

LEGAL SUPPORT FOR WOMEN

From women upliftment, to women development, to women empowerment.

FUNDAMENTAL RIGHT OF EQUALITY

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NATIONAL COMMISSION FOR WOMEN-1990

It was formed as the apex national level organization of India with the mandate of protecting and promoting the interests of women. The commission has the following functions:

- It reviews the legal and constitutional safeguards for women.
- It recommends the remedial legislative measures.
- It facilitates the redressal of grievances.
- It advises government on all policy matters affecting women.

THE CONSTITUTION OF INDIA PROVIDES FOR:-

- equality before law for all persons (Article-14);
- prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15(i)); However, special provisions may be made by the state in favour of women and children Article 15(3);
- equality of opportunity for all citizens relating to employment or appointment to any office under the state (Article 16);
- state policy to be directed to securing for men and women equally the right to an adequate means of livelihood (Article 39(a));
- equal pay for equal work for both men and women (Article 39(d));
- provisions to be made by the state for securing just and humane conditions of work and maternity relief (Article 42);
- promotion of harmony by every citizen of India and renouncement of such practices which are derogatory to the dignity of women Article 51A(e)and'
- Reservation of not less than one-third of total seats for women in direct election to local bodies, viz; Panchayats and Municipalities (Articles 343(d) and 343 (T)).
- Reservation of one-third of all seats for women in the Lok Sabha and the state legislative assemblies.

73RD AND 74TH AMENDMENTS OF CONSTITUTION-1993

The Constitution of India ensures gender equality in its preamble as a fundamental right but also empowers the state to adopt measures of positive discrimination in favor of women by ways of legislation and policies.

NATIONAL POLICY FOR THE EMPOWERMENT OF WOMEN- 2001

The goal of this Policy is to bring about the advancement, development and empowerment of women. The policy has the objective of:-

- Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential
- The *de-jure* and *de-facto* enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil
- Equal access to participation and decision making of women in social, political and economic life of the nation
- Equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.
- Strengthening legal systems aimed at elimination of all forms of discrimination against women
- Changing societal attitudes and community practices by active participation and involvement of both men and women.
- Mainstreaming a gender perspective in the development process.
- Elimination of discrimination and all forms of violence against women and the girl child; and
- Building and strengthening partnerships with civil society, particularly women’s organizations.

Legal-judicial system will be made more responsive and gender sensitive to women’s needs, especially in cases of domestic violence and personal assault. New laws will be enacted and existing laws reviewed to ensure that justice is quick and the punishment meted out to the culprits is commensurate with the severity of the offence. Women’s equality in power sharing and active participation in decision making, including decision making in political process at all levels will be ensured for the achievement of the goals of empowerment. Policies, programs and systems will be established to ensure mainstreaming of women’s perspectives in all developmental processes, as catalysts, participants and recipients.

WOMEN RESERVATION BILL

The bill was introduced in the constitution as the 108th amendment. It seeks to reserve one-third of all seats for women in the Lok Sabha and the state legislative assemblies. The allocation of reserved seats is determined by such authority as prescribed by Parliament. One third of the total number of seats reserved for Scheduled Castes and Scheduled Tribes are reserved for women of those groups in the Lok Sabha and the legislative assemblies.

WOMEN IN THE FIVE YEAR PLANS

- **First five year plan**
In the first five year plan itself, a number of welfare measures for women were envisaged. **Central Social Welfare Board, organization of Mahila Mandals** and the Community Development Programs were established.
- **Second five year plan**
The empowerment of women was closely linked with the overall approach of intensive agricultural development programs in the second five year plan.
- **Third five year plan and fourth five year plan**
Both the five year plans supported female education as a major welfare measure.
- **Fifth five year plan**
It emphasized training of women, who were in need of income and protection. This plan coincided with International Women’s Decade and the submission of Report of the Committee on the Status of Women in India. In 1976, Women’s welfare and Development Bureau was set up under the Ministry of Social Welfare.

- **Sixth five year plan**
 The term women welfare shifted to women development. It recognized women's lack of access to resources as a critical factor which was hampering their growth.
- **Seventh five year plan**
 The seventh five year plan emphasized the need for gender equality and empowerment. And the emphasis was placed upon qualitative aspects such as inculcation of confidence, generation of awareness with regards, to rights and training in skills for better employment.
- **Eighth five year plan**
 The focus was on empowering women, especially at the grass roots level, through Panchayat Raj Institutions.
- **Ninth five year plan**
 The ninth plan adopted a strategy of women's component plan, under which not less than 30 percent of funds/benefits were earmarked for women-specific programs.
- **Tenth five year plan**
 The tenth plan aims at empowering women through translating the recently adopted National Policy for Empowerment of Women (2001) into action and ensuring Survival, Protection and Development of women and children through rights based approach.
- **Eleventh five year plan**
 In the Eleventh Plan, for the first time, women are recognized not just as equal citizens but as agents of economic and social growth. The approach to gender equity is based on the recognition that interventions in favour of women must be multi-pronged and they must: (i) provide women with basic entitlements, (ii) address the reality of globalization and its impact on women by prioritizing economic empowerment, (iii) ensure an environment free from all forms of violence against women (VAW)—physical, economic, social, psychological etc., (iv) ensure the participation and adequate representation of women at the highest policy levels, particularly in Parliament and State assemblies, and (v) strengthen existing institutional mechanisms and create new ones for gender main-streaming and effective policy implementation.

INITIATIVES IN THE FIVE YEAR PLANS

Source: Indian gender resource center

- **First Five Year Plan (1951-1956)**

*"The principal social welfare problems relate to women, children, youth, the family, under-privileged groups and social vice. **The social health of any community will depend a great deal upon the status, functions and responsibilities of the woman in the family and in the community. Social conditions should give to the woman opportunities for creative self-expression, so that she can make her full contribution towards the economic and social life of the community.** Problems relating to health, maternity and child welfare, education, employment, and conditions of work are dealt with elsewhere in this report. **Some problems of women have to be dealt through social legislation, but other problems pertaining to health, social education, vocational training, and increased participation in social and cultural life, provision of shelter, and assistance to the handicapped or maladjusted call for programmes at the community level.** As women have to fulfill heavy domestic and economic responsibilities, adequate attention has to be paid to the need for relaxation and recreation both in the homes as well as in the community. The welfare agencies have catered to some extent to the needs of the widow and the destitute woman, but the quality of the service rendered by them and the nature of their work needs to be surveyed...." (Chapter 36: Social Welfare)*

- **Second Five Year Plan (1956-1961)**

"A comprehensive social welfare programme would include, for instance, social legislation, welfare of women and children, family welfare, youth welfare, physical and mental fitness, crime and correctional administration and welfare of the physically and mentally handicapped. It would also include in the special circumstances and background of India, a programme for fulfilling the objective of Prohibition. In this chapter development in the field of social welfare services, including Prohibition, which have taken place during the period of the first five year plan and those projected for the second plan are briefly outlined..." (Chapter 29: Social Welfare Services)

- **Third Five Year Plan (1961-1966)**

*"In drawing large numbers of voluntary workers, especially women, into the field of creative social service, the community is itself enriched and strengthened. Inevitably, extension in a field of activity as varied and dispersed as social welfare brings its own problems, and these call for systematic review from time to time of what has been achieved and of the measures needed to improve the quality of welfare services...Considerable emphasis is being placed in the Third Plan on child welfare programmes...In the programme for social defence, priority is given to schemes for the prevention and treatment of juvenile delinquency, social and moral hygiene and suppression of immoral traffic in women and girls. It is proposed to begin a systematic attack on the problem of beggary. In developing probation and aftercare services, it should be ensured that women and children are specially assisted. To deal with the problem of commercialized prostitution, the Suppression of Immoral Traffic Act was passed in 1956. In pursuance of this Act, the necessary institutions for the custody, training and rehabilitation of the women and girls affected are being established. In the course of the Second Plan, 10 protective homes, 16 rescue homes and 70 reception centres have been established. Additional centres will be set up in the Third Plan. **Apart from setting up these centres, it is important to consider how the present programme for social defence could be worked even more effectively and the lines along which the community and the family could participate more fully in the work of rehabilitating women and girls...**" (Chapter 35: Welfare Programs: Social Welfare)*

- **Fourth Five Year Plan (1969-1974)**

*"Absence of statistics and lack of information about the performance of different schemes comes in the way of planning and implementation of welfare programmes. It would be necessary for the Departments of Social Welfare at the Centre and in the States to consider in detail how this weakness can be remedied. Research and survey of major social problems should be sponsored by organisations like the Social Science Research Council and the social welfare programmes evaluated through the existing machinery in the Centre and the States. The machinery for collection of statistics and for research needs to be improved and statistical cells established in the Central and State departments of Social Welfare and the Central and State Social Welfare Advisory Boards. It would be desirable to organize training and orientation courses for officers at various levels in collaboration with the existing school of social work and draw them more closely into the programmes of development. **A comprehensive review of existing social legislation is necessary to assess to what extent the laws have functioned as instruments of directed social change and to identify the problems of their implementation. A detailed analysis of the level of development of welfare services, whether by Government or by voluntary organisations, should be prepared in each State at regular intervals and the gaps identified.** The supervision of programmes at the field level should be effective in order to raise the standards of service..."* (Chapter 20: Social Welfare Schemes)

- **Fifth Five Year Plan (1974-1979)**

*"The National Population Policy lays down a target for birth rate of 25 per thousand and a population growth rate of 1.4 per cent by the end of the Sixth Plan period. **The policy envisages a series of fundamental measures including raising of the minimum age for marriage, female education, spread of population values and the small family norm, strengthening of research in reproductive biology and contraception, incentives for individuals, groups and communities and permitting State Legislatures to enact legislation for compulsory sterilization.** The targets laid down in the National Population Policy correspond to those laid down in the Draft Fifth Plan for achievement by the end of the Sixth Plan and are expected to be reached. For the period 1986-91, the population growth rate is estimated at 1.1 percent. The population is estimated at 725.4 million by 1988-89 and at 744.8 million by 1991. The rural population is estimated at 545.1 million by 1988-89 and the urban population at 180.3 million...**Care has been taken to ensure that important programmes like Integrated Child Care Services, Working Girls Hostels, Scholarships for Handicapped Persons in the Central Sector and women and child welfare Programmes and Programmes of Social Defence in the State sector are provided adequate funds...**"* (Chapter 2: The Perspective)

- **Sixth Five Year Plan (1980-1985)**

*"The Constitution of India not only provides for equal rights and privileges for women and men but also for making special provision for women. A series, of social legislations have been enacted from time to time for raising the status of women in the country. **The Five Year Plans have consistently placed special emphasis on providing minimum health facilities integrated with family welfare and nutrition for women and children, acceleration of women's education, their increase in the labour force and welfare services for women in need. Various welfare and development schemes have been introduced to improve the living conditions of women and to increase their access to and control over material and social resources.** Special steps have been taken to remove legal, social and other constraints to enable them to make use of the rights and new opportunities becoming available for them...Various studies show that women are becoming increasingly conscious of their rights and capabilities. However, **the demographic features of female population like excessive mortality in female children resulting in persistent decline in sex ratio, low rate of literacy, and low economic status stress the need for greater***

attention to the economic emancipation of women. The low status of women in large segments of Indian society cannot be raised without opening up of opportunities of independent employment and income for them. But the process of change to raise the status of women under various spheres of socio-economic activities would require sustained effort over a period of time..." (Chapter 27: Women and Development)

- **Seventh Five Year Plan (1985-1989)**

*"A number of social enactments have been put on the statute books for removing various constraints which hindered their progress. In spite of these measures, women have lagged behind men in different spheres, especially in education. **The female literacy rate has consistently been lower in rural as well as urban sectors. In rural areas, where 77 per cent of the female population lives, women's literacy rate is only 17.96 per cent. The urban literacy rate for females is 47.82 per cent.** The literacy rate for females varies from 65.73 per cent in Kerala to only 11.42 per cent in Rajasthan. There are many reasons for this, generally of sociological nature.*

***The health problem of women in society at large is another crucial area not given the required attention.** Due to the predominantly patriarchal order, women are confined within an oppressive environment. **Differences are frequently noted between health and nutritional status of men and women.** Nutritional surveys have indicated high rates of inadequacies among females compared to males. Female infants and children are subject to neglect in respect of nutrition and health care. Statistics from primary health centres show that adult women do not generally take treatment from them. Maternal mortality continues to be very high. A number of studies have indicated that a large number of children suffer from malnutrition, to which the mother's poor health contributes to a great extent. Anaemia among rural women is estimated to be as high as 60—80 per cent, leading to low birth weight among babies.*

*According to the 1981 Census, only 14 per cent of the total female population in the country falls in the category of "workers". **The unpaid economic activities of women and their contribution through work in the domestic sectors remain unreported in the census.** An ILO study has estimated that the value of unpaid household work constitutes 25-39 per cent of the total gross national product in developing countries..." (Volume II, Chapter 14: Socio-economic Programmes for Women)*

- **Eighth Five Year Plan (1992-1997)**

*"Human resource development plays a critical role in the socio-economic development of a country. It is an investment towards improving the quality of human life. Although development brings economic gains to society in general, **specific measures become necessary to ensure that they reach the disadvantaged and the weaker sections of the population such as women, children, the disabled, the elderly, and the destitute.** The welfare and development of these weaker sections of the society largely depend upon suitable policy directions executed through appropriate programmes and strategies.*

***The need to bring women into the mainstream of development has been a national concern since Independence.** Article 15 of the Constitution prohibits any discrimination on grounds of religion, race, caste, sex etc. Article 15(3), however, clarifies that this provision will not prevent the State from making any special provisions for women and children.*

*In the earlier phase of Indian planning, women's development concerns had a low profile. There were, however, some significant beginnings. **A major initiative was the establishment of the Central Social Welfare Board in 1953 to promote and assist voluntary organisations in the field of women welfare, child welfare and welfare of the handicapped.** Under the community development programme, **Mahila Mandals were promoted and supported since the Second Plan.** Some legislative measures were also undertaken to protect the interests of women as,*

for instance, the Suppression of Immoral Traffic in Women and Girls Act, 1956, the Hindu Succession Act, 1956, the Dowry Prohibition Act, 1961 and the Maternity Benefit Act, 1961. The Third and the Fourth Plans accorded a high priority to education of women. Measures to improve maternal and child health services, supplementary feeding for children and nursing and expectant mothers were introduced. The Fifth Plan supported economic development, employment and training for women as the principal focus for their socio-economic development. The main approach in these Plans was generally to view women as the beneficiaries of social services rather than as contributors to development..." (Volume II, Chapter 15: Social Welfare)

- **Ninth Five Year Plan (1997-2002)**

*"Women and children, who represent more than two third (67.7 per cent) of the country's total population, constitute the most important target groups in the context of the present day developmental planning. **Therefore, their concerns are placed on the priority list of the country's developmental agenda. Needless to say, they have the strength and support of the Constitution.***

*Women, as a separate target group, account for 407.8 million (including girl children) as per the 1991 census and constitute 48.1 per cent of the country's total population. **Depending upon the developmental needs of the individual age groups, the entire female population has been categorised into five distinct sub-groups, viz. i) girl children in the age-group 0-14 years, who account for 153.85 million (37.8%) and deserve special attention because of the gender bias and discrimination they suffer from at such a tender age; ii) adolescent girls in the age group 15-18 years, who account for 38.70 million (9.5%) and are very sensitive from the view point of planning because of the preparatory stage for their future productive and reproductive roles in the family and society; iii) women in the reproductive age group of 15-44 years, numbering 183.67 million (45.1%) who need special care and attention because of their reproductive needs; iv) women in the economically active age group of 15-59 years, who account for 226.04 million (55.5%) and have different demands like those of education/training, employment, income generation and participation in the developmental process, decision making etc; and v) the elderly women in the age group 60+, numbering 27.17 million (6.7%) who have limited needs mainly relating to health, emotional and financial support..." (Volume II, Chapter 3.8: Empowerment of Women and Development of Children)***

- **Tenth Five Year Plan (2002-2007)**

*"In particular, the intra-household disadvantages faced by women and children need to be recognised and redressed. It is proposed that during the Tenth Plan, **the following measures be taken: National Plan of Action to operationalize the Women's Empowerment Policy; National Policy and Charter for Children; National Commission for Children to ensure protection of their rights; National Nutrition Mission; Pilot project for providing food-grains to under-nourished pregnant and lactating mothers and to adolescent girls...**In pursuance of the avowed objective of empowering the women as agents of socio-economic change, the National Policy on Empowerment of Women was adopted in April, 2001. On this basis, the National Plan of Action, is being implemented which includes the following strategies, (a) create an enabling environment for women to exercise their rights both within and outside their homes; (b) to reserve one-third of seats for women in the Lok Sabha and State Legislative Assemblies (c) to adopt a special strategy for the Women Component Plan to ensure that at least 30% of funds and benefits flow to women from all development sectors (d) to organize women into self-help groups as a mark of the beginning of empowering them (e) to accord high priority and ensure easy access to maternal and child health services (f) to initiate steps for eliminating gender bias in all educational programmes; and to institute plans for free education of girls upto college*

levels including professional levels (g) to equip women with necessary skills in modern upcoming trades which would make them economically independent and self-reliant (h) to increase women's access to credit through setting up of Development Bank for women entrepreneurs in the small and tiny sectors..." (Volume II: Sectoral Policies and Programmes)

- **Eleventh Five Year Plan (2007-2012)**

"Women are significant contributors to the growing economy and children are assets of the future. Almost 50% of our population today comprises women while 42% is under the age of 18. For growth to be truly inclusive, we have to ensure their protection, wellbeing, development, empowerment and participation.

India has committed to meeting the MDGs and is a signatory to many international conventions, including Convention for Elimination of all forms of Discrimination against Women and the Convention on the Rights of the Child. Yet, at the start of the Eleventh Five Year Plan, women and children continue to be victims of violence, neglect, and injustice. The Eleventh Plan will address these problems by looking at gender as a cross-cutting theme. It will recognize women's agency and the need for women's empowerment. At the same time it will ensure the survival, protection, and all-round development of children of all ages, communities and economic groups.

The vision of the Eleventh Five Year Plan is to end the multifaceted exclusions and discriminations faced by women and children; to ensure that every woman and child in the country is able to develop her full potential and share the benefits of economic growth and prosperity. Success will depend on our ability to adopt a participatory approach that empowers women and children and makes them partners in their own development. The roadmap for this has already been laid in the National Policy on Women 2001 and the National Plan of Action for Children 2005.

The Eleventh Plan recognizes that women and children are not homogenous categories; they belong to diverse castes, classes, communities, economic groups, and are located within a range of geographic and development zones. Consequently, some groups are more vulnerable than others. **Mapping and addressing the specific deprivations that arise from these multiple locations is essential for the success of planned interventions. Thus apart from the general programme interventions, special targeted interventions catering to the differential needs of these groups will be undertaken during the Eleventh Plan.**

The gender perspectives incorporated in the plan are the outcome of extensive consultations with different stakeholders, including a Group of Feminist Economists. In the Eleventh Plan, for the first time, women are recognized not just as equal citizens but as agents of economic and social growth. The approach to gender equity is based on the recognition that interventions in favour of women must be multi-pronged and they must: (i) provide women with basic entitlements, (ii) address the reality of globalization and its impact on women by prioritizing economic empowerment, (iii) ensure an environment free from all forms of violence against women (VAW)—physical, economic, social, psychological etc., (iv) ensure the participation and adequate representation of women at the highest policy levels, particularly in Parliament and State assemblies, and (v) strengthen existing institutional mechanisms and create new ones for gender main-streaming and effective policy implementation.

The child development approach in the Eleventh Plan is to ensure that children do not lose their childhood because of work, disease, and despair. It is based on the understanding that the rights of all children, including those who do not face adverse circumstances, must be protected everywhere and at all times so that they do not fall out of the social security net. Successful integration of survival, development, protection, and participation policies are important for the overall well being of the child.

The Eleventh Plan lays down six monitorable targets (1) Raise the sex ratio for age group 0–6 from 927 in 2001 to 935 by 2011–12 and to 950 by 2016–17; (2) Ensure that at least 33% of the direct and indirect beneficiaries of all government schemes are women and girl children; (3) Reduce IMR from 57 to 28 and MMR from 3.01 to one per 1000 live births; (4) Reduce malnutrition among children of age group 0–3 to half its present level; (5) Reduce anaemia among women and girls by 50% by the end of the Eleventh Plan; and (6) Reduce dropout rate for primary and secondary schooling by 10% for both girls as well as boys."

SOME LEGISLATIVE MEASURES TAKEN BY THE GOVERNMENT OF INDIA FOR THE EMPWERMMENT OF WOMEN:-

- The Suppression of Immoral Traffic in Women and Girls Act, 1986,
- The Hindu Succession Act, 1956,
- The Dowry Prohibition Act, 1961
- The Maternity Benefit Act, 1961.
- Protection of women from Domestic violence act 2005
- Commission of Sati (Prevention) Act, 1987
- Child Marriage Restraint act
- Family codes Act
- Foreign marriage Act
- Indian Penal Codes relating to crimes against women
- Indecent Representation of Women
- National Commission for Women Act

VARIOUS SCHEMES FOR WOMEN

- Awareness Generation Projects for Rural and Poor Women
- Condensed Course of Education for Adult Women
- CSWB Scheme
- Development of Women and Children in Rural Areas (DWCRA)
- Distance Education for Women's Development and Empowerment
- Education Work for Prevention of Atrocities on Women
- Family Benefits Scheme
- Family Counseling Centre
- Kishori Shakti Yojana (KSY)
- Maternity Benefits Scheme
- NORAD Scheme
- Rashtriya Mahila Kosh
- Scheme for Working Women Hostels
- Science and Technology for Women
- Support to Training and Employment Program for Women (STEP)
- Swa Shakti Project
- Swayamsidha Scheme
- Vocational Training Programme