

# Women

## SUMMARY OF KEY ISSUES IN PREVIOUS UPR CYCLES

India accepted 22 recommendations pertaining to women's rights in the UPR-II, relating to adequate budget allocations, evaluating impact of laws/ schemes in respect of marginalised women; redouble efforts on gender equality and elimination of discrimination; address sexual violence, sex selection, education, reproductive and maternal health.

The implementation of the law reform relating to sexual offences is impeded considerably by budgetary cuts that impact appointment/ training of special mechanisms and support services for victims. Inadequate investments in education, health coupled with growing privatisation has increased vulnerability of women and girls from marginalised population groups. Loss of traditional livelihoods, displacement, and lack of safe migration for rural and unorganised sector women workers has increased vulnerability to exploitation and trafficking.

There is an urgent need to focus on resourcing and implementation of existing laws and programmes, with monitoring their impact on women.

## CHALLENGES

## ISSUES AND IMPACTS

Anti-discrimination and equal opportunity

With accelerated privatization of essential and basic services, and an ever-expanding private and transnational presence in the market, equal opportunities and non-discriminatory provisions must be made available vis-a-vis the private sector. There is severe under-representation of women, SC, ST and other marginalized people in these employment spaces as well as in legislative bodies.

Institutional framework, resource and budgeting

The Ministry of Women and Child Development (MWCD) allocates nearly 80% of its funds towards child development (ICDS) with less than 20% for women. There was a considerable drop in resources allocation in 2015, and inspite of an incremental increase in 2016, the low budget continues to adversely impact women's programming. Most women's schemes depend on the state government's priorities/ funds, impeding creation of special mechanisms to address violence against women and support services.

The National Commission for Women (NCW) lacks financial or institutional autonomy from the MWCD, impeding its oversight and advisory role. Gender Responsive Budgeting (GRB) allows integration and addressing of gender issues across ministerial domains but in the absence of participation of women's groups in planning, or data collection for impact assessment, this has become an ineffective exercise.

Violence against women and girls

Since 2012, four legislations have been enacted to address violence against women, children and against SC/ST - the Criminal Law Amendment Act, 2013 on sexual offences; Sexual Harassment at the Workplace Act, 2013, Protection of Children from Sexual Offences, 2012 and Schedule Caste Schedule Tribe (Prevention of Atrocities) Amendment Act, 2015.

Even as the law stands strengthened, gaps remain in respect of marital rape and for prosecution of armed forces. Victim centric measures including compensation, medical aid, provision for special educators, interpreters although salutary, are scarcely available. The increase in the legal age for sexual consent from 16 to 18 years obstructs legitimate access of adolescents to health and support services, increasing their vulnerability to moral policing and retribution for transgressing caste, religious, sexual and honour related taboos.

Budgetary cuts and delegating the resource allocation to states, has scaled down the establishment of implementation mechanisms and support services. One-Stop Crisis Centres (OSCC), originally slated for every district, are just 17 OSCC across the country yet; complaints committees to implement the workplace sexual harassment law at the district level and in private enterprises are followed more in the breach.

Conflict

Conflict-induced displacement is a growing concern particularly in the absence of a law protecting rights of Internally Displaced Persons (IDP), and provisions addressing concerns of women, elderly, sick, injured and children. Women in these situations face multiple barriers to accessing health care, education and livelihoods, or legal redress. In most cases, IDPs do not possess identity cards, leaving them out of the purview social security provisions. Women living in camps for prolonged periods are vulnerable to trafficking and unsafe migration. Further, the impunity enjoyed by armed forces in areas under operation of Armed Forces Special Powers Act (AFSPA) remains a serious concern.

Health

India's budgetary allocation for health is less than 1% of GDP, leading to shortages of skilled human resources, an over-reliance on an exploitative private health sector – and debilitating debt, poverty and sickness for millions. Although the National Rural Health Mission focuses on maternal health, reports of maternal deaths point to persistent gaps. Despite the JSSK Scheme seeking to improve access to health care during pregnancy, childbirth, post-partum and infant care phases, access is obstructed or denied, forcing some women to access private services. Availability of safe abortion is compromised by poor access, poor quality and the denial of care. Services like Anti-Retroviral Therapy (ART), supply of condoms, particularly for sex workers and HIV positive women are not adequately and consistently available, with compulsory HIV testing.

Education

The resource allocation to education remains below 6% of GDP, with consistent reduction in proportion to the GDP the last four years. The refusal to adopt Comprehensive Sexuality Education (CSE) disables adolescents and youth from accessing age-appropriate, medically accurate information on sexuality to enable them to make informed decisions about their sexual and reproductive health. Education must be an agent of social transformation in the draft National Education Policy 2016, as it was in NEP 1986. One of the most impactful social-justice initiatives in education led by marginalized women, the Mahila Samakhya has suffered, and in some cases closed down because denial of central funds.

## CHALLENGES

### Labour and Livelihood

State policy has increasingly adopted market-based growth models of development, focusing on profits and productivity to the neglect of social justice priorities in respect of women/ marginalised groups. This has led to joblessness and decreasing work participation rates for women especially in the formal sector. Migration due to breakdown of livelihoods, with few options for safe migration, pushes unorganised sector women workers into situations of trafficking and exploitative labour.

Proposed labour reforms focus on skill building for industries without addressing safe migration, regulation of informal and unorganised sector workers, safe work conditions, or social security. Approaches to trafficking conflate sex work with trafficking, which together with criminalisation of soliciting (an aspect of sex work), results in systemic harassment of sex workers (in addition to the social stigma). The frontline women workers of the development programmes are treated as volunteers and not employees, paid poorly with no social or job security.

A Surrogacy Regulation Bill (2016) seeking to ban commercial surrogacy, besides barring foreigners, single people, same-sex couples, live-in partners, and married couples with children from availing surrogacy, risks pushing commercial surrogacy underground to the detriment of poor women surrogates.

## ISSUES AND IMPACTS

## RECOMMENDATIONS

**Pass the long-pending Women's Reservation Bill to ensure women's representation in legislative bodies at the Centre and the States. Women specific schemes must receive sufficient budgetary allocations from the centre, without devolving the responsibility to the discretion of States.**

**Strengthen and align the National Commission for Women (NCW) with powers and autonomy in line with Paris Principles governing National Institutions for Promotion and Protection of Human Rights, 1993, as recommended by CEDAW.**

**Ensure frontline workers for social justice programmes guaranteeing security of employment, minimum wages and social security.**

**Gender Resource Budgeting (GRB) planning must be undertaken in consultation with the civil society groups and this must be evaluated and backed by evidence of gender-disaggregated data for each scheme.**

**Remove the requirement of prior sanction for prosecuting public servants (including armed forces) and introduce penalty for police inaction in cases of rape in the state of Jammu and Kashmir, to make the law consistent with the penal code applicable to the rest of India.**

**Marital rape must be fully criminalised, and restore the age of sexual consent in law to 16 years.**

**One-stop crisis centers must be scaled up to one per district, and these must provide psycho social, medical and legal support to all victims of gender based violence.**

**The MWCD's scheme, Swadhar Greh must be expanded and similar interventions by States need greater budgetary allocations.**

**Adopt a National policy on conflict in compliance with CEDAW General Recommendations No 30.**

**Constitute an empowered National Task Force on Violence Against Women in conflict regions.**

**Prohibit mandatory testing on sex workers, Men who have sex with Men (MSM), transgender persons for HIV/AIDS.**

**Laws and policies that restrict access to safe abortion services must be revised.**

**Assisted Reproductive Technology industry must be regulated to ensure ethical medical practices, including the protection of the rights egg donors, surrogates and those who access Assisted Reproductive Technologies (ARTs).**

**Institute and resource programmes like the Mahila Samakhya that use education as a medium of empowerment and social justice for the most marginalized women.**

**Recognise women as primary workers; record invisible unpaid work; skill-building, access to legal rights and support services such as credit, markets, social security, with the necessary resource investments.**

**Construct positive legislation for protection of women in the informal sector, sex work, special zones and arenas like garment and fisheries industries where women employees are at risk.**

**Strengthen protective and redress mechanisms for women workers in all sectors, including the law on workplace sexual harassment; and expand social security, crèche, Public Distribution System, Mid-day Meal, access to the Commons.**

**Maternity benefit schemes must be made unconditional and universally available to all informal sector workers. (The Central Scheme for maternity benefit under the National Food Security Act 2013 must be implemented.**

## REFERENCES

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Fact Sheet prepared by Partners for Law in Development, (PLD), (Member WGHR) for Working Group on Human Rights in India and the UN (WGHR)