

**Author name & Affiliation:**

Mr Naseem Ahmed,  
Ph. D Research Scholar,  
**Department of Political Science,**  
**CCS University Meerut (U.P)**  
Email: [naseemahmed9858@gmail.com](mailto:naseemahmed9858@gmail.com)  
Contact No. 9596709073.  
February 10, 2024.

**Home Address:** R/o Daground Bathri, Tehsil Kahara, District Doda Jammu and Kashmir UT, Pin:  
182203, BPO Malanoo (Doda).House No.18

## CHAPTER-VII

### Gender-Based Violence and Human Rights

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#### **7.1 INTRODUCTION**

Gender-based violence (GBV) is one of the most common and socially acceptable types of violence worldwide. It is a pervasive and chronic problem in India, and it is closely related to patriarchy and the fundamental conviction that males have the right and authority to abuse women. It is rooted in women's submissive status and is tied to both patriarchy and the concept of masculinity, which holds that a 'real man' is one who inflicts violence on women. GBV is a significant impediment to women's enjoyment of their human and fundamental rights provided by the Indian Constitution.

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#### **7.2 OBJECTIVES**

After completing this chapter, you will be able to:

- o Understand the idea of gender-based violence;
  - o Identify different types of gender-based violence;
  - o Identify origins and repercussions of gender-based violence;
  - o Emphasize the right to cease such violence.
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### **7.3. WHAT IS GENDER BASED VIOLENCE?**

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Gender based violence (GBV) is the most extreme manifestation of unequal gender relations in society and one of the most common abuses of human rights. The definition given by the United Nations is, "Any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women whether occurring in public or private life." Sida defines GBV as "any harm or suffering perpetrated against a woman or girl, man or boy that has a negative impact on the person's physical, sexual, psychological health, development, or identity." Gender-based power disparities and discrimination are the root causes of the violence. The UNFPA defines gender-based violence (GBV) as, "Violence involving men and women in which the female is usually the victim and which is derived from unequal relations between men and women." Gender-based violence (GBV) is defined as any damaging act committed against a person's will (without consent) and motivated by socially imposed (gender) disparities between men and women. Gender-based violence (GBV) is used to distinguish between violence that targets people or groups of individuals based on their gender and other forms of violence perpetrated by individuals and collectivities. It covers any actions that cause or are likely to cause physical, sexual, or psychological harm. Gender-based violence includes the threat of such acts, coercion, and arbitrary deprivation of liberty. Gender-

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based violence could take place within the family, in the community during "peace times" or times of conflict, or by governmental agents. It can be carried out by family members, friends, strangers, or intimate partners, including husbands. While violence is terrible for anybody, man, woman, or kid, gender-based violence is mostly perpetrated by men against women and girls because of their gender. It has an impact on women's dignity, security, sexuality, reproductive capability, and the freedom to manage their own bodies (autonomy), in addition to the overall impact on women's physical and mental health. Gender-based violence comes from power disparities between men and women, which are compounded by socio economic, cultural, and structural inequities.

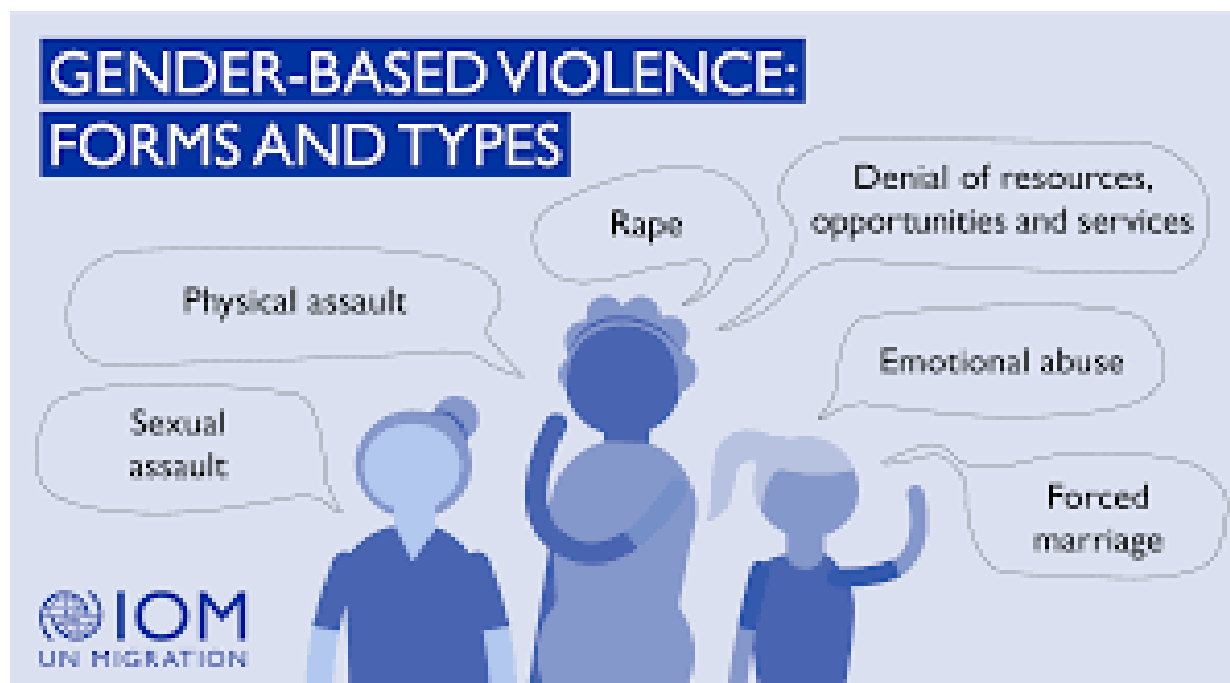
Gender-based violence (GBV) and violence against women (VAW) have a narrow distinction, yet the two terms are frequently confused and used interchangeably. Though VAW encompasses all forms of GBV against women and girls, the term 'gender-based violence' recognizes the gender elements of the violence, both from the perspective of perpetrators and victims. GBV is a term used to distinguish between gender-based violence and other forms of violence perpetrated by people and groups. Gender-based violence can occur within the family, in the community during "peace times" or times of conflict, and by both state and non-state actors. It could be committed by family members, friends, strangers, or intimate partners. GBV is thus, broader and more inclusive. Gender-based violence both reflects and promotes imbalances between men and women, jeopardizing the victims' health, dignity, security, and autonomy. It includes a broad spectrum of human rights breaches. GBV is primarily experienced by women and girls, however it is not limited to them.

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Men and boys are occasionally targeted for gender-based violence; however the extent to which GBV affects them is unclear. Violence against lesbians, homosexuals, bisexuals, and transgender people exemplifies how gender-based violence is exacerbated by the conflict between mainstream and alternative sexuality understandings and practices. While noting the prevalence of GBV against members of India's lesbian, gay, bisexual, and transgender (LGBT) communities, as well as serious human rights crimes against them.

#### 7.4 CATEGORIES OF GENDER BASED VIOLENCE

**Types of GBV:** Gender-Based Violence (GBV) can take numerous forms and is strongly associated to gender inequality. We must take every precaution to prevent and respond to all forms of gender-based violence. There are six main types of GBV, which are defined below.



**Fig.1.**

**7.4.1 Rape-** Rape is defined as non-consensual penetration of the vagina, anus, or mouth with a penis or other body part. This also involves non-

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consensual penetration of the vagina or anus with an object. Gang rape, marital rape, sodomy, and forced oral sex are few examples, but there are others. This sort of GBV excludes attempted rape because no penetration happened. For example, two men raped and beat a woman one morning. That afternoon, when she returns home to inform her family what occurred, they kick her out for bringing shame to the family. She then goes to a GBV service provider for assistance and reports what has occurred. The case manager should treat this as two incidences and complete two separate intake forms. The first occurrence should be classified as 'Rape', and the second as 'Denial of Resources'.

**7.4.2 Sexual Assault-** Sexual assault refers to non-consensual sexual contact without penetration. Examples include attempted rape, unwanted kissing and caressing, unwanted touching of the breasts, genitalia, and buttocks, and female genital cutting / mutilation. Rape does not fall under this category of GBV because it involves penetration. For example, sexual assault is made possible by the total concentration of power in the hands of a male boss on whom a woman relies in order to obtain or keep her job and who determines her wages, job performance evaluation, opportunities for advancement, training, and the type and degree of difficulty of the work she must perform. Risk factors include women's lower levels of job skills, a lack of social acknowledgment for the activities they perform, the more dependent character of their employment status, and a lack of autonomy and decision-making authority.

**7.4.3 Physical Assault-** Physical Assault refers to non-sexual physical violence. Examples include, but are not limited to: punching, slapping, choking, cutting, shoving, burning, shooting or using any weapons, acid assaults, or any other act that causes physical pain, discomfort, or injury. Female genital cutting or

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mutilation, as well as honour killing, are not considered forms of gender-based violence. Physical assault can occur to anyone, regardless of gender, age, or any other trait. It can be discrimination or hate crime, which means that the assault was motivated by hostility towards a person or group because of a protected characteristic, domestic violence, which means that the assault occurred within a relationship or between family members, or sexual assault and rape, which means that the assault was sexual in nature.

**7.4.4 Forced Marriage-** The marriage of an individual against her or his will. Forced marriage occurs when you are coerced into marriage using extortion, harassment, financial pressure, emotional pressure, guilt, or threats. When women in India reach a particular age, they are emotionally blackmailed or compelled to marry. In several sections of the country, girls under the age of 18 are forced to marry. However, not every girl would like to marry at a young age. Many girls in India aspire to further their education and become self-sufficient. As a result, it is critical that every woman in India understands her rights and the legal choices open to her in the face of forced marriage.

**7.4.5 Denial of Resources, possibilities, or Services-** the denial of legitimate access to economic resources/assets, livelihood possibilities, education, health, or other social services. Examples include, but are not limited to, a widow being denied an inheritance, earnings seized by an intimate partner or family member, a woman being denied the use of contraception, a girl being denied the opportunity to attend school, and so on. This type of GBV excludes reporting of widespread poverty. For example, if the woman

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was living with her boyfriend and economically dependent on him prior to becoming pregnant, and then he kicks her out of the house and ceases providing for her financially, this should be characterized as 'Denial of Resources, Opportunities, or Services.' Similarly, if the lady contacts you after giving birth to say that her boyfriend is now refusing to acknowledge that the child is his and has stopped financially supporting them, this should be labelled as 'Denial of Resources, Opportunities, or Services.'

**7.4.6 Psychological/Emotional Abuse-** The infliction of mental or emotional anguish or injury. Threats of physical or sexual violence, intimidation, humiliation, forced isolation, stalking, verbal harassment, unwanted attention, sexual or menacing statements, gestures, or written words, destruction of prized possessions, and so on are all examples. For example, if the woman lived alone or with her parents and had no economic reliance on her lover, the incident should be classed as "Psychological/Emotional Abuse."

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## **7.5 CAUSES AND IMPACT OF GENDER BASED VIOLENCE**

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**[A] Causes of GBV:** Gender-based violence is one of the most visible manifestations of unequal power relations between men and women. There is no single element that contributes to GBV; rather, a variety of factors contribute to it, and the interplay of these factors is at the heart of the problem. They include the following:

**1. Poverty** - Poverty makes women and girls more vulnerable to sexual exploitation and trafficking. Domestic or intimate partner

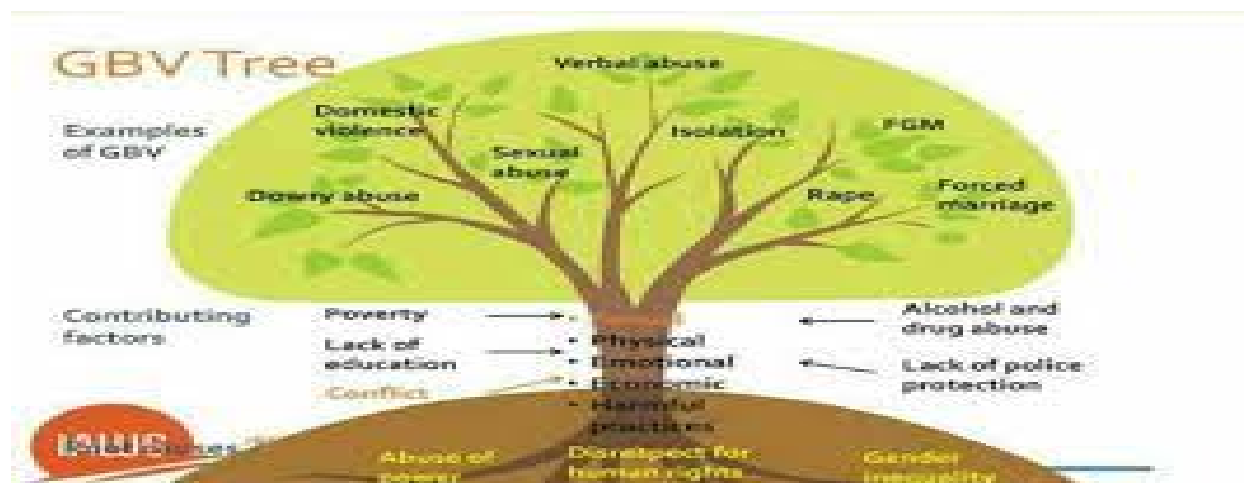
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violence victims have fewer alternatives for leaving abusive relationships due to a lack of cash and resources.

**2. Dowry-** Dowry is seen as a significant contributor to witnessed violence against women in India. Some of these crimes involve physical brutality, emotional abuse, and even the murder of brides and young girls before marriage.

**3. Lack of Education-** The detrimental effects of a lack of education can be seen throughout a woman's lifetime. An uneducated female is less equipped to make her own family planning decisions. A child bride is more likely to experience health problems and psychological distress, while her children are more vulnerable to starvation and illiteracy.



**Fig.2.** The branches stand for the different categories of GBV that can occur and factors contributing to it.

**4. Cultural and Social Attitudes-** Laws, attitudes, and behaviors that discriminate against women and girls and violate their rights. Gender stereotypes are commonly used to justify violence against women. Cultural standards frequently dictate that men be aggressive, domineering, and

dominant, whereas women are submissive, subservient, and rely on men to provide. These conventions can create a culture of open abuse.

**5. Alcoholism/Drug Abuse-** Men consume more alcohol and engage in more dangerous drinking patterns, such as excessive episodic drinking. Heavy drinking increases the risk of violent behavior, including intimate relationship violence and sexual assault.

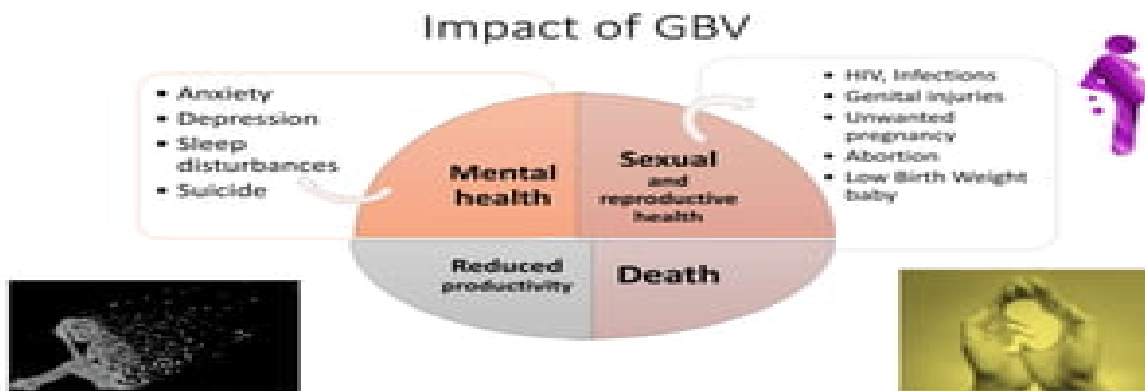
**6. Judicial Barriers-** Inadequate access to justice institutions and mechanisms, resulting in a culture of impunity for violence and abuse, insufficient and expensive legal advice and representation, insufficient victim/survivor and witness protection mechanisms, and an inadequate legal framework, including national, traditional, customary, and religious law that discriminates against women and girls.

**7. Lack of Institutional Grievance and Complaint Procedures-** When there are no or few grievance and complaint procedures, women will often remain silent in order to prevent losing their livelihood and being subjected to additional violence. Furthermore, sexual issues have the potential to create long-term reputational damage to both women and their families, often fatally compromising young women's marriage prospects.

**[B] Impact/Consequences of GBV:** GBV can produce psychological trauma such as fear, anxiety, self-blame, sadness, and suicide ideation. It is not often obvious (unlike physical trauma), but girls and women suffer greatly from it, and the repercussions can last longer than a

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physical damage, influencing behavior and interpersonal interactions. For example, women who were sexually molested as children are more likely to feel terrible about it. They acquire unfavorable attitudes towards themselves and lose self-esteem. These negative thoughts about themselves frequently lead people to participate in high-risk behaviors' and activities. This renders them more susceptible to STIs such as HIV, unintended pregnancies, and infertility.



**Fig.3.** A woman shown in above figure has become depressed after being raped. She feels isolated and that she has no one who understands her situation.

Sexual violence also promotes the spread of STIs. For example, a girl or woman who is raped by an infected individual may get infected. She may also have an undesired pregnancy, which can result in a variety of bad outcomes, including an unsafe abortion. Girls who have experienced GBV (especially when physical and sexual violence is involved) may visit health facilities on a regular basis with a variety of complaints, including escalating pain, pelvic and back pain, gastrointestinal issues, and repeated episodes of STIs or unintended pregnancies. However, they may not tell health personnel about the sexual violence they have experienced, and health practitioners fail to recognize that undiagnosed GBV is at the root of all these symptoms and

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issues, therefore they do not inquire about violence. As a result, these girls and women do not receive the necessary medical care.

<b>Table.1. Effects of gender-based violence.</b>		
<b>Physical</b>	<b>Psychosocial/mental</b>	<b>Sexual and reproductive</b>
<b>Partial or permanent disability</b>	Anger, anxiety, fear	Sexual disorders and risky behaviours
<b>Poor nutrition</b>	Shame, self-hate, self-blame	Early sexual experiences (for those who are victims of childhood sexual abuse)
<b>Exacerbation of chronic illness</b>	Post traumatic stress disorder (nightmares, recurrent distressing thoughts)	Unprotected sex
<b>Chronic pain</b>	Depression	Abortions
<b>Gastrointestinal problems</b>	Sleep disorders	Bad pregnancy outcomes, low birth weight, neonatal death
<b>Organ damage</b>	Suicidal thoughts	Maternal death
	Substance abuse	Suicide
	Social stigma	STIs including HIV
	Social rejection and isolation	AIDS
		Infertility
		Chronic pain

GBV has a variety of interrelated effects on health, so it appears strange that girls and young women do not report GBV when they visit a health facility.

## **7.6 Human Rights**

Human rights, defined here as a set of ethical principles with legal implications, stem from each individual's desire to enjoy the conditions necessary for a decent life. Human rights are divided into two categories: entitlement rights and personal rights. Entitlement rights are the rights that society

must grant to all humans in order for them to exist in modern society. Every individual has a fundamental right to education, health care, and economic, social, and personal security. The UN Universal Declaration of Human Rights recognizes entitlement rights. Personal rights are those that allow an individual to regulate their own persons. The right to a livelihood is a fundamental human right that has been explicitly recognised by the United Nations Universal Declaration of Human Rights. The right to privacy, as well as the right to sovereignty over one's own body, is fundamental human rights. Aside from the foregoing, civil and political rights may be considered the "first generation" of human rights, social, economic, and cultural rights the "second generation," and the right to peace, development, and a healthy environment the "third generation," while peoples' rights represent the "fourth generation."

Governor General William Benedict formally abolished the practice of "Sati" in 1829, following years of campaigning by Hindu reform movements such as Ram Mohan Roy's Brahmo Samaj against this orthodox Hindu funeral custom of self-immolation of widows after the death of their right to maintenance upon divorce, prompting protests from Muslim clergy. To overturn the Supreme Court verdict, the Rajiv Gandhi government passed the "The Muslim Women Protection of Rights on Divorce Act" in 1986. Section-377 of the Indian Penal Code, which bans a variety of unnamed "unnatural" sex practices, has been declared null and void by the Delhi High Court. In 1929, the Child Marriage Restraint Act was passed, which prohibited the marriage of minors under

the age of 14. In 1955, a reform of Hindu family law granted Hindu women new rights. The historic Shah Banoo case, in which the Supreme Court acknowledged a Muslim woman's preference over a female child. A male kid is considered a blessing, and his birth is celebrated, whereas a female child's birth is not celebrated and is viewed as a hardship. Gender-based discrimination against female children is widespread around the world. It is visible in all levels of society and emerges in a variety of ways. To abolish GBV in India, the following legislation has been enacted from time to time in table 2.

**Table.2.**

<b>S.No.</b>	<b>Laws</b>	<b>Year</b>
<b>1.</b>	The Immoral Traffic (Prevention) Act	1958
<b>2.</b>	Dowry Prohibition Act-	1961
<b>3.</b>	Indecent Representation of Women (Prevention) Act	1985
<b>4.</b>	Protection of Women from Domestic Violence Act	2005
<b>5.</b>	Prohibition of Child Marriage Act	2006
<b>6.</b>	Protection of Children from Sexual Offences Act (POCSO)	2012
<b>7.</b>	The Criminal Law Amendment Act	2013

Human rights initiatives can be seen in the international and regional landscapes listed below.

**Table.3.**

S.No.	International Landscape	Year	Regional Landscape	Year
1.	UDHR- Universal Declaration of Human Rights	1948	Belem	1994
2.	CEDAW- the 1979 Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW Recommendation 12 and 19)	1979	Maputo	2003
3.	The Rome Statue	1998	Istanbul	2011
4.	The UN Security Council Resolutions- 1325, 1820, 1888, 1889.	1948	American Declaration on the rights and duties of man	1948
5.	Declaration on the Elimination of Violence Against Women	1993	American Convention on HR,s	1969
6.	Beijing Platform for Action	1995	The African Charter on human & people's rights	1982
7.	International Day Against GBV	1999.	African Charter on the rights and welfare of the Child	1990

The events of World War II, particularly the violation of human dignity, motivated the United Nations Charter of 1945 and later the Universal Declaration of Human Rights (UDHR), which was adopted by the United Nations General Assembly on December 10, 1948.

“All human beings are born free and equal in dignity and rights”

(Article 1, Universal Declaration of Human Rights)

Human Rights Gender-based violence violates universal and fundamental human rights, such as:

- o The right to life.
- o The right to personal security.

- o The right to equal protection under the law.
- o The right to freedom from torture and other cruel, inhumane, or degrading treatment.

The United Nations considers violence against women to be one of the most serious abuses of women's rights in the world. The 1948 UN Universal Declaration of Human Rights established human rights, and a number of international conventions have since addressed gender-based violence. This includes the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), CEDAW General Recommendations 12 and 19, and the 1993 United Nations Declaration on the Elimination of Violence Against Women. In 1995, the United Nations World Conference on Women in Beijing declared that "violence against women is an obstacle to the achievement of the objectives of equality, development, and peace." Violence against women undermines, inhibits, or eliminates women's ability to enjoy their human rights and fundamental freedoms. Women are entitled to full and equal enjoyment of their human rights without discrimination, and all workers, regardless of immigration status, are entitled to protection and remedies for sexual harassment and other workplace violations. A variety of international labour standards relevant to preventing and eliminating gender-based violence in the workplace are critical to tackling these concerns. The Universal Declaration of Human Rights is one of the most widely accepted expressions of human rights in the world. It encompasses the following important rights.

- o Everyone has the right to life, freedom from slavery, liberty and security of persons (Article 3).



- o No one shall be subjected to torture or to cruel inhuman or degrading treatment or punishment (Article 5).
- o All are equal before the law and entitled to equal protection of the law without any discrimination (Article 7).
- o No one shall be subjected to arbitrary arrest and detention (Article 9).
- o Everyone charged with a panel offence has the right to be presumed innocent until proved guilty, according to law in a public trial at which they have had all the guarantees necessary for their defence (Article 11 (1)).
- o No one shall be subjected to arbitrary interference with her/his privacy, family or home. Everyone has the right to protection of the law against such interference or attacks (Article 12).
- o Everyone has the right to freedom of opinion and expression (Article 19).
- o Freedom of assembly and association (Article 20).

GBV is a significant concern in our country and around the world. There is a need to educate people about GBV and how it can damage one's life. GBV can also be eliminated by empowering girls and women, changing social norms and gender attitudes, educating boys and men, and enacting and enforcing legislation at both the regional and international levels. The status of girls and women in society should be recognized. To transfer our societies, achieving gender equality and fostering respect for the dignity and human rights of all will require all of us to take action against all forms of GBV. We are all agents of this much-needed change.

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