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**PROTECTION OF HUMAN RIGHTS OF WOMEN: ISSUES AND CHALLENGES**

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**ABSTRACT:**

Women also are human being so they also have right, women is defined in Indian Penal Code 1860 according to section 10 The word “woman” denotes a female human being of any age. So many laws for women at the international level for example: convention, protocol International law – One Universal Declaration on Human Rights 1948.

Convention -Two types of covenant are related to women’s rights:

- International Covenant on Political and Civil Rights 1966.
- International Covenant on Economic, Social and Cultural Rights 1966.<sup>1</sup>

Also, many laws are at the national level just as:

Women commission, constitution, and Indian Penal Code, but still they have so many crimes against women that are why so many issues and challenges are created with them. So our government and every person have to follow the rules and regulations and they have to respect women and the Government make strict rule for those crimes related to women. Now NGOs and the government give importance to the rule but crimes are increasing, so there are various difficulties, in how to control that crime. If our government has to make strict rules the criminals are saving themselves. So here Government and Society both make the decision for the protection of the human rights of women and give the solutions related to women’s rights issues and challenges.

**KEYWORD: Woman, Covenant, National, International, Protocol, Law NGO’s, Right, Human Right.**

**INTRODUCTION:**

Human Rights may be defined as the rights and freedoms that every person on the earth is entitled to enjoy viz right to social security, right to equality, right of life, liberty and security of person, etc, without distinction of any kind such as race, color, sex, language, religion, political or another opinion national or social origin, property, birth or status.

Women are also human beings, they also have rights those rights belong to the International level and National levels. Those rights are made for women but still, they have so many crimes against them and also have challenges and issues, so they are surviving with their challenges and issues. Human rights laws have to protect women's rights but sometimes those laws are failed so then many challenges and issues come and then that are very difficult to solve problems. The question came “How to solve that problem”. Then again make a law related to women’s rights. These continue because if any things solved, then new problem comes so these type creates new challenges and issues because the new generation is coming. Our government and NGOs have to protect the rights of women save the lives of women and make strict laws.

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<sup>1</sup> ncw.nic.in, [http://ncw.nic.in/sites/default/files/Module-%20Laws%20relating%20to%20Women\\_0.pdf](http://ncw.nic.in/sites/default/files/Module-%20Laws%20relating%20to%20Women_0.pdf), (last visited Nov. 06, 2023).

Human rights protect women's rights solve the problem and make new laws for women's rights.<sup>2</sup>

## [2] HUMAN RIGHTS OF WOMEN:

In the preamble to the chapter of the United Nations, it has been resolved relating to fundamental human rights of men and women in the following words "WE THE PEOPLE OF THE UNITED NATIONS DETERMIN" To reaffirm 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.<sup>3</sup> Women also have rights that right are at the international level and National levels those laws protect to rights of women, these are the Human rights of women. Those rights have been for women for the purpose of living those rights are Human Rights of Women. These rights are needed for women for slandered lives because without those rights cannot imagine life, For example: - the right to live, the right to education, the right to life, the right to family, right to environment.

## [3] RIGHTS OF WOMEN IS AT INTERNATIONAL LEVEL

Women's Human Rights at the International level are so many like convocation, Protocol, Declaration, International law, etc. If any rights are made for women at an International level that is International Human Rights.

### i. HUMAN RIGHTS OF WOMEN IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS:<sup>4</sup>

Human Rights of Women are in the Universal Declaration of Human Rights; there are so many provisions in this Declaration for women.

Whereas the people of the United Nations have in the charter reaffirmed their faith in fundamental human rights in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom.

**Article 1.** All human beings are born free and equal in dignity and rights.<sup>5</sup>

**Article 2.** Everyone is entitled to all the rights and freedoms set forth in the Declaration,<sup>6</sup> without distinction of any kind, such as race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.

**Article 3.** Everyone has the right to life, liberty, and security of person.<sup>7</sup>

**Article 6.** Everyone has the right to recognition as a person before the law.<sup>8</sup>

**Article 7.** All are equal before the law and are entitled without any discrimination to equal protection of the law.<sup>9</sup>

**Article 8.** Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him by the Constitution or by law.<sup>10</sup>

<sup>2</sup> ohchr.org, <https://www.ohchr.org/sites/default/files/Documents/Events/WHRD/WomenRightsAreHR.pdf>, (last visited Nov. 06, 2023).

<sup>3</sup> Heyns, Christof. "The Preamble of the United Nations Charter: The Contribution of Jan Smuts." *African Journal of International and Comparative Law* 7 (1995): 329–348. Print.

<sup>4</sup> un.org, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, (last visited Nov. 06, 2023).

<sup>5</sup> *Id.*, at 1143.

<sup>6</sup> *Id.*, at 1143.

<sup>7</sup> *Id.*, at 1143.

<sup>8</sup> *Id.*, at 1144.

<sup>9</sup> *Id.*, at 1144.

<sup>10</sup> *Id.*, at 1144.



**Article 12.** No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, or to attacks upon his honor and reputation.<sup>11</sup>

**Article 13.** (1) Everyone has the right to freedom.

(2) Everyone has the right to leave any country, including his own, and to return to his country.<sup>12</sup>

**Article 15.** (1) Everyone has the right to a nationality.<sup>13</sup>

**Article 16.** (1) Men and women of full age, without any limitation due to race nationality, or religion have the right to marry and to found a family.<sup>14</sup>

(2) Marriage shall be entered into only with the free and full consent of intending spouses.

**Article 17.** Everyone has the right to own property alone as well as in association with others.<sup>15</sup>

**Article 18.** Everyone has the right to freedom of thought conscience and religion.<sup>16</sup>

**Article 19.** Everyone has the right to freedom of opinion and expression.<sup>17</sup>

**Article 20.** (1) Everyone has the right to freedom of peaceful assembly and association.<sup>18</sup>

**Article 23.** (1) Everyone has the right to work.<sup>19</sup>

**Article 25.** (1) Everyone has the right to a standard of living.<sup>20</sup>

**Article 26.** (1) Everyone has the right to education<sup>21</sup>

## ii. THE COVENANT ON CIVIL AND POLITICAL RIGHTS 1966:<sup>22</sup>

This covenant has **53 Articles**, only some articles are related to Women's Human Rights. Those articles are that.

**Article 6.** Protect the right to life.<sup>23</sup>

**Article 12.** Right to liberty.<sup>24</sup>

**Article 16.** Right of everyone to be recognized everywhere as a person before the law.<sup>25</sup>

**Article 18.** Right to freedom of thought, conscience, and religion.<sup>26</sup>

**Article 19.** The Right to freedom of opinion and expression.<sup>27</sup>

## iii. THE COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS<sup>28</sup>

This covenant is related to Economic, Social, and Cultural Right and in this 31 Article have been placed in five parts. Some Articles are related to women's rights. There are:

<sup>11</sup> *Id.*, at 1144.

<sup>12</sup> *Id.*, at 1144.

<sup>13</sup> *Id.*, at 1144.

<sup>14</sup> *Id.*, at 1144.

<sup>15</sup> *Id.*, at 1144.

<sup>16</sup> *Id.*, at 1144.

<sup>17</sup> *Id.*, at 1144.

<sup>18</sup> *Id.*, at 1144.

<sup>19</sup> *Id.*, at 1144.

<sup>20</sup> *Id.*, at 1144.

<sup>21</sup> *Id.*, at 1144.

<sup>22</sup> ohchr.org, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, (last visited Nov. 06, 2023).

<sup>23</sup> *Id.*, at 1144.

<sup>24</sup> *Id.*, at 1144.

<sup>25</sup> *Id.*, at 1144.

<sup>26</sup> *Id.*, at 1144.

<sup>27</sup> *Id.*, at 1145.

<sup>28</sup> coe.int, <https://www.coe.int/en/web/compass/international-covenant-on-economic-social-and-cultural-rights>, (last visited Nov. 06, 2023).

**Article 7.** Right to the enjoyment.<sup>29</sup>

**Article 9.** Right to social security.<sup>30</sup>

**Article 10.** Right of family, matters, children and young person to protection.<sup>31</sup>

**Article 11.** Right of everyone to an adequate standard of living.<sup>32</sup>

**Article 12.** Right to the highest standard of physical and mental health.<sup>33</sup>

**Article 16.** The right to work.<sup>34</sup>

### iii. CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN<sup>35</sup>

This convention was adopted by the General Assembly of the United Nations on December 18, 1979. This Convention is constituted of six parts and 30 Articles. There are some important provisions.

Article 1. Discrimination against women – 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.

Article 9(1) States parties shall grant women equal rights with men to acquire change or retain their nationality. The state parties to ensure that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife. Cannot be forced to adopt the nationality of her husband.

Article 9(2) Nationality of children, the women will have equal rights.

Article 15. The state parties shall accord to women – (1) Equality with men before the law.

(2) A legal capacity of women.

Article 16. Appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure on a basis of equality of men and women.<sup>36</sup>

### iv. CONVENTION ON THE NATIONALITY OF MARRIED WOMEN:

Convention was adopted by the General Assembly of the United Nations in 1957. This convention entered into force on August 11, 1958. This Convention tried to establish equality of women with men as to question of nationality.<sup>37</sup>

### iv. EQUAL REMUNERATION CONVENTION:

This convention was adopted by the general conference of the International Labor Organization on June 29, 1951. The Equal Remuneration Recommendation incorporated even more detailed and elaborate provisions as to the implementation of the principle of equal pay for equal work to all workers irrespective of their sex.<sup>38</sup>

### v. CONVENTION AGAINST DISCRIMINATION IN EDUCATION:

<sup>29</sup> *Id.*, at 1145.

<sup>30</sup> *Id.*, at 1145.

<sup>31</sup> *Id.*, at 1145.

<sup>32</sup> *Id.*, at 1145.

<sup>33</sup> *Id.*, at 1145.

<sup>34</sup> *Id.*, at 1145.

<sup>35</sup> iwda.org.au, <https://iwda.org.au/assets/files/CEDAW-at-a-Glance.pdf>, (last visited Nov. 06, 2023).

<sup>36</sup> *Id.*, at 1145.

<sup>37</sup> treaties.un.org, [https://treaties.un.org/doc/treaties/1958/08/19580811%2001-34%20am/ch\\_xvi\\_2p.pdf](https://treaties.un.org/doc/treaties/1958/08/19580811%2001-34%20am/ch_xvi_2p.pdf), (last visited Nov. 06, 2023).

<sup>38</sup> ilo.org, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_Ilo\\_Code:C100](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_Ilo_Code:C100), (last visited Nov. 06, 2023).

This Convention was adopted by the Conference of the Education, Cultural, and Scientific Organization of the United Nations on December 14, 1960. This Convention declares any discrimination based on sex as impermissible in all standards of education and approach thereto.

The Economic and Social Council has recommended in its resolution in 1954

- (1) To take necessary steps to ensure that women have equal access with men.
- (2) To enact necessary laws and regulations to eliminate all forms of discrimination against women.
- (3) To take necessary measures for institution-free compulsory education.

**CASE: WESSELS BERGERVOET VS THE NETHERLANDS, APP. 34462/97**

The European Court of Human Rights has been active in promoting women's rights, hearing cases on topics ranging from discrimination under social security schemes to immigration law, and the European Court of Justice has also contributed to advancing the cause of women's rights.<sup>39</sup>

**[4] WOMEN'S HUMAN RIGHTS UNDER THE NATIONAL LAWS OF INDIA**

Starts in India. They made laws according to the situation because at that time so many traditions were going on, so they wanted to save women, so they made laws, for example – Dowry, and Sati Pratha. Now this time manias laws are made.

**i. THE INDIAN CONSTITUTION 1959**

The makers of our Constitution felt this discrimination against women, which is reflected in various provisions of the Constitution and have enshrined equal rights to women therein.

In the Preamble of the Constitution, dignity of the individuals irrespective of their Sex, community, or place of birth has been assured. Gender justice is the main theme involved in the Constitution, which contains negative as well as positive provisions going a long way in the security of gender justice.

Article 14. Equality before the law.<sup>40</sup>

Article 15. Prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth.<sup>41</sup>

Article 16 (2). Equality of opportunity in matters of public employment prohibition discrimination on grounds of religion, race, caste, sex, or place of birth.<sup>42</sup>

Article 21. Protection of life and personal liberty.<sup>43</sup>

Article 39(d). That there is equal pay for equal work for both men and women.<sup>44</sup>

Article 42. Provision for just and human conditions of work and maternity.<sup>45</sup>

**CASE – MADHUKISWAR VS STATE OF BIHAR, (1996)5SCC148.**

**Hon'ble Justice K. Ramaswamy** of the Supreme Court has stated the position of women in reality, "Half of the Indian population are women, Women have always been discriminated against and have suffered and are suffering discrimination in silence, self-sacrifice and self-

<sup>39</sup> WESSELS BERGERVOET VS THE NETHERLANDS, APP. 34462/97

<sup>40</sup> INDIA CONST. art. 14.

<sup>41</sup> INDIA CONST. art. 15.

<sup>42</sup> INDIA CONST. art. 16 (2).

<sup>43</sup> INDIA CONST. art. 21.

<sup>44</sup> INDIA CONST. art. 39 (d).

<sup>45</sup> INDIA CONST. art. 42.



denial are their nobility and fortitude and yet they have been subjected to all inequities, inequality, and discrimination.<sup>46</sup>

### **CASE- ANDHRA PRADESH VS P.V. VIJAYKUMAR, A.I.R. 1996 S.C.1648**

The Supreme Court has laid down that the state has the power to give priority to women over men in Government services if the woman is equally capable or qualified equally to man, but the vacancies are limited and all women and men candidates cannot be appointed, then in such case women can be given priority. This priority is within the ambit of Article 15(3).<sup>47</sup>

#### **ii. INDIAN PENAL CODE 1860**

Women have a right to protect their person or body from being violated by men. Women belong to the weaker section of the community and, in most circumstances unable to secure their person and honor and need keen immediate relief from the courts in such matters.<sup>48</sup>

- **Sexual offences**

Section 354. Assault or criminal force on women with intent to outrage her modesty. 354A, 354B, 354C, 354D.

Section 375. Rape

376, 376A, 376B 376C, 376D, 376E

- **Offences related to marriage**

Sections 493, 494, 495, 496, 497, 498, 498A

- Section 509. Word, gesture, or act intended to insult the modesty of women.

#### **iii. CRIMINAL PROVISION CODE:**

##### **These are Provisions related to women's rights -**

Section 53A. Examination of a person accused of rape by a medical practitioner.

Section 125. to 127. Maintenance

Section 154(1). If any accused is a woman then provisions are given for her.

Section 416. Postponement of capital sentence on pregnant women.

Others provisions section 173,197(1), 198B, 273,309(1), 327, 357B, 357C.

#### **iv. DOWRY PROHIBITION ACT 1961**

In this Act, section 3 of the Dowry Prohibition Act relates to the offenses of giving or taking of dowry. The Dowry Prohibition Act of 1961 was amended by Act No. 43 of 1986 and then increased punishment and also made non-billable offenses.

#### **v. MEDICAL TERMINATION OF PREGNANCY ACT 1971**

In this Act, under section 3 of this Act, pregnancies may be terminated by registered medical partitions – (a) Where the length of pregnancy does not exceed twelve weeks. (b)Where it exceeds twelve weeks but does not exceed twenty weeks if not less than two registered medical practitioners are opines formed in good faith that-

- (a) Risk of life of women
- (b) Risk of life of a child.
- (c) Pregnancy caused by rape.
- (d) Women don't want children or family planning is failed.

<sup>46</sup> MADHUKISWAR VS STATE OF BIHAR, (1996)5SCC148.

<sup>47</sup> ANDHRA PRADESH VS P.V. VIJAYKUMAR, A.I.R. 1996 S.C.1648

<sup>48</sup> iitk.ac.in, [https://www.iitk.ac.in/wc/data/Majlis\\_Legal-rights-of-women.pdf](https://www.iitk.ac.in/wc/data/Majlis_Legal-rights-of-women.pdf), (last visited Nov. 06, 2023).

**i. THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994**

This Act provides for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations sex-linked disorders and for the prevention of the misuse of such techniques for pre-natal sex – determination leading to female feticide. This Act gives provisions under these sections -3,4,5,6,7,11,17,18,22,23,24,25, 27,28,29.

**ii. THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT 1986**

This Act prohibits indecent representation of women through advertisement or in publications, writings, paintings, figures, or in any other manner and the matters connected therewith or incidental thereto. Important sections in this Act are -2, 3, 4, 5, 6, 7, and 10.

**iii. THE IMMORAL TRAFFIC (PREVENTION) ACT 1956:**

This Act was enacted to provide in pursuance of the International Convention signed in New York in 1950 for the prevention of immoral traffic. This Act prohibition human traffic, if someone doing that offence so shall be punished that person who help in that of type crimes. In this Act important sections 2, 3, 4, 5, 6, 7, 9, 10, 14, 16, 18, 20, 22, 22A, B.

**iv. THE COMMISSION OF SATI (PREVENTION ) ACT 1987:**

This Act has been enacted for more effective prevention of the commission of sati and its glorification prohibited that offense and punished people who diverted to do that act to women. Important sections- 3, 4, 5, 8, 9, 11, 12, 14, 16, 18, 20.

**v. MATERNITY BENEFIT ACT 1961:**

Under the Maternity Benefit Act 1961, certain maternity benefits are given to women. Under section 4 of the Act, employment of or work by women is prohibited during certain periods of women's delivery, miscarriage, and medical termination of pregnancy. Other important sections of this Act are 5, 6,5A, and 7.

**vi. FACTORIES ACT 1948:**

Some provision given to women for safety – under section 19 – In every factory sufficient latrines, urinals and washing places shall be provided. Other section are 22(2), 27, 42(2)(b), 48(1).

**[5] WOMEN RIGHT'S RELATED ISSUES AND CHALLENGES:**

Now these days already made many laws but still crime rates are increasing. They Are following the rules but then the crime rate increases, rape unequal behavior, and girls are not safe, then what are the reasons for crime, because people are fearless, then they are continuously doing that type of crime.

**[6] SOLUTION OF WOMEN'S RIGHTS-RELATED ISSUES AND CHALLENGES:**

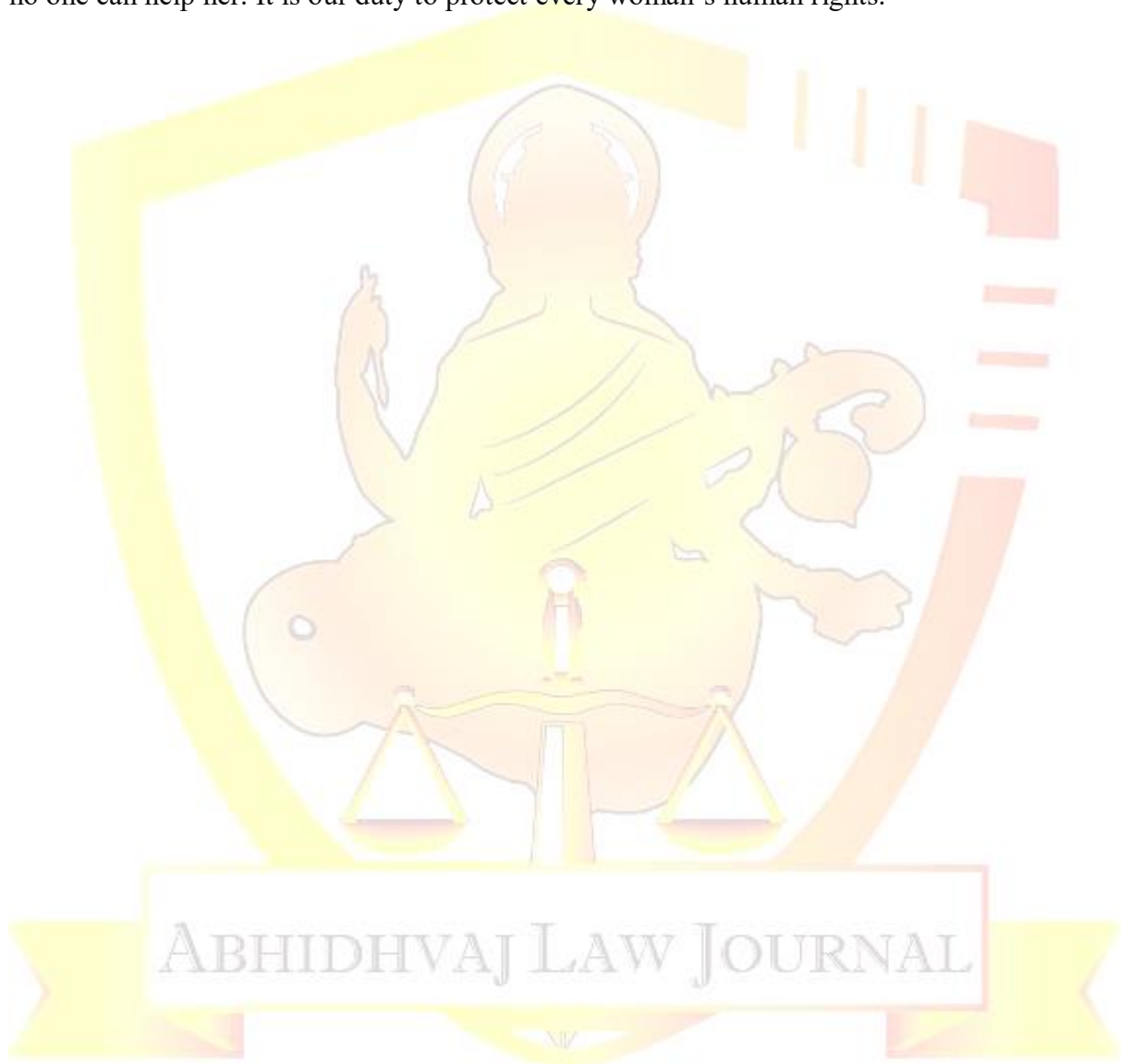
We made some laws at the International and National levels, but we can't stop crimes, then now new issues and challenges are coming, so we have to do strict work. Not only the government but also for every person within those work so we solve those issues, because if



the government only protect to women then those issues come as it is if every person has to help in those work then we protected to rights of women.

**CONCLUSION:**

Women have human rights at the international level and National level but they have so many issues and challenges, we have a duty not only government but also to NGOs, to commission every person to protect to human rights of women. Women also protect their rights. If any person breaks womens rights, she can save her rights, because if she doesn't help herself then no one can help her. It is our duty to protect every woman's human rights.



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