnancy is also forms of domestic violence recognised as offences under the IPC.

Section 313: This section also deals with miscarriage without woman's consent. Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Section 314: This section also deals with intentional death of women caused by miscarriage. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine. Again, if act done without the consent of the woman, shall be punished either with imprisonment for life or with the punishment above mentioned.

Section 315: Under this section, whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent that child from being born alive or causes it to die after its birth, (if such act be not caused in good faith for the purpose of saving the life of the mother), shall be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both.

Section 316: This section also deals with Infanticide. Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act because the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Section 319: Under Section 319, causing bodily hurt is a common form of domestic violence. The IPC defines hurt as causing “bodily pain, disease, pain or infirmity to any person”.

Section 320: This section states that a hurt may be ‘grievous’ if it results in serious injury such as a fracture, loss of hearing or sight, damage to any member or joint, etc.

Any hurt which endangers life or which causes the sufferer to be during the space of twenty days in severe bodily pain or unable to follow his ordinary pursuits.

The IPC makes it an offence to voluntarily cause hurt (Section 321) or grievous hurt (Section 322 read with Section 323, IPC). Also criminalized is voluntarily causing of grievous hurt by dangerous weapons (Section 326, IPC) and voluntarily causing hurt to extort property (Section 327, IPC).

Section 321: Under section 321, whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person and does thereby cause hurt to any person, is said "voluntarily to cause hurt".

Section 322: Under section 322, whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt".

Section 323: Under section 323, whoever, except in the case provided for by section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year or with fine which may extend to one thousand rupees or with both.

Section 324: Under section 324, whoever, except in the case provided for by section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing or cutting or any instrument which, used as a weapon of offence, is likely to cause death or by means of fire or any heated substance or by means of any poison or any corrosive substance, or by means of any explosive substance or by means of any substance which it is deleterious to the human body to inhale, to swallow or to receive into the blood or by means of any animal, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both.

Section 327: Under section 327, whoever voluntarily causes hurt, for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal or which may facilitate the commission of an

offence, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Section 339 & 341: Under section 339 and 341, wrongful restraint is the preventing of a person from proceeding in any direction in which that person is entitled to proceed. Wrongfully restraining a person is punishable with imprisonment which may extend to 1 month or with fine or with both.

Section 340 & 342: Under section 340 and 342, whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person. Wrongful confinement is punishable with imprisonment which may extend to 1 year or with fine or with both.

Another common form of domestic violence is in the form of the wrongful restraint (Section 349) or confinement (Section 340) of the spouse within her matrimonial home. Use of force and assault on the spouse, other common forms of domestic violence, are also punishable under the IPC.

Section 349: Under section 349, a person is said to use force to another if he causes motion, change of motion or cessation of motion to that other or if he causes to any substance such motion or change of motion or cessation of motion as brings that substance into contact with any part of that other's body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that other's sense of feeling.

Section 354: Under section 354, assaulting or using criminal force upon a woman with the intention of outraging her modesty is punishable with imprisonment which may extend to 2 years or with fine or with both. In case of fondling of a girl child, this provision of law is applied. The offence is bail able and the punishment negligible.

Section 359: Under section 359 kidnapping is also recognised as a punishable crime. Kidnapping is of two kinds, (i) kidnapping from India, and (ii) kidnapping from lawful guardianship.

Section 366A: This section states that inducing of a minor girl under 18 years of age to do any act that may force or seduce her to illicit intercourse with another person is punishable with imprisonment which may extend to 10 years and fine.

Section 366B: This section states that importing a girl under 21 years of age into India from a country outside India or from Jammu and Kashmir with the intent that she may be forced or seduced to illicit intercourse with another person is punishable with imprisonment which may extend to 10 years and fine.

Section 372: In this section, selling or hiring a person under 18 years of age for purpose of prostitution or illicit intercourse with any person or for any unlawful or immoral purpose is punishable with imprisonment which may extend to 10 years and fine.

Section 373: In this section, buying or hiring a person under 18 years of age for purpose of prostitution or illicit intercourse with any person or for any unlawful or immoral purpose is punishable with imprisonment which may extend to 10 years and fine.

Section 375: This section deals with Rape cases. "Rape" is committed when a man has sexual intercourse with a woman (i) against her will, (ii) without her consent, (iii) with her consent, when consent has been obtained by putting her or any person in whom she is interested in fear of death or hurt, (iv) with her consent when she believes that he is her husband, (v) with her consent, when consent was given due to unsoundness of mind or intoxication or administration of stupefying / unwholesome substance because of which she is unable to understand the nature and circumstances of her act, (vi) with or without her consent when she is under 16 years of age. Rape is an offence committed by a man upon a woman. Rape is a non-bail able offence and is punishable with imprisonment [which in certain cases may extend to life imprisonment] and fine.

Section 376: Under section 376, punishment is more stringent if (i) rape is committed by management or staff of Remand Home or other place of custody established under law or children's institution, (ii) rape is committed upon a woman under 12 years of age, (iii) gang rape is committed.

In 1983, matrimonial cruelty was introduced as an offence in the IPC (Section 498A, IPC). Cruelty was defined as “any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman”. It includes harassment of the woman in connection with demands for property and the like.

Section 498A: It provides for up to three years in prison and a fine for a husband or husband’s relative for cruelty to his wife. Cruelty is defined as something that can drive a woman to suicide or cause her grave injury or pose a danger to her life, limb and mental or physical health. Furthermore, it states that, “Harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her meet such demand.”

However, though the section is enacted to protect women from the dowry related cruelty but, it is abused and misused in a rampant way in the hands of some unscrupulous people as a weapon to fulfil their unjustified demands. The abuse of the law is recognized by the S.C., W.H.O., The Law Commission of India and Centre for Social Research etc. In *Sushil Kumar Sharma case*, S.C. said that “it is for the legislature to find the ways on how to deal with misuses of this law as well as on how to wipe out the ignominies suffered during and after the trial by the falsely accused.”⁹⁸ In August, 2010, SC asked the Govt. of India to amend the dowry laws to prevent its misuse.

Section 509: Under section 509, whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both.

Criminal Procedure Code

The S.C said, Section 125 of the Criminal Procedure Code 1973 is a measure of social justice and specially enacted to protect the women and children falls within the

⁹⁸ *Sushil Kumar Sharma v. U.O.I and Others*, 2005, SC 266

constitutional sweep of the Article 15(3) reinforced by Article 39. There is no doubt that section 125 to 128 of the code calling for interpretation by the courts are not specified but vibrant words with social function to fulfil.⁹⁹ The Code of Criminal Procedure 1973 makes an exhaustive provision for the maintenance of wife, children and aged parents. The provisions are contained in Sections 125 to 128 of the Code. These Sections impose a noble and fundamental duty on any person to maintain his wife, children and parents if they are not able to maintain themselves. Similarly, Section 160 Cr.P.C. has also given the sufficient protection to the women and in view of the provisions of section 160 Cr.P.C., no police officer is empowered to order a woman requiring her attendance before himself. A woman shall not be required to attend at any place other than the place in which such woman resides. In Section 165 Cr. P.C. protection also has been given to the women at the time of search and seizure. Regarding search proper notice is to be given by police before breaking in a house where a woman lives in seclusion. Not only this, if a woman is to be searched at all a woman police officer shall conduct it.¹⁰⁰ Section 174(2) now requires that in cases of death of a woman within seven years of her marriage, the police has to send the dead body to a civil surgeon for examination. The idea behind this provision is that the law shall treat such a death as a death in suspicious circumstances and as far as possible conduct an impartial investigation rather than allow the individual police officer the discretion to decide. Section 198-A requires that the court should not take suo motu action in the case of domestic quarrels. This provision is also enacted with a view to helping the woman to save her marriage. Section 199 takes care of women who by reason of customary practices do not appear before the court or the police. In cases affecting such women, others have been permitted to complain on their behalf.¹⁰¹ Thus, the primary object of these sections is to provide equal protection to women under law.

⁹⁹ Ramesh Chandra Kaushal v. Mrs. Venna Kaushal, 1979, Cr.L. J 3 S.C.

¹⁰⁰ Unpublished Dissertation, Mousumi Mukherjee, *“Women Protection and Law – A Legal Analysis with reference to Dowry Deaths in West Bengal”*, University of Burdwan, Burdwan, West Bengal

¹⁰¹ K.N. Chandrasekharan Pillai, *“Women and Criminal Procedure”*, eds, Eastern publications, Lucknow, 1999, P. 161-172.

IV

National Initiatives to Curb the Gender Violence

National Commission for Women: The National Commission for Women was established as a statutory body in January 1992 under the National Commission for Women Act, 1990 (Act No. 20 of 1990) of Govt. of India. Its main task is to examine the existing safeguards for women; recommend corrective legislative measures, look into complaints and take suo motu notice of matters relating to deprivation of women's rights, speedy disposal of grievances and advise the Government on all policy matters relating to women. The commission is empowered to investigate and examine all matters relating to the violation of women's right. The commission can also report to the Central Government the working of the safeguards for women; or make recommendations for the effective implementation of the safeguards for improving the conditions of women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in the legislations relating to women.¹⁰²

National Human Rights Commission: The National Human Rights Commission (NHRC) of India is an autonomous public body constituted on 12 October 1993 under the Protection of Human Rights Ordinance of 28 September 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993 (TPHRA). The NHRC is the national human rights institution, responsible for the protection and promotion of human rights, defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".¹⁰³

The Commission shall perform all or any of the following functions like (a) inquire on a petition presented to it by a victim or any person on his behalf or by its own choice into complaint of violation of human rights or abetment thereof or negligence in the prevention of such violation, by a public servant, (b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court; (c) visit, under intimation to the State Government, any jail or

¹⁰² **Source:** [http://new.nic.in/.../Search for a vision statement on women empower/ Department of women and child development, Govt. of NCT, Delhi](http://new.nic.in/.../Search%20for%20a%20vision%20statement%20on%20women%20empowerment/Department%20of%20women%20and%20child%20development%20Govt.%20of%20NCT%20Delhi)

¹⁰³ **Internet Source:** [http://en.wikipedia.org/wiki/national human rights commission](http://en.wikipedia.org/wiki/national_human_rights_commission)

any other institution under the control of the State Government, where Demons are detained or lodged for purposes of treatment, reformation or protection to study the living conditions of the inmates and make recommendations thereon;(d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation; (e) review the factors, including acts of terrorism, that inhibit the enjoyment of human rights and recommend appropriate remedial measures; (f) study treaties and other international instruments on human rights and make recommendations for their effective implementation; (g) undertake and promote research in the field of human rights;(h) spread human rights literacy among various sections, of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means; (i) encourage the efforts of non-governmental organizations and institutions working in the field of human rights;(j) such other functions as it may consider necessary for the promotion of human rights.

The NHRC has been accredited with "A status" by the International Coordinating Committee of National Human Rights Institutions (the ICC), indicating that it is in conformity with the Paris Principles – a broad set of principles agreed upon by a conference of experts on the promotion and protection of human rights, in Paris in October 1991, and subsequently endorsed by the UN General Assembly. The Commission is thus entitled to participate in the ICC and in its regional sub-group, the Asia Pacific Forum, and may take part in certain sessions of the UN human rights committees.¹⁰⁴

State Human Rights Commission: A State Government may constitute a body to be known as the State Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to. A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution. However, it can't inquire into the matter if it is matter already inquired by any Commission constituted under any law for the time being in force.

¹⁰⁴ Source: http://en.wikipedia.org/wiki/National_Human_Rights_Commission_of_India Wikipedia

Reservation for Women in Local Self –Government: The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

The National Plan of Action for the Girl Child (1991-2000): The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

National Mission for Empowerment of Women, 2010: The launch of the National Mission for Empowerment of Women in March 2010 is an important development that will provide the much required fillip to a coordinated assessment of current government interventions and aligning future programmes so as to translate the MPEW prescription into reality. The Mission was operationalized during 2011-12.

Besides these provisions the central government in the year 2013 (after the rape case of Nirvaya) appointed a committee to review the laws for sexual crimes in India. The three member committee headed by former Chief Justice of India JS Verma, former Solicitor General Gopal Subramaniam and Justice (Retd) Leila Seth. The Committee was constituted on December 23, 2012 after the rape of a twenty three year old student in Delhi. In response to the Verma report the Parliament passed the Criminal Law (Amendment) Act 2013 which provides for amendment of the Indian Penal Code, Indian Evidence Act and the Code of Criminal Procedure. It also enacted the Sexual Harassment of Women at Workplace (Prohibition, Prevention and Redressal) Act 2013, 16 years after the Supreme Court directed the Indian Government to

provide legal framework to deal with the issue of sexual harassment. Some of the positive measures in these amendments included recognizing acid attacks, sexual harassment, voyeurism, stalking and trafficking of persons as criminal acts under the amendments to the Indian Penal Code, 1860. Five exclusive fast track courts were set up to deal with cases of sexual violence against women. Additionally a women's distress helpline number, 1091 was launched in various Indian cities. Unfortunately the incorporation of the majority of Justice Verma recommendations into the criminal law amendments is not enough to change the fundamentals that drive anti-women discrimination. Stories of harassment, the rape of women – including of children as young as five or six years of age – and governmental incompetence or apathy continue to make their way into the front pages of Indian newspapers on a regular basis. Laws on paper give little protection, if they are not enforced effectively.¹⁰⁵

VI

International Initiatives to Curb Gender Violence

There are numerous different international legal instruments have been prepared by different international institutions to deal with the various problems of women. To know the existing status of women under international law, we have to go through the provisions of these instruments.

The rights of women are undeniable, basic and indivisible part of human rights. The overall progress of women's individuality, freedom and their equal participation in political, social, economic and cultural life are the most important aspect for development of any society. Thus inequity in any form against women is violation of human rights and fundamental freedoms. To check all these injustice against women, the united nation drafted various instruments for protection of women's right and dignity.

¹⁰⁵ **Internet Source:** <http://www.freiheit.org/Aktuelle-Berichte/1804c27055i1p/index.html>
Nr. 26 / 2013 |By Dona John, Omair Ahmad & Maria Schneider|India: Violence Against Women.
Current Challenges and Future Trends

The international accords between 1945 to 1975 is very important for the protection of the Women's right under International law because during this period most important international instruments relating to women's right were drafted and modified like United Nations charter, The Universal Declaration of Human Rights, 1948, International Covenants on Human Rights, the Mexico city conference etc. It is relevant to record the achievement of the UN in the field of women's rights since 1945. Besides the adoption of the UN Charter in 1945, the following achievements are worthy of mention

United Nations Charter: The Charter of the United Nations is the foundational treaty of the intergovernmental organization; the United Nations. It was signed at the San Francisco War Memorial and Performing Arts Centre in San Francisco, United States, on 26 June 1945, by 50 of the 51 original member countries.¹⁰⁶ The Preamble of United Nations Charter starts with the basic goal to reaffirm faith in fundamental human rights, in the dignity and worth of the every person, in the equal rights of men and women. It assures for the reaffirmation of “faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” Article 1 of the Charter lays down that the aim of the United Nations is “to achieve International cooperation in solving international problems of an economic, social and cultural, or humanitarian character, and in promoting and encouraging respects for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.” Article 1(3) of the Charter also lays upon “promoting international co-operation in the economic, social, cultural, educational and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion. Article 8 of the Charter also sets to the goal that “the United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.” Again in article 55, which gives emphasis upon the promotion of universal respect for and observance of human rights and fundamental freedoms for all without distinction as to race, sex, language or religion.

¹⁰⁶ Internet Source: http://en.wikipedia.org/wiki/United_Nations_Charter

Universal Declaration of Human Rights: The International Bill of Human Rights¹⁰⁷ consists of the Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948 and its implementing covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), which entered into force in 1976. While these documents do not explicitly address violence against women, they, along with the Optional Protocol to the ICCPR, articulate a state's duty to protect fundamental human rights that are commonly violated in domestic violence cases. Those rights include the right to life, the right to physical and mental integrity, the right to equal protection of the laws and the right to be free from discrimination. The Universal Declaration of Human Rights had affirmed the principle of inadmissibility of discrimination and proclaimed that all human beings are born free and equal in dignity and rights and everyone is entitled to all rights and freedoms set forth therein, without distinction of any kind, including distinction based on sex.

The Declaration makes a comprehensive list of human rights, applicable to all without any discrimination. The article 3 and 4 guarantees that everyone has the right to life, liberty and security of person¹⁰⁸ and prohibits slavery and the slave trade in all its forms.¹⁰⁹ Again in article 5 and 6 it also assures that no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment as these acts work horribly against human dignity, but, unfortunately, torture and other similar practices especially against women still exist in our society. The principle of equality before the law and non-discrimination are also guaranteed by it.¹¹⁰ India is a signatory to the Universal Declaration of Human Rights, 1948. Indian constitution is strongly influenced by the provisions of the U.D.H.R. Most of the provisions of the part III of the Indian constitution are identical with the Declaration.

International Covenant on Economic, Social and Cultural Rights: The International Covenant on Economic, Social and Cultural Rights (ICESCR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 3 January 1976. It commits its parties to work toward the granting of economic, social, and cultural rights (ESCR) to the Non-Self-Governing

¹⁰⁷ **Internet Source:** <http://www.stopvaw.org/index.asp>

¹⁰⁸ Article 3, UDHR

¹⁰⁹ Article 4, UDHR

¹¹⁰ Article 5&6, UDHR

and Trust Territories and individuals, including labour rights and the right to health, the right to education, and the right to an adequate standard of living. As of 2015, the Covenant has 164 parties.¹¹¹

Article 10 of the Covenant recognizes the family as "the natural and fundamental group unit of society", and requires parties to accord it "the widest possible protection and assistance". Parties must ensure that their citizens are free to establish families and those marriages are freely contracted and not forced. Parties must also provide paid leave or adequate social security to mothers before and after childbirth, an obligation which overlaps with that of Article 9. Finally, parties must take "special measures" to protect children from economic or social exploitation, including setting a minimum age of employment and barring children from dangerous and harmful occupations. Article 12 of the Covenant recognizes the right of everyone to "the enjoyment of the highest attainable standard of physical and mental health". "Health" is understood not just as a right to be healthy, but as a right to control one's own health and body (including reproduction), and be free from interference such as torture or medical experimentation. States must protect this right by ensuring that everyone within their jurisdiction has access to the underlying determinants of health, such as clean water, sanitation, food, nutrition and housing, and through a comprehensive system of healthcare, which is available to everyone without discrimination, and economically accessible to all. Again in article 12.2 states that the state parties must respect women's reproductive rights, by not limiting access to contraception or censoring, withholding or intentionally misrepresenting information about sexual health. They must also ensure that women are protected from harmful traditional practices such as female genital mutilation.¹¹² This Article is very important from the women's point of view, as we know the health of women is neglected in most of the occasion in our society. Thus to reduce child mortality rate and to improve the health of the mother and child state should make law.

International Covenant on Civil and Political Rights: The International Covenant on Civil and Political Rights (ICCPR) is a multilateral treaty adopted by the United Nations General Assembly on 16 December 1966, and in force from 23 March 1976.

¹¹¹Source:http://en.wikipedia.org/wiki/International_Covenant_on_Economic,Social_and_Cultural_Rights

¹¹² *ibid*

It commits its parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. As of April 2014, the Covenant has 74 signatories and 168 parties. The Part II (Articles 2 – 5) covenant states that “state parties requires the rights to be recognised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and to ensure that they are enjoyed equally by women. The rights can only be limited in time of public emergency which threatens the life of the nation, and even then no derogation is permitted from the rights to life, freedom from torture and slavery, the freedom from retrospective law, the right to personhood, and freedom of thought, conscience and religion.” Thus it imposes an obligation on the state parties to ensure to all individuals the rights recognized in the Covenant without any discrimination.¹¹³

Commission on the Status of Women: The United Nations Sub-Commission on the status of women constituted by the United Nations Economic and Social Council (ECOSOC) Resolution 11(II) of 21st June 1946 with the aim to ensure gender equality and improvement of women’s human rights. It is the principal global policy-making body related to advancement of women’s political, economic, civil, social and educational rights. The Commission assumed the status of a full commission and known as UN Commission on the Status of Women. The full commission is dedicated to ensure women’s equality and promotion of women’s rights. The function of the commission are (1) to prepare recommendation and report to the ECOSOC on promotion of women’s rights in political, economic, civil, social and educational field and regarding any problem which requires attention in the matter of women’s rights.¹¹⁴ The UNCSW was established in 1946 as a mechanism to promote report on and monitor issues relating to the political, economic, civil, social and educational rights of women. It was a unique official structure for drawing attention to women’s concerns and leadership within the UN. The Commission on the Status of Women first met at Lake Success, New York, in February 1947. All of the 15 government representatives were women which separated the Commission from other UN movements and through history continue to maintain a majority of women delegates.

¹¹³ Source: http://en.wikipedia.org/wiki/International_Covenant_on_Civil_and_Political_Rights

¹¹⁴ Internet Source: [http://www.un.org.in/womenwatch/daw/short history of the commission on the status of women](http://www.un.org.in/womenwatch/daw/short%20history%20of%20the%20commission%20on%20the%20status%20of%20women)

During its first session, the Commission declared as one of its guiding principles, to raise the status of women, irrespective of nationality, race, language or religion, to equality with men in all fields of human enterprise, and to eliminate all discrimination against women in the provisions of statutory law, in legal maxims or rules, or in interpretation of customary law.¹¹⁵

Declaration on the Elimination of Discrimination against Women 1967: The Declaration on the Elimination of Discrimination against Women was adopted by the General Assembly in 1967. This Convention is often described as an International Bill of Rights for Women. It has laid down a comprehensive set of rights to which all persons, including women are entitled, additional means for protecting the human rights of women. The Convention on the Elimination of All Forms of Discrimination against Women, entered into force in 1981, also does not explicitly include language on violence against women or domestic violence but guarantees the human rights listed above. Article 1 defines discrimination against women as “Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”¹¹⁶ Article 3 lays down that the states parties to guarantee basic human rights and fundamental freedoms to women "on a basis of equality with men" through the "political, social, economic, and cultural fields."¹¹⁷

Along with issuing its annual report and offering advice to reporting states, the committee on the Elimination of All Forms of Discrimination against Women (CEDAW) has the ability to issue general recommendations that elaborate on its views of the obligations imposed by CEDAW. Till date, the committee has issued thirty-two general recommendations, the latest dealing with the gender related dimensions of refugee status, asylum, nationality and statelessness of women. In 1992, the Committee issued the General Recommendation No. 19 which discusses that "violence against women." Specifically, it states that "the definition of discrimination includes gender-based violence, that is, violence that is directed against

¹¹⁵Source:http://en.wikipedia.org/wiki/United_Nations_Commission_on_the_Status_of_Women

¹¹⁶Source: http://en.wikipedia.org/wiki/Convention_on_the_Elimination_of_All_Forms_of_Discrimination_against_Women

¹¹⁷ *ibid*

a woman because she is a woman or that affects women disproportionately."This recommendation was the first time a human rights treaty or convention was officially interpreted to prohibit violence against women. The recommendation made clear that domestic violence was included.¹¹⁸

International Women's Year, Mexico City, 1975: The first world conference on women was held in Mexico City in 1975. It resulted in the Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace.

World Conference of the United Nations Decade for Women, 1985: In the year 1985, Third World Conference on Women in Nairobi, Kenya, domestic violence received significant attention. The final conference report called on governments to "undertake effective measures, including mobilizing community resources to identify, prevent and eliminate all violence, including family violence, against women and to provide shelter, support and reorientation services for abused women and children."

World Conference on Human Rights, 1993: It is regarded as a milestone in the history of women's right. It declares "human rights of women and of the girl child are inalienable, integral and indivisible part of universal human rights". The conference highlights on the full and equal participation of women in political, civil, economic and cultural life at the national, regional and international levels and the eradication of all forms of discrimination on the ground of sex. The Vienna Declaration stated: In particular, the World Conference on Human Rights stresses the importance of working towards the elimination of violence against women in the public and private life . . . the elimination of gender bias in the administration of justice and the eradication of any conflicts which may arise between the rights of women and the harmful effects of certain traditional or customary practices.

Fourth World Conference on Women, 1995: The fourth conference was held at Beijing in 1995, have greatly enhanced international awareness of the concerns of women. Beijing Conference stated that "Women's rights are human rights" and it called for integration of Women's human rights in the work of different human rights bodies of United Nations. It considered the issue of violence against women in public and private life as human rights issues. The Conference called for the eradication of

¹¹⁸ *ibid*

any conflict which may arise between the rights of women and harmful effects vs Violence against women, including domestic violence, was a major focus at the Conference in Beijing, China. The conference document, the Beijing Platform for Action, identifies domestic violence as a human rights violation. The Platform states: "Violence against women both violates and impairs or nullifies the enjoyment by women of their human rights and fundamental freedoms." It addresses violence against women as a separate "Critical Area of Concern" and includes it under the "Human Rights" section. The Beijing Platform outlines many specific actions governments, nongovernmental groups and others should take to confront and combat violence against women, including strengthening legal systems' response to domestic violence.

This chapter gives an insight into how violence against women has been acknowledged both nationally as well as internationally as a violation of women's human rights. However, it can be said that several attempts have been made at the national and international level to prevent violence and exploitation of women, but, the condition remains unchanged. Without proper national laws and their effective enforcement, the importance of international law will be muffled and of little significance. In the next chapter we shall focus on the analysis of data and interpretation. This will serve as a prelude to our understanding the problem of domestic violence against women in Nalbari district of Assam.