



DAYS OF NDA III GOVERNMENT



Coordinated by
Wada Na Todo Abhiyan

100 DAYS OF NDA III GOVERNMENT



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Contributors

Ajay Kumar Jha

Aparna Joshi

Asha Raveendran

Feminist Policy Collective

Financial Accountability Network

Juheb Jhony

Pallavi Gupta

Right to Food Campaign / Rozi Roti Adhikar Abhiyan, Prakriti

Right to Food Campaign / Rozi Roti Adhikar Abhiyan, Raj Shekhar

Right to Education Forum

Saurabh Sinha

Shweta Tripathi

Tejasvita Malhotra

Rita Manchanda

Credits

Coordinated by

Aditi Anand

Editors:

Bijoy Basant Patro, Aditi Anand, Adrian Dcruz

Consulting Editors:

Avinash Kumar

Design:

Aradhna Joanna

Gender Budget Focuses on Women's Safety but Lags in Education, Jobs, and Social Security

Women's groups have long argued that the criminal justice system needs to be reformed to function more effectively, ensuring fair and quick trials, with certainty and swiftness of convictions and a gender sensitive response from law enforcement, and all governance bodies for victims and survivors of gender based violence.

In the first 100 days of the new government, expectations were raised about India transitioning from women's development to 'women-led development' with the vision of a new India, where women are equal partners in the story of growth and national progress" (Economic Survey of India 2024). This raised hopes that perhaps the structural underpinnings of women's secondary status would be addressed: that includes – the low participation in the paid workforce and clustering in the informal sector, disproportionate burden of unpaid care work within the household, the lack of safety in public spaces and the workspace, gender parity in wages, and so forth.

Examining the announcements within the Union Budget 2024-25 and the recent changes in law (Bharatiya Nyaya Sanhita 2024) as well as recent data from a gender lens as well as reflected upon the recent incidents of egregious gender-based violence (GBV) that has once again raised the issue of political impunity and the low conviction rates for sexual violence against women, shows that the promises of 'women-led development' are far from being fulfilled or even taken seriously in these first 100 days. This is cause for concern.

A few highlights have been captured below.

1. Announcements on Gender Budgets within the Union Budget 2024-2025:

The Union Budget 2024-2025 (UB) announced the total allocation to the gender budget (GB) at INR 3,27,158.44 crore, which brings the share of Gender Budget to total

expenditure to over 6 per cent, which was a welcome step . This year there has been an improvement in the reporting of the items under the GB and as a result comparisons to the total GB allocations of previous years cannot be made.

Ideally, the Gender Budget should tackle gender inequalities in a way that takes into account the multiple deprivations faced by women, men, non-binary persons and children across various social positions and identities. One would expect, for example, budgetary allocations that target and improve work conditions of women across various sectors and work categories, including women in agriculture, informal workers and women in small enterprises. The focus should also be on addressing gender-based violence and structural barriers that prevent them from participating meaningfully in the economy on an equal footing. Budgets can create gender sensitive infrastructure to reduce the care burden on women, by providing publicly funded childcare facilities, reducing the drudgery of unpaid household chores, as well as supporting the frontline care workers with social security and decent work conditions, including fair wages. Unfortunately, none of this has been reflected in the union budget, and there is skepticism about the extent to which this is actually reflected in the Gender Budget Statement.

Budgets for the social welfare sector such as health, education, social security are at status quo along with very minimal increments for the annual budgets of Ministries and Departments catering to the needs of various marginalized sections of society. For example, the Centre's expenditure on health continues the trajectory of hovering around 0.3 per cent of the gross domestic product (GDP). Instead of strengthening the public health system that serves marginalized populations, it continues to emphasize private sector partnerships and insurance-based models of healthcare delivery such as the Pradhan Mantri Jan Arogya Yojana (PMJAY). Spending on education has declined from 0.44 per cent of GDP to 0.37 per cent of GDP. The allocations for MGNREGS have consistently declined from 2022-23 actual expenditure and remained same as last year's Revised Estimates, even though it is critical for rural women who comprise more than half the participants availing employment through it. The budget provides limited or no relief to vulnerable communities facing multiple deprivations (Minorities, Scheduled Castes and Tribes, etc.) with inevitable adverse impacts on women from these communities. The only positive sign has been the Comprehensive Rehabilitation for Welfare of Transgender Persons Scheme, whose budget has been enhanced to from INR 52 crores to INR 68 crores, which gives hope to empowerment of the community that remains on the margins of society.

The Gender Budget Statement (GBS) raised much hope but in the end, it turned out to be an exercise in smoke and mirrors. The GBS Part A Schemes meant exclusively for women received combined allocations that make it difficult to track actual expenditures. Take the examples of SAMBAL and SAMARTHYA. While SAMARTHYA comprises key schemes including maternity entitlements and provisioning of childcare facilities, a dip in allocations from INR 2582 crore to INR 2517 crore indicates the government's lack of intent to effectively facilitate women's economic participation. While there has been a doubled allocation to the Nirbhaya Fund to combat violence against women, the low utilization in 2023 has been alarming; it has unfortunately been used for surveillance and Safe City projects rather than providing accessible multi-sector support services for women in all their diversity. There is lack of clarity in the rationale behind allocations reported in all three parts in the GB statement, for example, the PM Awas Yojana, both Rural and Urban has been entirely included in Part A, which is unexpected as the benefits of the scheme are not borne only by women, in fact only 69.1 per cent of the houses under PMAY-Gramin (Rural) were in the name of women – solely or jointly.

Part B of the GBS includes infrastructural projects for water and energy without providing an explanation on which part of it is spent on pro-women programmes. Thus, the gender budget appears to be made up of schemes wherein the extent of their benefits to women are unclear. This year the government's inclusion of a Part C within the Gender budget is a welcome step; and it consists of schemes in which less than 30 per cent allocation for women have been listed (as compared to Part A which has schemes with 100 per cent provision for women and Part B with scheme allocations between 30 per cent to 99 per cent for women). Pradhan Mantri Kisan Samman Nidhi (PM-Kisan) is the only scheme in Part C in which, Rs. 15,000 crores (25 per cent of the total allocation for the scheme) is reported to be for women, which is curious because only 14 per cent women farmers own land and the PM-Kisan scheme benefits can only be accrued by land-owning farmers. However, if this allocation indicates an intent to include more women farmers, it is a welcome development³⁴.

2. Recent Changes in Criminal laws: Some highlights on Sexual Offences against women and girls³⁵

³⁴ This section draws from the unpublished FPC article “Reflections on the Union Budget of India 2024-25 from a gender lens” by Dr. Sona Mitra, Dr. Nesar Ahmed and Jashodhara Dasgupta drafted on August 13, 2024

³⁵ This section draws from the analysis undertaken by the Leaflet, Part 2

As of July 1, 2024, India constituted three new criminal laws to replace the Indian Penal Code (IPC), the Code of Criminal Procedure (CrPC), and the Indian Evidence Act. These new laws are the Bharatiya Nyaya Sanhita (BNS), the Bharatiya Nagarik Suraksha Sanhita, and the Bharatiya Sakshya Adhinyam and replaced the British-era Indian Penal Code, Code of Criminal Procedure and the Indian Evidence Act, respectively³⁶.

A chapter on Crimes against Women and Children has been included, making buying and selling of any child a heinous crime with a provision for death sentence or life imprisonment for gang rape of a minor. Offences against women and children, murder and offenses against the State have also been given precedence in the new law.

Some of the changes include: easier and faster recording of crimes, free first aid/medical treatment to survivors/victims of crimes against women/children at all hospitals, and regular updates on the progress of the case being provided to victims within 90 days. Sexual intercourse through deceptive means has been criminalized, as has making false promises of employment or marriage – with stricter sentencing up to 10 years in prison.

Rape and Sexual Assault: In the chapter: ‘Offences against women and children’³⁷ sexual offences are recognized if committed against a woman and that too by a man. In the IPC, rape had gender-specific provisions, where the offender can only be a man and the victim a woman. However, BNS states that various offences have been made gender-neutral. But this has not been applicable to the offence of rape.

The two provisions under the category of criminal force and assault against women have been made gender-neutral in terms of the perpetrators: Section 76, which is assault or use of criminal force to women with intent to disrobe and Section 77, which is voyeurism which now opens with the word “*whoever*” unlike in the IPC where it was “*any man*”.

The BNS, has for the first time, has included transgender persons within the definition of gender, and it holds the same meaning as described in the Transgender Persons (Protection of Rights Act), 2019. Senior feminist advocates however have flagged the issue of Section 377 of the IPC, which covers unnatural offences, and has now been

³⁶ [New Criminal Laws enacted from today | The Economic Times](https://economictimes.indiatimes.com/news/how-to/new-criminal-laws-enacted-from-today-all-you-need-to-know-about-them/articleshow/111391637.cms?from=mdr) - <https://economictimes.indiatimes.com/news/how-to/new-criminal-laws-enacted-from-today-all-you-need-to-know-about-them/articleshow/111391637.cms?from=mdr>

³⁷ [Bharatiya Nyaya Sanhita, 2023: Impacts and challenges—Part 2 – The Leaflet](https://theleaflet.in/bharatiya-nyaya-sanhita-2023-impacts-and-challenges-part-2/) - <https://theleaflet.in/bharatiya-nyaya-sanhita-2023-impacts-and-challenges-part-2/>
#:~:text=The%20BNS%2C%20however%2C%20excludes%20both,increased%20from%2015%20to%2018.

deleted. Under the BNS, there is no provision that could cover any situation of non-consensual sexual intercourse, in cases of transgenders who face extreme levels of harassment and this is of great concern.

Additionally, the new Act misses out on assault and rape between persons of the same sex. Earlier, such offences were brought within the purview of Section 377 of the IPC. Consensual sex amongst persons of the same sex was decriminalized earlier. (See: Section in *Navtej Johar*)³⁸.

The age of consent for a married woman under the definition of rape has been increased from 15 to 18 years. This is in regard to implementing the Supreme Court judgment in *Independent Thought* where the Supreme Court struck down Exception 2 to Section 376 of the IPC, that provided immunity to a husband if he had sex with a wife who was above 15 years of age, as discriminatory and violative of Article 14. However, the Supreme Court had refrained from making comments on marital rape. And the marital rape exception has not been addressed by the legislature as yet.

The BNS criminalizes sexual intercourse based on deceit and false promise of employment or marriage. Sexual intercourse with false promise to marry, was previously considered as rape, based on the notion of the absence of consent, as interpreted by the Supreme Court, and it has now been categorized as a separate offence under Section 69.

Further, certain provisions that punish women for voluntarily having a miscarriage continue in the new laws. Issues have been raised by feminist advocates – that India has not given the right to women to abort, as it is permitted only after a medical opinion is provided. The State's control over women, their bodies and sexuality thereby continue. There were other concerns raised by human rights lawyers, practitioners and academics on the new provisions³⁹.

Women are not seeking paternalism nor protection nor patriarchy. They are demanding freedoms, bodily autonomy, voice and rights.

3. Recent incidents of Gender-based violence (GBV):

³⁸ [Bharatiya Nyaya Sanhita, 2023: Impacts and challenges—Part 2 – The Leaflet](https://theleaflet.in/bharatiya-nyaya-sanhita-2023-impacts-and-challenges-part-2/) - <https://theleaflet.in/bharatiya-nyaya-sanhita-2023-impacts-and-challenges-part-2/>
#:~:text=The%20BNS%2C%20however%2C%20excludes%20both,increased%20from%2015%20to%2018.

³⁹ [Dangers of the three new criminal laws flagged by lawyers, academics and activists at New Delhi event I The Leaflet](https://theleaflet.in/dangers-of-the-three-new-criminal-laws-flagged-by-lawyers-academics-and-activists-at-new-delhi-event/) - <https://theleaflet.in/dangers-of-the-three-new-criminal-laws-flagged-by-lawyers-academics-and-activists-at-new-delhi-event/>

Gender based violence against diverse women has been a deep-rooted systemic issue in the country. Two recent examples throw light on the persistent lack of safety for women workers in the work place, and the structural abuse faced by women and children, as well as the use of sexual assault with impunity and the tardy pace of redressal.

a) **The recent RG Kar Medical College case**, where a trainee doctor at the college was raped and murdered, sparked widespread protests and demands for accountability across the country.

The outcry across the country from students, citizens, women's groups, mass-based organizations has brought to light the ongoing threats to women's safety at their workplaces and public spaces across the country. It also points out that there are cases of selective outrage, and many of the cases pertaining to marginalised women get no attention in the media and by social groups.

Despite the existence of mechanisms to monitor these laws, women's groups have argued that there is a climate of impunity that is not addressed with regard to gender-based violence, which continues unabated. Activists have continued to point out to the structural nature of violence that is rooted in patriarchy, caste, class, and other oppressive systems and which disproportionately affects women across diverse social locations, particularly those from the marginalised communities.

The National Crime Records Bureau (NCRB), reports an average of 86 rapes per day in India, with a national conviction rate as low as 27 per cent. The NCRB data also reveals a disturbing surge of 45 per cent in reported cases of rapes against Dalit women from 2015 to 2020. That, despite constitutional safeguards, deep-rooted discrimination and violence continues to persist. Gender based violence against women with disabilities, single women, natal family violence, against trans and queer people are also on the increase.

Women's groups have long argued that the criminal justice system needs to be reformed to function more effectively, ensuring fair and quick trials, with certainty and swiftness of convictions and a gender sensitive response from law enforcement, and all governance bodies for victims and survivors of gender based violence. They have continued to raise the issue of inadequacy of budget allocations, and the lack of resources for preventive and educational efforts, monitoring the implementation of the laws and schemes for

survivors of violence. Besides, the focus needs to be ensuring accountability across the system from all institutions, elected representatives, and law-enforcement agencies⁴⁰.

The Supreme Court has taken suo moto cognizance of the case and set up a nine-member National Task Force (NTF) to ensure workplace safety for doctors, but we note with concern that the NTF does not include representatives of the most vulnerable women who are clustered in the lower rungs of the health workforce. In addition, the shrill demands for the death penalty are worrisome as that does not address the widespread incidence of sexual abuse and rape nor act as an effective deterrence. It would also result in rolling back the recommendations of the Justice Verma Committee (2013) after the Nirbhaya case⁴¹.

b) The Justice Hema Committee Report⁴² (a three-member Committee was formed in 2017) was released on August 19, 2024. The report throws light on the pervasive issue of discrimination, exploitation, wage disparity, and in some cases, inhuman working conditions and sexual harassment of women in the Malayalam film industry.

The Justice Hema Committee report was finally released five years after the Committee had initially submitted its report to the State government of Kerala. The report covers a range of women in the Malayalam film industry – actors, technicians, make-up artists, dancers and support staff. It focuses on structural issues and deals with other inequities that disadvantage women in the industry, including the lack of essential facilities such as toilets, changing rooms, safe transportation, and accommodation at the shooting spots which are violative of the right to privacy; and a lack of binding contractual agreements⁴³.

The release of the report has led to several women actors coming forward with sexual harassment accusations against some actors and film technicians in the industry, rekindling the #MeToo movement in the Malayalam film industry. And this has had ripples in other the film industry in other states as well.

⁴⁰ [Women's rights groups demand justice amidst rising sexual violence | The Print](https://theprint.in/india/womens-rights-groups-demand-justice-amidst-rising-sexual-violence/2240515/) - <https://theprint.in/india/womens-rights-groups-demand-justice-amidst-rising-sexual-violence/2240515/>

⁴¹ [National guidelines and protocols on medico-legal care for survivors of sexual violence by the Ministry of Health and Family Welfare \(MoHFW\) 2014](https://health.mizoram.gov.in/uploads/attachments/2023/07/e032379ecbaf47330bec5f94e3161b4e/guidelines-protocols-sexual-haras.pdf) - <https://health.mizoram.gov.in/uploads/attachments/2023/07/e032379ecbaf47330bec5f94e3161b4e/guidelines-protocols-sexual-haras.pdf>

⁴² [Publicly released version of the Hema Committee report as of August 19](https://www.thenewsminute.com/kerala/click-here-to-read-the-publicly-released-version-of-the-hema-committee-report) - <https://www.thenewsminute.com/kerala/click-here-to-read-the-publicly-released-version-of-the-hema-committee-report>

⁴³ [Justice Hema Committee Report : The complete coverage | The Hindu](https://www.thehindu.com/news/national/kerala/justice-hema-committee-report-the-complete-coverage/article68567888.ece) - <https://www.thehindu.com/news/national/kerala/justice-hema-committee-report-the-complete-coverage/article68567888.ece>

The courage and persistence of the Women in Cinema Collective (WCC), an association of women from the industry whose advocacy and persistent efforts led to the formation of the Justice Hema Committee, brings out the need for a safe platform where women can speak and get support. There is deep fear and reluctance in reporting the harassment, and there has been a huge economic cost paid by those that have broken the silence.

WCC founders and members have argued that their intent is not to shame nor malign the industry, but to transform the industry and modernize it, to address patriarchy and everyday-sexism at the workplace, and meet the needs of all workers in the industry to make it a gender-just workplace⁴⁴.

For the WCC, “*it has been a long journey*” as they stand vindicated in their fight for “justice for all women wanting a dignified professional space in the film industry”⁴⁵.

⁴⁴ [About | Women in Cinema Collective](https://wccollective.org/about/) - <https://wccollective.org/about/>

⁴⁵ [Women in Cinema Collective – The fight for a gender balanced workplace | The Hindu](https://www.thehindu.com/news/national/women-in-cinema-collective-the-fight-for-a-gender-balanced-workplace/article68563412.ece) - <https://www.thehindu.com/news/national/women-in-cinema-collective-the-fight-for-a-gender-balanced-workplace/article68563412.ece>