



- In 1976, a National Plan of Action was drawn in India upon the recommendation of Committee (CSWI) Constituted to report on the status of women in India.
- As the need for an apex body to press for women's interests were critical, the UN Commission on status of women recommended the establishment of a National Commission.
- This Commission was expected to play a multi-faceted role of being a catalyst, watchdog, evaluator as well as implementer.
- The period between 1974-1990 saw widespread emergence & proliferation of women's groups & organizations.
- The NCW was constituted on 31st January, 1992 as a statutory body at the national level, in pursuance to the National Commission for Women Act. CEDAW (Convention on Elimination of Discrimination Against Women), signed in 1979, is a very important International Treaty, which ensures women's empowerment.
- But India signed this treaty with some amendments on 9 July, 1993.
- The lack of constitutional machinery, judicial ability & social interest formed the foundation generated need for the formation of the National Commission for Women.
- Amnesty International's "human rights of women's work" encompassed a range of human rights as they relate to the equity needs of women, working at once to advance new rights & opportunities for all women & to combat abuses against them.
- In 1994, the International Conference on Population & Development in Cairo (ICPD) articulated the relationship between advancement & fulfillment of rights and gender equality & equity.
- In 1995, the fourth world conference on women in Beijing generated global commitments to advance a wider range of human rights of women.
- The article 6 of The Convention on the Rights of Persons with Disabilities recognizes that the State shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms, development, advancement and empowerment of women.
- The UN World Conference on Human Rights (1993) in Vienna confirmed that women's rights are human rights.
- According to a global study conducted by Thomson Reuters, India is the fourth most dangerous country in the world for women.

#### ORGANIZATION

- Chairperson is a person committed to the cause of women & is nominated by the central govt.
- Five Members, nominated by the central government from amongst persons of ability, integrity & standing who have had experience in law or legislation, trade unionism, management of an industry or organization committed to increasing the employment potential of women, women's voluntary organizations (including women activists), administration, economic development, health, education or social welfare.
- At least one Member each is nominated from amongst persons belonging to the Scheduled Castes & Scheduled Tribes respectively.
- The Chairperson and every Member hold office for a maximum period of three years, as may be specified by the Central Government.
- Member-Secretary - An expert in the field of management, organizational structure or sociological movement, or an officer who is member of a civil service of the Union or All India Service with appropriate experience
- The NCW is authorized to appoint committees to deal with special issues as may be taken up from time to time.
- It can co-opt as members of any committee such persons who are not its basic members.
- The co-opted members have the right to attend the meetings of the committee & take part in its proceedings but have no right to vote.
- They are, however, entitled to receive prescribed allowances for attending meetings. [Section 8].
- Each person holds office for a period of three years or till he attains the age of seventy.
- The Complaints & Investigation Cell of the commission processes the complaints received in oral, written or suo moto under Section 10 of the NCW Act.
- Legal Cell - to review the constitutional & legal safeguards provided for women, recommend remedial legislative measures, facilitate redressal of grievances & advice the Govt on all policy matters affecting women.
- Legal Cell has information regarding the new bills, laws proposed by the commission, important court interventions by the Commission and important court judgements also .
- Public Relations Cell also manages the following: - Press Releases - News Clippings in Commission's website - Subscription for monthly e- newsletter of the Commission.
- RTI Cell

- NRI Cell - dealing with issues pertaining to NRI marriages through Ministry of Overseas Indian Affairs.

#### FUNCTIONS

- To investigate & examine all matters relating to the safeguards provided for women under the Constitution & other laws.
- To present to the central govt, annual as well as special reports (whenever necessary) upon the working of those safeguards.
- To make recommendations for the effective implementation of those safeguards for improving the conditions of women.
- To review , the existing provisions of the Constitution from time to time & other laws affecting women & recommend amendments thereto for meeting any lacunae, inadequacies or shortcomings in them.
- To take up the cases of violation of the provisions of the Constitution & of other laws relating to women with the appropriate authorities.
- To look into complaints & take suo moto notice of matters relating to deprivation of women's rights;
- Non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development.
- Non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities.
- Finding strategies against discrimination - To call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal.
- Promotional & educational research – to suggest ways of ensuring due representation of women in all spheres & identify factors responsible for impeding their advancement, such as, lack of access to housing & basic services, inadequate support services & technologies for reducing drudgery & occupational health hazards and for increasing their productivity.
- Planning & development – To participate & advise on the planning process of socio-economic development of women. To evaluate the progress of the development of women under the Union and states.
- Regarding women prisoners – To inspect or cause to be inspected jails, remand homes, women's institutions or other place of custody where women are kept as prisoners or otherwise, and take up cases with the concerned authorities for remedial action.
- Legal aid to fund litigation : – involving issues affecting a large body of women. Submission of

reports – To make periodical reports to the Govt on any matter pertaining to women and in particular various difficulties under which women toil.

- All the reports of the Commission are to be submitted to the Central Govt & laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union & the reasons for the non-acceptance, if any, of any of such recommendations.
- Where any such report or a part of that is related to the functioning of any state govt , the same has to be forwarded to that government to be laid before the state legislature concerned.
- The NCW has, for the purpose of investigating any matter, all the powers of a civil court regarding:
  - a) Summoning & enforcing the attendance of any person from any part of India and examining him on oath;
  - b) Requiring the discovery and production of any document;
  - c) Receiving evidence on affidavits;
  - d) Requisitioning any public record or copy thereof from any court or office;
  - e) Issuing commissions for the examination of witnesses and documents; & for any other matter which may be prescribed. [Section 10]
- The central govt is bound to consult the NCW in all major policy matters affecting women.
- In December 1997, a letter from the Secretary, Department of Women and Child Development clarified that 'for the sake of protocol in the warrant of precedence the Chairperson would be equivalent in the rank to a High Court Judge & members likewise would be equivalent to additional secretaries.
- Conveniently left the chairperson & the members in a position junior to the bureaucrats. The position remains the same till today.
- Section 10(4) of the NCW Act gives the Commission the power to function as a Civil Court. It has the authority to summon any person from any part of the country. Seen in conjunction with functions 10(1)(a) to (n) this means the Commission will be summoning Govt officials including secretaries to the Govt of India who are bound to obey the summons of the Commission as they would of a civil court.
- If the members of the Commission are put in the category of additional secretaries as mentioned in the Govt letter dated 17th December 1997, the members may have to summon secretaries to the Government of India, top ranking officers, police officials etc. while they themselves would be in the category of additional secretaries.
- In the 1995-96 Report, the expert Committee on Law & Legislation constituted by the NCW has prepared a Draft Bill making appropriate

amendments in the NCW Act for appointment of a Commissioner for Women's Rights

- The Chairperson & the Member Secretary seem to have become two focal points of power.
- No other similar Commission has the position of a member secretary. They only have secretary to the commission.
- As per the NCW Act, the Member Secretary is nominated by the Central Govt for a term of three years.
- She is to be an expert in management, organizational structure or sociological movement & an officer who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union with appropriate experience.
- While the Act does not specify the role of the Member Secretary, according to sub-clause (1) of Regulation 16 of the NCW (Rules of Procedure) Regulations adopted in 1995, the Member Secretary is the administrative Head of the Commission. Clause (c) of Regulation 16 says that the Member Secretary is to, "supervise on the smooth functioning of the Commission, including the Secretariat, its officers and employees"
- Member Secretary is also to "oversee the receipt of grants from the Government under Section 11 of the Act and their disposal' under clause (d) of Regulation 16. Clause (h) of Regulation 16 gives the Member Secretary the right to examine all cases where it was necessary to invoke powers under Section 10(4) of the Act.
- A major controversy blew over the financial powers of the Commission between the Chairperson & Member Secretary of the fourth NCW.
- In the name of enhancing the powers of the Chairperson for "office & establishment expenditure," the memorandum actually struck at the root of financial autonomy of the Commission by making it mandatory for the Commission to consult the department of Women and Child Development.
- This was clearly against the spirit of the Section II, Clause (2) of the NCW Act which states, "The Commission may spend such sums as it thinks fit for performing the functions under this Act and such sums will be treated as expenditures payable out of the grants referred to it.
- Since the Commission is a statutory body, it is the Parliament that should decide the powers of the Commission & not the Ministry.
- Ministry intervention in the affairs of the Commission should be prohibited.
- An important area of Commission's work is to attend to the individual complaints of women or to take suo moto notice of cases of violence against women.
- Women's organizations have repeatedly been pointing out that it is mandatory on the part of the

govt to consult the Commission on all policy measures relating to women & that the Commission is not merely a recommendatory body.

- The Commission was not consulted on the draft of Agricultural Policy.
- Commission was severely handicapped by shortage of staff, space & other infrastructure & found itself dependent on the Department of Women & Child Development for many things, it is also true that the Commission was not making use of the scope provided to it by the NCW Act.
- The first Commission was unable to play the role of a watchdog & monitoring body on the government and the manner of its functioning distanced it from those active with the women's movements.
- All of its Annual Reports were prepared late & thus were placed in the Parliament only after its tenure was over, giving it no chance to follow up on its own recommendations.
- The Commission gave highest priority to 'political empowerment of women' & organised workshops & seminars and also worked with women's groups on raising awareness on this issues.
- Commission has not been able to develop institutional mechanisms to carry forward the work of each Commission.
- There is a very ad-hoc manner of working, with generally no continuity of work that is being done.
- No report mentions about the work done by the earlier Commission, the problems that it may have been facing.
- The first Annual Report of the Commission gives the number of Committees constituted for the purposes & also gave the names of the persons constituting these Committees.
- This practice was not followed thereafter in any of the Annual Reports and thus, it is difficult to know as to how these committees have been functioning and who all worked on these Committees in the following years.
- Interestingly, the 1996-97 Report boasts of taking up the herculean task of reviewing the 39 legislations concerning women as part of the Common Minimum Programme of the Government.
- As far as the Commission's work with regard to suggesting amendments in the criminal law is concerned, one finds that Commission's understanding of many issues is at variance with that of the women's organisations. For example, in crimes relating to women the emphasis is more on enhancing punishments.
- The members of the Commission are political nominees who have not worked on women issues, they clearly lack any understanding of the issues
- Section 17 of the Act makes it mandatory for the central govt to consult the Commission on all major policy matters affecting women.

- The Decade of Endeavour (1990-2001) Volume II reports that the Commission has made more than 700 recommendations to the Government till the year 2000.
- The recommendations accepted were more in the form of providing financial assistance to different categories of women under various government schemes, conducting training programmes.
- The Commission has come out with some good reports like Women Prisoners in Indian Jails, The Lost Childhood & Voice of the Voiceless: A study of Muslim Women in India.
- None of the Reports have been taken up by the govt - Recommendations on issues of ST & SC women in areas of health, employment & education have also not been considered by the Govt.
- The 1994-1995 Annual Report made concrete recommendations for women workers in the unorganized sector with regard to labour laws, which again have not been taken up by the government.
- The Action taken Reports have not been provided to the Commission in time.
- The govt is to consult the Commission on all policy matters concerning women, various members & chairpersons of the Commission have pointed it out that the commission is mostly informed after the decisions have already taken by the government.
- National Policy for Women that was prepared by the Department of Women & Child Development, under the Ministry of Human Resources, and was only later sent to the Commission for its comments.
- The chapter on Planning Process for Socio-Economic Development of Women, a standard one in all recommending on the socio economic development of women but in recent reports, instead of socio-economic issues, reporting of various programmes & projects being run by the govt, national & international conferences, seminars, meetings and workshops, campaigns, studies and state tours and visits undertaken by the Commission members.
- The recommendations of the NCW seem to be more protective & rehabilitative in nature and little emphasis is placed on the structural aspects and how to deal with them.
- Majority of complaints received by NCW have come from middle and lower middle class women.
- There is no clarity as to why the direct involvement of the Chairperson, members & Member Secretary was required for all the cases coming to the Commission, because of their preoccupation with many other issues, are not expected to have sufficient time to look into the details and follow up of all the complaints coming to the Commission.
- As a result, right from the beginning of functioning of the Complaints Unit, the emphasis has been on closing the cases at the earliest.
- According to the report brought out by Penal Reform & Justice Association (PRAJA). To quote," The contrast between the lower (executive) & upper (Administration) floors of the NCW is striking.
- There is no system of regular meetings where the cases are discussed so as to work out strategies as also to deal with other kind of problems associated with working on these complaints.
- Marginalisation of Counseling cell to the complaint unit (CCC)
- The NCW has not made any effort to make any assessment of the work being done by the CCC.
- The Annual Reports of the Commission cite only the cases where the intervention of the Commission was 'successful'.
- Mediation facilities & counseling as methods to prevent situations leading to criminal acts, as alternatives to formal mechanisms need to be strengthened .
- Despite the fact that the Commission regarded redressal of complaints as a major task, the manner in which this task was handled reveals a very rudimentary/ad hoc approach.
- The effectivity of Commission has come to depend on the personality of the Chairperson.
- The Commission has become a Chairperson centered body and the institution per se is not powerful.
- NCW can/should have made effective interventions in areas like short stay homes, shelters, childcare facilities etc.
- Lack of Vision. There are no defined goals.
- No system has been developed to work towards any defined goals & so there is no continuity.
- Intervening agency between govt & the women's groups Inadequate term .

#### CONTINGENCIES & NCW

- The first week of the nationwide lockdown, which has left many facing job losses, uncertainty over salaries, forced isolation & stressed households, has resulted in a steep rise in violence against women.
- The National Commission for Women (NCW), which receives complaints from across the country, has recorded a more than twofold rise in gender-based violence.
- Similarly, complaints relating to the "right to live with dignity" too have doubled, Such cases could pertain to discrimination on the basis of gender, class or caste or all three of them combined.
- Activists believe that these cases may only be the tip of the iceberg, as many women will not be able to reach out because of restriction on movement as well as a lack of privacy within homes.
- There is evidence that in situations of crisis or calamity there is an increase in violence against women.
- It was in order to address an anticipated rise in violence against women that France announced

that it would pay for 20,000 hotel bookings and contribute €1 million to organisations that fight domestic abuse as well as set up assistance points at supermarkets and pharmacies.

- Lockdown closed women's avenues to escape violence such as by relocating to their natal homes or contacting the local police
- The police is not the first port of call for victims of domestic violence and, therefore, alternative arrangements have to be put in place.
- For the long lockdown, women in distress, health services to women and abortion are included as essential services.
- Women organisations are criticising the role of NCW on the recent rise in the cases of domestic violence. The transparency in the appointment of members and chairperson is demanded by these organisation.
- Violence occurs at the attempts to uphold the 'honour' linked with socio-religious prejudices like caste, gender, ritualism, customs & traditions
- Recently, the current NCW head accused women of crying rape to settle property disputes and to claim compensation
- Earlier heads have, on various occasions, revealed the name of a molestation victim, or questioned women's failure to protect themselves at a Mangalore pub raided by the right-wing moral police.
- Instead of amplifying the voice of women on various issues, or doing the hard labour of building alliances, or shaping the urgent debate around consent & sexuality & autonomy, it chooses to parachute into sensational media "events".
- The composition & appointment mechanism for various national commissions widely differ.
- The NHRC must be headed by a former Chief Justice of India and have two members each from amongst judges and human rights experts — all to be

appointed by a high-level statutory committee. On the contrary, the NCM & NCW chairs and members are to be appointed by the govt in its unrestricted discretion.

- Feminist scholars Shilpa Phadke et al in their book "Why Loiter?" argued that in order to maximize their access to public space, women do not need "greater surveillance or protectionism," but rather "the right to engage in risk."
- For over 16 years, NCW chairpersons, those with direct links with the ruling party at the Centre.
- NCW was carrying out new surveys on the condition of women in jails and mental hospitals without referring to the recommendations made by previous commissions "which are gathering dust
- Commission is not contributing the reforms, instead reforms are the result of vociferous gender activism & aggressive women's movements
- Along with influencing policy decisions, this activism had also increased cross-sectional representation
- It is not seen reflected anywhere in the NCW.
- The Commission does not have concrete legislative powers. It only has the powers to recommend amendments and submit reports, which is not binding on the Govt.
- The Commission is dependent on grants from the Union Government and this could compromise the independence of the Commission.
- The manner in which the issues have been addressed, have mainly been symbolic gestures only
- Although India has close to 45 legislations that protect women against various atrocities, the situation of women in India is despondent.
- Women movement and activism should get the institutional support if a state is really striving for progression. NCW kept itself away from many popular women movements.