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## Human Rights and Women: A study of the role of State Commission

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**Dushyant**

Assistant Professor

Noida College of Physical Education

Gautam Budh Nagar

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### **Abstract**

Among the various issues relating to human rights the issue of women's rights occupies an important position. It is an established fact that women are the primary victims of any kind of violence which in turn leads to the violation of their rights. It is therefore felt necessary to take certain ameliorative steps in order to improve the subjugated condition of women in the traditionally male dominated society.

***Key Words- Human Rights and State Commission***

### **Introduction**

'Human rights' is as old as the history of human society on earth although as a concept it gained universal currency only in the post World War-II period mainly because of the devastating impact of the Second World War which compelled people of all strata to think seriously about humanity and the need to protect their rights. Looking into the gravity of the problem the United Nations (UN) adopted the Universal Declaration of Human Rights (UDHR) in 1948 in order to protect human being from inhuman cruelty and thereby, to protect human dignity and worth throughout the world. The UDHR, in fact, laid the foundation for the development and practice of human rights all over the world.

The UDHR states "..... recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world." Human rights thus are fundamental prerequisites for the development of human personality and dignity. Every human being is entitled to it irrespective of any kind of discrimination based on their class, caste, colour and sex etc. Beside the adoption of UDHR the United Nations (UN) has adopted some other instruments to protect and promote these rights of people. Some of the important instruments include International Covenant on Civil and Political

Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR) which together with the Universal Declaration of Human Rights formed the International Bill of Rights. Gradually the concept of human rights has got associated with a number of issues like that of the rights of migrants, labour class, minority, marginalized people and many others.

With this urge a number of women's rights instruments has been developed both at international and national level. Some of them, at international level, include Declaration on the Elimination of Violence against Women, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention on the Political Rights of Women, Convention on the Nationality of Married Women, Convention on Consent to Marriage, Minimum Age for Marriage and Registration Marriages etc. Apart from these the other significant events are establishment of the Commission on the Status of Women, declaration of International Women's Year, observing International Women's Day, World Conference of the International Women's Year in Mexico City, declaration of the United Nations Decade for Women, World Conferences in Copenhagen, Nairobi, Beijing and New York etc.

The Convention on the Elimination of All Forms of Discrimination against Women is the most important women's rights instrument at the international level that is concerned with the security and endorsement of the rights of women both in public and private spheres. The principle feature of this Convention is that it strictly negates discrimination on the basis of sex and thereby guarantees human rights and freedoms to women in matters related to education, employment, health, political, economic and others. The signatory states are obliged to implement its provisions, in order to ensure women with dignity and respect, so that women's rights can be realized in practice and not merely in laws. The Government of India has signed it in 1980 and ratified in July 1993; and it came into force in August 1993.

Being a signatory to this Convention the Government of India is committed to ensure women in India all those socio-economic, civil and political rights which are enshrined in the Convention and thereby, to protect women from violence, atrocities and exploitation. The Indian Constitution does not contain any provision specifically made to favor women but it provides certain fundamental rights to all its citizens (equally applicable to men and women) without making any discrimination on the basis of sex. In addition to the Constitutional guarantee of

different fundamental rights, a number of Acts has been enacted by the Parliament for the protection of women from cruelties, discriminations, atrocities and violence. Some prominent of them include the Dowry Prohibition Act 1961, Medical Termination of Pregnancy Act 1971, the Indecent Representation of Women (Prohibition) Act 1986, the Commission of Sati (Prevention) Act 1987, the Immoral Traffic (Prevention) Act 1956, the Maternity Benefit Act 1961, the Muslim Women (Protection of Rights on Divorce) Act 1986, the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994, Protection of Women from Domestic Violence Act 2005, the Protection of Human Rights Act 1993 etc. Accordingly a concern has developed for the protection of women's rights in different spheres like, social, economic, and political and others at the national level.

### **The National Commission for Women Act, 1990-**

The National Commission for Women Act was enacted in the year 1990. The Commission consists of a Chairperson who shall be committed to the cause of women and shall be nominated by the Central Government; five members to be nominated by the Central Government from amongst persons of ability, integrity and standing who have had experience in law or legislation, trade unionism, management of an industry or organization committed to increasing the employment potential of women, women's voluntary organizations (including women activists), administration] economic development, health, education or social welfare. At least one member each shall be appointed from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively [Article 3{2 (a, b)} of the National Commission for Women Act, 1990].

According to section 10 (1) of the Act<sup>5</sup>, National Commission for Women shall perform all or any of the following functions, namely: investigate and examine all matters relating to the safeguards provided for women under the Constitution and other laws; present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards; make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State; review, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations; (e) take up the

cases of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities; (f) look into complaints and take sue Moto notice of matters relating to- (i) deprivation of women's rights; (ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective o f equality and development; (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities; (g) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal; (h) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all-spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity; (i) participate and advise on the planning process of socio economic development of women; (j) evaluate the progress of the development of women under the Union and any State; (k) inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, if found necessary; (l) fund litigation involving issues affecting a large body of women; (m) make periodical reports to the Government on any matter pertaining to women and in particular various difficulties under which women tail; (n) Any other matter which may be referred to it by Central Government. The Commission shall, while investigating any matter has all the powers [section 10(4) of the Act] of a civil court trying a suit and, in particular in respect of the following matters, namely:-

- Summoning and enforcing the attendance of any person from any part of India and examining him on oath;
- Requiring the discover y and production of any document;
- Receiving evidence on affidavits;
- Requisitioning any public record or copy thereof from any court or office;
- Issuing commissions for the examination of witnesses and documents; and

- Any other matter which may be prescribed.

### **The State Commission for Women-**

In India the State Commissions for Women (SCWs) have been established in Andhra Pradesh, Arunachal Pradesh, Assam, Bihar, Chhattisgarh, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu and Kashmir, Jharkhand, Karnataka, Kerala, Madhya Pradesh, Maharashtra, Manipur, Meghalaya, Mizoram, Nagaland, Orissa, Punjab, Rajasthan, Sikkim, Tamil Nadu, Tripura, Uttar Pradesh, Uttarakhand, West Bengal, Chandigarh, Dadra and Nagar Haveli, Daman Diu, Lakshadweep, National Capital Territory of Delhi and Pondicherry. Functions of these State Commissions are stipulated in the Acts enacted by their respective states and Union Territories. In general, the State Commissions for Women are empowered to look into the cases of violations of the rights of women in their respective states.

SCWs, as stated above, have also been constituted in all the states of Northeast India with an aim to protect women from cruelty, injustice and inhuman treatments and to ensure them with redressal mechanisms.

Generally, acts of violence against women are mainly centered on dowry deaths, domestic violence and women trafficking, in Northeast India, women suffer from not only these problems but the ongoing conflict situations of the region which take place between/among States and non state actors, various ethnic groups, and others has further worsened their condition. Violations of the rights of women during conflict situation take place both at physical and psychological levels. The nature of violence towards women in such situation include rape, sexual abuse, sexual humiliation, sexual mutilation, forced prostitution, forced pregnancy and trafficking, torture and other physical assault which results in deep physical and emotional or psychological traumas.

Further, violence is perpetrated against women irrespective of their caste, class, creed, religion, education and age etc. They suffer more severely than their male counterparts and this is due to deeply rooted gender bias of the society that ultimately results in gender specific violence and inequalities both in peace and conflict situations.

Against this backdrop the SCWs in Western India have important role to play in order to ensure women with justice and dignity and in providing relief to those who become the victims of violence, cruelty or atrocities.

Although women of Western India is said to have enjoyed better position in terms of visibility and mobility in comparison to the women of the other parts of the country it is not uncommon to find them as subjects of family violence.

Violations of women's rights take place, at one level, because of the given position of women in society and existing social practices which do not consider the differential treatment as discrimination; at the other level their rights are violated as a result of conflict situation. The pro-longed conflict situation has witnessed both the government agencies and armed opposition groups engaged in violence and counter violence. It has been observed that women are more vulnerable than their male counterparts in these situations. They face both psychological and physical violence.

Therefore it is relevant to explore the extent to which the rights of women of this region are protected by the State Commissions for Women. In this respect the present study attempts to focus on the working of the State Commissions for Women of Uttar Pradesh. This will enable us to understand the role of the Commissions to safeguard the rights of women and to provide assistance to the victims when there is violation of their rights.

### **Gender Violence-**

Gender violence can be understood as a situation where violence is perpetrated against a particular gender. This occurs because of the deep rooted gender bias of the society in general towards women which are attributed to the patriarchal nature of the society. Violence is perpetrated against women through socio-cultural structures. Gender violence thus denies women equality, liberty and justice and brings both physical and mental trauma for them. Under such situation the concept of human rights of women becomes almost nonexistent.

### **Human Rights-**

According to the Section 2(d) of the Protection of Human Rights Act, 1993 “**human rights**” means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.

Human rights are certain demands, recognized by the State, supportive to the development of human dignity and personality and are entitled to all human beings irrespective of any kind of discrimination. These rights can be claimed by virtue of being a human being only.

### **Women's Rights-**

The universal character of the human rights implies that these rights belong to everyone irrespective of any ground like, sex, culture or race etc. The women's right refers not only to the rights that they enjoy but also to the denial of rights and the situations which leads to such denial. As human being women cannot be debarred from enjoying any rights.

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