

RIGHTS ISSUES

Right is a claim, a social claim necessary for the development of human personality. It is not an entitlement a person is possessed with. In the ancient and medieval times, -some people were entitled to enjoy privileges, but we do not call them rights. Rights are not privileges because they are not entitlements. There is a difference between rights and privileges: rights are our claims against others, as are rights of others' claims on us; entitlements are, privileges granted to some but denied to others; rights are universal in the sense they are assured to all who live in the society, privileges are not universal in the sense because they are possessed by the few; rights are granted to all without any discrimination, privileges are showered on some, the selected few; rights are obtained as a matter of right, privileges, as a matter of patronage; rights are social, because they exist in society and because they are available to all the members of the society for the good of all. Above all they are democratic in nature.

HUMAN RIGHTS

Human rights are rights worthy of human beings as human beings. S. Ramphal has very rightly stated that the human rights were not born of men but they were born with men. They are not as much a result of the efforts of the United Nations as are the emanations from basic human dignity. They are human rights because they are with the human beings as human beings or atleast they should be their rights as citizens of this world.

Human rights may generally be defined as those rights which are inherent in our nature and without which we cannot live as human beings. They are essential because they help us to develop and use our human faculties, talents, intelligence, and seek to satisfy our spiritual and other needs. They base themselves on mankind's increasing demand for a life in which the inherent dignity and worth of each human being will receive respect and protection.

Human rights lay at the roots of all organisations. These permeate the entire UN Charter. In the

Preamble of the UN Charter, there is its determination "to affirm faith in fundamental Human Rights, in the dignity and worth of the Human person} in the equal rights of men and women and the nations, large and small".

When created in 1946, the United Nations Commission on Human Rights was composed of 18 Member States. During its first sessions, the main item on the agenda was the Universal Declaration of Human Rights. The Commission set up a drafting committee which devoted itself exclusively to preparing the draft of the Universal Declaration of Human Rights. The drafting committee was composed of eight persons, from Australia, Chile, China, France, Lebanon, the Union of Soviet Socialist Republics, the United Kingdom and the United States of America. The United Nations Secretariat, under the guidance of John Humphrey, drafted the outline (400 pages in length) to serve as the basic working paper of the Committee.

During the two-year drafting process of the Universal Declaration, the drafters maintained a common ground for discussions and a common goal: respect for fundamental rights and freedoms. Despite their conflicting views on certain questions, they agreed to include in the document the principles of non-discrimination, civil and political rights, and social and economic rights. They also agreed that the Declaration had to be universal.

Personally dedicated to the task of preparing this Declaration, Mrs. Eleanor Roosevelt, who chaired the Human Rights Commission in its first years, asked, "Where, after all, do universal human rights begin? In small places, close to home — so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighbourhood he lives in; the school or college he attends; the factory, farm or office where he works. Such are the places where every man, woman and child seeks equal justice, equal opportunity, equal dignity without



discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world."

On 10 December 1948, at the Palais de Chaillot in Paris, the 58 Member States of the United Nations General Assembly adopted the Universal Declaration of Human Rights (UNDHR), with 48 states in favour and eight abstentions (two countries were not present at the time of the voting). The General Assembly proclaimed the Declaration as a "common standard of achievement for all peoples and all nations", towards which individuals and societies should "strive by progressive measures, national and international, to secure their universal and effective recognition and observance". The UNDHR contains a Preamble and 30 Articles. The UNDHR is being given below for the benefit of the students.

THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

Preamble

Whereas 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,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples 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,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3: Everyone has the right to life, liberty and security of person.

Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6 : Everyone has the right to recognition everywhere as a person before the law.

Article 7: All are equal before the law and are



entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9: No one shall be subjected to arbitrary arrest, detention or exile.

Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12 : No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13: (1) Everyone has the right to freedom of movement and residence within the borders of each state.

(2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14: (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.

(2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15 : (1) Everyone has the right to a nationality.

(2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

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. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

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

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17: (1) Everyone has the right to own property alone as well as in association with others.

(2) No one shall be arbitrarily deprived of his property.

Article 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19: Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20: (1) Everyone has the right to freedom of peaceful assembly and association.

(2) No one may be compelled to belong to an association.

Article 21: (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

(2) Everyone has the right of equal access to public service in his country.

(3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22: Everyone, as a member of society, has the right to social security and is entitled to



realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23: (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

(2) Everyone, without any discrimination, has the right to equal pay for equal work.

(3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

(4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24: Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25: (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26: (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27: (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28: Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29: (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30: Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

CHILD RIGHTS IN INDIA

Children are innocent, trusting and full of hope. Their childhood should be happy and loving. Their lives should mature gradually, as they gain new experiences. But for many children, the reality of childhood is altogether different. 2 million Indian babies will die before they celebrate their first birthday. More girl children will be killed at birth than in any previous year. At least 35 million children aged 6-14 years (if you believe the official statistics) will not be in school. 17 million children in India work.

Right through history, children have been abused and exploited. They suffer from hunger and homelessness, work in harmful conditions, high



infant mortality, deficient health care and limited opportunities for basic education. A child need not live such a life. Childhood can and **must** be preserved. Children have the right to survive, develop, be protected and participate in decisions that impact their lives.

Child Rights are fundamental freedoms and the inherent rights of all human beings below the age of 18. These rights apply to every child, irrespective of the child's, parent's / legal guardian's race, colour, sex, creed or other status.

The essential message is equality of opportunity. Girls should be given the same opportunities as boys. **ALL** children should have the same rights and should be given the same opportunity to enjoy an adequate standard of living.

While all children need protection, because of their social, economic, or even geographical location, some children are more vulnerable than others and need special attention. These children are:

- Homeless children (pavement dwellers, displaced/evicted, refugees etc.)
- Migrant children.
- Street and runaway children.
- Orphaned or abandoned children.
- Working children.
- Child beggars.
- Children of prostitutes.
- Trafficked children.
- Children in jails/prisons.
- Children affected by conflict.
- Children affected by natural disasters.
- Children affected by HIV/AIDS.
- Children suffering from terminal diseases.
- Disabled children.
- Children belonging to the Scheduled Castes & Scheduled Tribes.

All people under the age of 18 are entitled to the standards and rights guaranteed by the laws that govern our country and the international legal instruments we have accepted by ratifying them.

In 1992, India ratified the United Nations Convention on Rights of the Child. The Charter of Child Rights (CRC) is built on the principle that "ALL children are born with fundamental

freedoms and ALL human beings have some inherent rights". The Charter confers the following basic rights on all children across the world:

- the right to survival** - to life, health, nutrition, name and nationality
- the right to development** - to education, care, leisure, recreation
- the right to protection** - from exploitation, abuse, neglect
- the right to participation** - to expression, information, thought and religion

The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 under the Commission for Protection of Child Rights Act, 2005, an Act of Parliament (December 2005). The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the UN Convention on the Rights of the Child.

The Constitution of India guarantees all children certain rights, which have been specially included for them. These include:

- Right to free and compulsory elementary education for all children in the 6-14 year age group (Article 21 A).
- Right to be protected from any hazardous employment till the age of 14 years (Article 24).
- Right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age or strength (Article 39(e)).
- Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment (Article 39 (f))
- The State shall make provisions for early childhood care and education for children upto six years of age. (Article 45).

SUPREME COURT'S DIRETIVES ON CHILDLABOUR

On 10th December 1996 in Writ Petition (Civil) No.465/1986 the Supreme Court of India, gave



certain directions on the issue of elimination of child labour. The main features of judgment are as under:

- Survey for identification of working children;
- Withdrawal of children working in hazardous industry and ensuring their education in appropriate institutions;
- Contribution @ Rs.20,000/- per child to be paid by the offending employers of children to a welfare fund to be established for this purpose;
- Employment to one adult member of the family of the child so withdrawn from work and if that is not possible a contribution of Rs.5,000/- to the welfare fund to be made by the State Government;
- Financial assistance to the families of the children so withdrawn to be paid out-of-the-interest earnings on the corpus of Rs.20,000/25,000 deposited in the welfare fund as long as the child is actually sent to the schools;
- Regulating hours of work for children working in non-hazardous occupations so that their working hours do not exceed six hours per day and education for at least two hours is ensured. The entire expenditure on education is to be borne by the concerned employer.
- The implementation of the direction of the Hon'ble Supreme Court is being monitored by the Ministry of Labour and compliance of the directions have been reported in the form of Affidavits on 05.12.97, 21.12.1999, 04.12.2000, 04.07.2001 and 04-12-2003 to the Hon'ble Court on the basis of the information received from the State/UT Governments.

CHILD LABOUR POLICY

Government policies and programmes

In pursuance of India's development goals and strategies, a National Child Labour Policy was adopted in 1987 following the Child Labour (Prohibition and Regulation) Act, 1986. The national policy reiterates the directive principle of state policy in India's Constitution. It resolves to focus general development programmes to benefit

children wherever possible and have project based action plans in areas of high concentration of child labour engaged in wage/quasi-wage employment.

The Ministry of Labour and Employment has been implementing the national policy through the establishment of National Child Labour Projects (NCLPs) for the rehabilitation of child workers since 1988. Initially, these projects were industry specific and aimed at rehabilitating children working in traditional child labour endemic industries. A renewed commitment to fulfil the constitutional mandate resulted in enlarging the ambit of the NCLPs in 1994 to rehabilitate children working in hazardous occupations in child labour endemic districts.

The strategy for the NCLPs includes the establishment of special schools to provide non-formal education and pre-vocational skills training; promoting additional income and employment generation opportunities; raising public awareness, and conducting surveys and evaluations of child labour.

The experience gained by the Government in running the NCLPs over several years resulted in the continuation and expansion of the projects during the Ninth Five-Year Plan (1997/02). Around 100 NCLPs were launched across the country to rehabilitate children working in hazardous industries such as glass and bangles, brassware, locks, carpets, slate tiles, matches, fireworks, and gems. The Central Government made a budgetary allocation of Rs 2.5 billion (about US\$57 million) for these projects during the Ninth Five-Year Plan. The Government of India has expanded the coverage of the NCLPs to an additional 150 districts and increase the budgetary allocation to over Rs 6 billion (about US\$131 million) during the Tenth Five-Year Plan (2003/07). Children in the age group of 5 - 9 years were enrolled directly under the Sarva Shiksha Abhiyan or the Education for All Movement commenced under the 10th Five Year Plan. Further, those in the age group of 9 - 14 were admitted to special schools under the NCLP schemes. Besides this, components of healthcare and vocational training were also augmented.

Most significantly in 2001-02 the Government launched the Sarva Shiksha Abhiyan or the Education for All Programme which is an effort



to universalize elementary education. This programme aims to achieve the goal of universal elementary education of satisfactory quality by 2010.

Schemes for Children under the 10th Five Year plan include the Planning Commission's Integrated Programme for Street Children which aims to prevent the destitution of children and engineer their withdrawal from streets by providing facilities like shelter, nutrition, health care, education, recreation and protection against abuse and exploitation. Accordingly to the Government, during the 10th Five Year Plan, over 200,000 children benefitted from this.

Further, the Scheme for Working Children in Need of Care and Protection by the Ministry of Women and Child Development provides non-formal education, vocational training to working children to facilitate their entry into mainstream education. This scheme has been implemented through NGOs. According to the Government, around 7,000 children benefited from this programme from 2005-2007.

The strategy outlined for the 11th Five Year plan (2007-12) includes expanding the NCLP scheme to ensure universal enrolment of children in the 6-14 age group to cover those in the hard-to-reach segment. It also includes substantial improvements in the quality and standard of education and teacher training. Another notable Government initiative under the 11th plan is to amend all laws to recognize everyone under the age of 18 as children and to take appropriate measures to protect their rights accordingly.

In September 2009, IPEC launched a Convergence Project against Child Labour which covers 5 States - Bihar, Gujarat, Jharkhand, Madhya Pradesh and Orissa. The project will demonstrate effective convergence-based models for elimination and prevention of child labour including trafficking/migration of children in each state.

The National Plan of Action for Children, 2005

The National Plan of Action for Children, 2005 is by far the most comprehensive planning document concerning children. Its value is that it clearly outlines goals, objectives, and strategies to achieve the objectives outlined and recognises the needs

of all children up to the age of eighteen. It is divided into four basic child right categories as per the **United Nations Convention on the Rights of a Child**: Child survival, Child development, Child protection and Child participation.

Child Survival firstly refers to child health. The plan outlines goals to reduce children's risk of contracting malaria, TB, and cholera, exposure to HIV/AIDS, and provide them with full immunisation, access to quality health care, water, food and sanitation. The goal is also to reduce the poor health indicators in IMR, CMR and NMR. In order to do this services need to provide mothers with adequate pre-natal medical attention and nutrition, encourage safe birth practises, encourage breast feeding as essential to having healthy babies, cover all children and women within the reproductive age with necessary immunisations, ensure proper coverage of all families under the **ICDS** scheme, educate communities about proper infant care, universalise use of oral rehydration solution to prevent dehydration in children, make efforts to detect and treat all diseases such as malaria and Dengue, take steps to prevent mother-child transmission of HIV/AIDS and provide children with the necessary care and medication to fight the infection, etc.

The second aspect of child survival is maternal health. In order to insure the healthy growth and delivery of children it is vital to look at the health of the mothers. The plan outlines initiatives to improve anaemia in mothers and girls, generate awareness about maternal health practices and child spacing, prevent and treat sexually transmitted diseases and infections, and ensure the health centres are full equipped to handle the needs of mothers and offer appropriate referrals.

The third aspect of child survival is nutrition. The plan aims at reaching optimal infant and child nutrition by promoting breast feeding and prohibiting milk substitutes for infants, conducting constant screening of children to ensure they are not underweight, empower families with information about child nutrition, provide anganwadi workers with training to address basic child diseases such as diarrhoea, make low cost complementary food products, etc. It is also important to address anaemia and vitamin A deficiency, address macro and micro



malnutrition through ICDS, Mid-day Meal, Public distribution systems and such programmes. Lastly a vital aspect to child survival is access to clear water and sanitation. Special attention is required for girl population and their access to drinking water, toilets, in rural areas and urban slums. In order to provide enough water for all there is need to begin water conservation practises such as rain water harvesting, reclining and reusing of water. Child Development begins with early childhood care and education. This section discusses the expansion of ICDS so it's available to all, development of pre-school centers and crèches, promoting community based initiatives, and creating awareness regarding birth registration and good parenting skills. The next section aims at equality and special opportunities for the girl child, survival, development and protection, elimination of sex selection and child marriage, protection against sexual and non-sexual abuse, protection from neglect, break down gender stereotypes and increase access to education facilities. Some of the strategies outlined in the plan for the girl child are advocacy through social, political and religious leaders and well as the government, proper enforcement of laws, support of non-government organizations and initiatives, monitor clinics to ensure that diagnostic tests are not being run illegally, etc.

The next section in child development discusses the needs of adolescents (children ages 13-18). The primary concerns with adolescents is child marriage, STDs, higher education curriculum, protection from exploitation, and providing adolescents with rehabilitation and support programmes so that they grow into responsible and aware citizens. This age group especially required support and counseling services. The next aspect of development is regarding children with disabilities. The plans aims are reducing the risk of living with a disability by taking preventive measure during pregnancy and right after birth, providing these children with the current facilities that will ensure their mental and physical development, and help children with disabilities the right to participate fully in society. To accomplish this state needs to strengthen programmes like ICDS, help children procure physical aids and learning material, make public building and transportation disabled friendly, etc.

Children's lives like all other human being are connected to the environment. In order to safeguard natural resources for our children the plan outlines the need to create recreational spaces for children, prevent toxic and harmful effects on the natural environment, use sustainable forms of production and energy, encourage children's understanding of their own surroundings, and take states to ensure better sanitation and hygiene in communities, etc. Lastly one of the most important aspects of child development is education. The plan discusses the importance of increasing access to public education to children with disabilities, girls, and children living in remote areas, improving infrastructure of schools, improving the quality of education, providing teachers with the correct training, reducing school drop-outs, supporting marginalised groups of society such as SC/STs/OBCs, establish counselling services in school, proving children with healthy mid-day meals,

The chapter on Child Protection discusses six main groups: children in difficult circumstances, children in conflict with law, sexual exploitation and child pornography, child trafficking, combating child labour and children affected by HIV/AIDS. Children in difficult circumstances require protection from exploitation, abuse and neglect. The aim is to protect vulnerable groups by providing them with the proper facilities and services according to their needs. While keeping the best interest of the child in mind the services should heave reunite families, rehabilitate and reintegrate children into society and then provide for special needs of children with disabilities, homeless children, street children, destitute and orphan children, etc.

Children in conflict with law have rights not to be prosecuted as adults and hence it is the duty of the government to ensure those rights and provide for the child while he/she is under their care. This can be done by studying the crimes children commit and reasons, implementing the provisions of the **Juvenile Justice Act 2000**, ensuring children are involved in their own legal proceedings, etc. The protection of children against sexual exploitation and child pornography requires the making of a law that persecute abusers, let up centres equipped to deal with victims, create awareness, set up information systems to investigate possible abuse, etc.



To protect children from trafficking the government needs to address root causes of vulnerability, sensitize police, medical facilities and media about the issue, create mechanisms to track, investigate and prevent trafficking, etc. To protect child labourers it is first important to understand the number of working children in India through the census survey, strengthen formal school systems, properly implement child labour laws, etc. To protect children affected by HIV/AIDs it is important to prevent mother child transmission of the disease, and provide children who are affected with the correct medicines, proper counselling, and include STDs and sexual education in school curriculum.

Lastly the Child Participation section discusses the need for awareness about child rights, and making sure children have the appropriate channels to voice their needs and concerns about their own services. Children have the right to information about themselves and society that concerns them so that they may make informed decisions; this is specially required for children in difficult circumstances. The last section of the plan outlined the need for proper child budgeting taking into consideration actual population of children, and proper implementation and monitoring of the plan and any programmes that concern children.

CHILD RIGHTS IN THE FIVE YEAR PLANS

The first five year plan (1951-56) identified health, nutrition and education as major areas of concern with regard to children. In 1953 the Central Social Welfare Board was set up to address the needs of children, women and persons with disabilities. The second five year plan (1956-61) aimed at strengthening the child welfare systems. Welfare projects were extended to become the Coordinated Welfare Extension Projects in 1958 and the Children's Act was passed in 1960. Internationally the Declaration of the Rights of the Child came into being on the 20th of November 1959. During the third five year plan (1961-66) the child was recognised as a human being with special needs and special efforts were made to coordinate between sectors to ensure these needs. Nutrition programmes were set up. And the Kothari Education Commission was set

up in search out solutions to the lack of universal education for children.

The fourth five year plan (1969-74) focused on getting basic services to children. Two major child policies came into existence, The National Education policy in 1968 (as recommended by the Kothari Education Commission) and the **National Policy for Children in 1974**. The fourth five year plan also saw the establishment of the following schemes: The Special Nutrition Programme, Balwadi Nutrition Programme and Prophylaxis Scheme against Blindness due to Vitamin A Deficiency among Children. The first five year plan (1974-79) saw a shift from child welfare to child development where again coordination of services was the main agenda. A major accomplishment in 1975, which was a result of all plans so far, was the launching of the Integrated Child Development Scheme. 1975 also saw the start of the Scheme of Crèches/Day Care Centres for Children of Working and Ailing Mothers. Another major achievement was the setting up of the National Children's Fund in 1979.

The sixth five year plan (1980-85) was when for the first time planners took into consideration the needs of working children. Programmes were undertaken to improve the health, nutrition and educational status of working children. Health concerns of children also took priority in these plan years with the introduction of the National Health Policy and the formulation of the Indian National Code for Protection and Promotion of Breast Feeding. The seventh five year plan (1985-90) saw the establishment of the Department of Women and Child Development in the **Ministry of Human Resource Development**. In 1986 the Government of India repealed the Children's Act and passed the Juvenile Justice Act instead and updated the **National Education Policy**. In 1987 the **National Child Labour Project** was started in areas that saw a high number of child labourers. Lastly in 1990 the government set up **CARA**, to handle all concerns and issues regarding adoption. Internationally this period was witness to the first comprehensive convention for child rights the UNCRC.

During the eighth five year plan (1992-97) India ratified the **UNCRC** there by making it a legal binding document. There was continued work in areas of day care, education, health, etc. But this



plan pays special focus also to the needs of the girl child. In 1992 the government adopted the National Plan of Action for the Girl Child. Some states also prepared similar documents and schemes for the girl child, for example, Haryana instituted the 'Apni Beti Apna Dhan' Scheme, Tamil Nadu initiated the 'Cradle Scheme', and Rajasthan introduced the 'Raj Lakshmi Scheme'. The ninth five year plan (1997-2002) continued to address the plight of the girl child, concentrating on addressing the problem of the declining sex-ratio as well as female foeticide and infanticide. In the field of health the government introduced the **Reproductive and Child Health programme (RCH)**. In the field of education the government launched **Sarva Shiksha Abhiyan (SSA)** in 2001-02. 2000 also saw the adoption of the new **Juvenile Justice (care and protection of children) Act**.

The last five year plan, the tenth plan (2002-07) the approach has shifted to a right-based one, insuring the survival, development and protection of children. The **Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act** was amended in 2003 to further address the problems of female foeticide and infanticide. Many other goals were set out such as reduction of Infant Mortality Rate (IMR) to 45 per 1000 live births by 2007 and reduction of Maternal Mortality Rate (MMR) to 2 per 1000 live births by 2007. These goals were to be accomplished by expanding existing scheme such as **ICDS**, universal immunization, Sarva Shiksha Abhiyan, etc. Major accomplishments have been a constitutional amendment making the Right to education a fundamental right, the revision of the **National Health Policy** to take into consideration more recent health concerns like HIV/AIDS, the amendment of the JJ act, and the adoption of the **Goa Children's Act of 2003**.

The current plan, the eleventh five year plan (2007-12) clearly states "Development of the child is at the centre of the Eleventh Plan". According to the MWCD working group report the plan outlines its work according to the **National Plan of Action for Children (NPAC) 2005**. There are four key areas the plan address: **ICDS**, Early Childhood Education, Girl child and Child Protection. The plan calls for further expansions of the ICDS services and reiteration of major concerns about infrastructure, training of workers, quality of

services, etc. Early childhood education needs a boost with regards to access, day care services, infrastructure, training, minimum standards and regulatory mechanisms, and revamping curriculum. With regard to Girl child the plan reiterates the goals set out in NPAC. Age specific and setting specific interventions are needed for girls. The eleventh plan recognizes the need for Child protection programmes and initiatives. It specially addresses the need of those children that have fallen out of the purview of previous interventions and hence fallen on difficult times. According to the **MWCD** report the eleventh plans idea of child protection is very limited and does not cover all commitments of NPAC.

An important change recommended by the **MWCD** which was not included in the previous five year plans is the introduction and adoption of the **Integrated Child Protection Scheme (ICPS)** in the protection agenda of the XIth Plan.

CONSUMER RIGHTS

Consumer right is defined as 'the right to be informed about the quality, quantity, potency, purity, standard and price of goods or services, as the case may be, so as to protect the consumer against unfair trade practices'.

Consumers participate in the marketplace by using a particular product. Had there been no consumer no company would exist. The status of consumer is more or less pathetic as far as consumer rights are concerned. Even though strong and clear laws exist in India to protect consumer rights, the actual plight of Indian consumers could be declared as completely dismal. Very few consumers are aware of their rights or understand their basic consumer rights. Of the several laws that have been enacted to protect the rights of consumers in India, the most significant is the Consumer Protection Act, 1986. Under this law, everyone, including individuals, a Hindu undivided family, a firm, and a company, can exercise their consumer rights for the goods and services purchased by them. It is important that, as consumers, we know at least our basic rights and about the courts and procedures that deal with the infringement of our rights.

In general, the rights of consumers in India can be listed as under:



- The right to be protected from all types of hazardous goods and services
- The right to be fully informed about the performance and quality of all goods and services
- The right to free choice of goods and services
- The right to be heard in all decision-making processes related to consumer interests
- The right to seek redressal, whenever consumer rights have been infringed
- The right to complete consumer education

The Consumer Protection Act, 1986 and various other laws like the Standards, Weights & Measures Act have been formulated to ensure fair competition in the market place and free flow of true information from the providers of goods and services to those who consume them. However, the success of these laws would depend upon the vigilance of consumers about their rights, as well as their responsibilities. In fact, the level of consumer protection in a country is considered as the correct indicator of the extent of progress of the nation.

The production and distribution systems have become larger and more complicated today. The high level of sophistication achieved by the providers of goods and services in their selling and marketing practices and various types of promotional activities like advertising resulted in an increased need for higher consumer awareness and protection. In India, the government has realized the plight of Indian consumers and the Ministry of Consumer Affairs, Food and Public Distribution has established the Department of Consumer Affairs as the nodal organization for the protection of consumer rights, redressal of all consumer grievances and promotion of standards governing goods and services offered in India.

A complaint for infringement of consumer rights could be made under the following circumstances in the nearest designated consumer court:

- The goods or services bought by a person or agreed to be bought by a person suffer from one or more deficiencies or defects in any respect
- A trader or a service provider resorting to restrictive or unfair trade practices

- A trader or a service provider charging a price in excess of the price displayed on the goods or the price that had been agreed upon between the parties or the price that had been stipulated under any law in force
- Goods or services that pose a hazard to the safety and life of a person offered for sale, knowingly or unknowingly, causing injury to health, safety or life.

NATIONAL CONSUMERS' DAY

We celebrate 24th December as the National Consumers' Day. It was on this day that the Indian Parliament enacted the Consumer Protection Act in 1986. India is one of the countries that have exclusive courts for consumer redressal. The consumer movement in India has made some progress in terms of numbers of organised groups and their activities. There are today more than 700 consumer groups in the country of which only about 20-25 are well organised and recognised for their work.

However, the consumer redressal process is becoming cumbersome, expensive and time consuming. Many a time, consumers are required to engage lawyers. These cases require time for filing and attending the court proceedings etc. In most purchases cash memos are not issued hence evidence is not easy to gather. Moreover most purchases in the market are small retail sales. The existing laws also are not very clear on the issue of compensation to consumers injured by defective products. After 20 years of the enactment of COPRA, consumer awareness in India is spreading but slowly.

The CONFONET (Computerization and Computer Networking of Consumer Forums) Project

The CONFONET project has been implemented in the backdrop of The Consumer Protection Act, 1986, which is a social legislation intended to protect consumers from all forms of exploitation. Under the provision of the Act, quasi-judicial machinery, namely, Consumer Forums at the district level and Consumer Dispute Redressal Commissions at the State and National Level were setup. With the objective to make the fruits of this benevolent Act reach its wide target audience, this project was initiated and an Executive Finance.



Committee (EFC) was prepared to provide a turnkey solution at each of the district forum, state commission & national level, including linkages with respective state and central governments. The Confonet Project has been catering to a wide range of beneficiaries with disparate needs and requirements. These include:

1. Consumers
2. Consumer Activists and NGOs
3. Members of Consumer Courts
4. Bar Councils
5. Advocates

The Confonet Project aims at serving all sections of its wide target audience through the various services offered by it. Information on Consumer Rights and Protection Consumers, NGOs, Consumer Rights Organizations and Consumer Activists can access information related to **Consumer Rights and Consumer Protection** through the Confonet Website.

WOMEN'S RIGHTS

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993.

IMPORTANT PROVISIONS IN INDIA

1. CONSTITUTIONAL PROVISIONS

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal

protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Constitutional Privileges

1. The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (**Article 15 (i)**)
2. The State to make any special provision in favour of **women** and children (**Article 15 (3)**)
3. Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (**Article 16**)
4. The State to direct its policy towards securing for men and **women** equally the right to an adequate means of livelihood (**Article 39(a)**); and equal pay for equal work for both men and **women** (**Article 39(d)**)
5. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (**Article 39 A**)
6. The State to make provision for securing just and humane conditions of work and for maternity relief (**Article 42**)
7. The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (**Article 46**)
8. The State to raise the level of nutrition and the standard of living of its people (**Article 47**)
9. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of **women** (**Article 51(A) (e)**)
10. Not less than one-third (including the number of seats reserved for **women** belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct



- election in every **Panchayat** to be reserved for women and such seats to be allotted by rotation to different constituencies in a **Panchayat (Article 243 D(3))**
11. Not less than one-third of the total number of offices of Chairpersons in the **Panchayats** at each level to be reserved for **women (Article 243 D (4))**
12. Not less than one-third (including the number of seats reserved for **women** belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every **Municipality** to be reserved for **women** and such seats to be allotted by rotation to different constituencies in a **Municipality(Article 243 T (3))**
13. Reservation of offices of Chairpersons in **Municipalities** for the Scheduled Castes, the Scheduled Tribes and **women** in such manner as the legislature of a State may by law provide (**Article 243 T (4)**)

2. LEGAL PROVISIONS

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women.

Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

- (1) The Crimes Identified Under the Indian Penal Code (IPC)
 - (i) Rape (Sec. 376 IPC)
 - (ii) Kidnapping & Abduction for different purposes (Sec. 363-373)
 - (iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
 - (iv) Torture, both mental and physical (Sec. 498-A IPC)
 - (v) Molestation (Sec. 354 IPC)
 - (vi) Sexual Harassment (Sec. 509 IPC)
 - (vii) Importation of girls (up to 21 years of age)

- (2) The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

 - (i) The Employees State Insurance Act, 1948
 - (ii) The Plantation Labour Act, 1951
 - (iii) The Family Courts Act, 1954
 - (iv) The Special Marriage Act, 1954
 - (v) The Hindu Marriage Act, 1955
 - (vi) The Hindu Succession Act, 1956 with amendment in 2005
 - (vii) Immoral Traffic (Prevention) Act, 1956
 - (viii) The Maternity Benefit Act, 1961 (Amended in 1995)
 - (ix) Dowry Prohibition Act, 1961
 - (x) The Medical Termination of Pregnancy Act, 1971
 - (xi) The Contract Labour (Regulation and Abolition) Act, 1976
 - (xii) The Equal Remuneration Act, 1976
 - (xiii) The Prohibition of Child Marriage Act, 2006
 - (xiv) The Criminal Law (Amendment) Act, 1983
 - (xv) The Factories (Amendment) Act, 1986
 - (xvi) Indecent Representation of Women (Prohibition) Act, 1986
 - (xvii) Commission of Sati (Prevention) Act, 1987
 - (xviii) The Protection of Women from Domestic Violence Act, 2005

3. SPECIAL INITIATIVES FOR WOMEN

(i) National Commission for Women

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

(ii) Reservation for Women in Local Self - Government

The 73rd Constitutional Amendment Acts



passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas. Some of the State governments have made provisions for 50% reservation for women in the local bodies.

(iii) The National Plan of Action for the Girl Child (1991-2000)

The plan of Action is to ensure survival, protection and development of the girl child

with the ultimate objective of building up a better future for the girl child.

(iv) National Policy for the Empowerment of Women, 2001

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “**National Policy for the Empowerment of Women**” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

