

IMPORTANT CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN IN INDIA AND NAGALAND

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.

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 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

- (i) Equality before law for women (Article 14)
- (ii) 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))
- (iii) The State to make any special provision in favour of women and children (Article 15 (3))
- (iv) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- (v) 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))

- (vi) 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)
- (vii) The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- (viii) 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)
- (ix) The State to raise the level of nutrition and the standard of living of its people (Article 47)
- (x) 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))
- (xi) 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))
- (xii) 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))
- (xiii) 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))
- (xiv) 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 Local 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 have special provisions to safeguard women and their interests like

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

- (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. National Policy for Children-2013 was adopted by the Government of India on 26th April 2013. National Plan of Action for Children 2016 is in Draft Format.
- (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. **National Policy for the Empowerment of Women, 2016** is under draft stage.

4. WOMEN'S EMPOWERMENT AND INITIATIVES FOR THE STATE OF NAGALAND

- (i) The **Nagaland State Commission for Women** is a statutory body, constituted by the State Government under the Nagaland Women Commission Act 2006 to investigate and examine all matters relating to Women issues and also to safeguard the women provisions which was provided for women under the Constitution and other laws.
- (ii) **The Naga Mothers Association (NMA)** was formed in 1984 in response to the drug and alcohol addiction ravaging Nagaland at the time. However during the 1980s and 1990s, NMA addressed the violence that tore Nagaland apart: atrocities by the Indian army against Naga groups and civilians, and then years of fratricidal killings between various Naga factions. Over the past two years, NMA's been fighting for women reservation in municipal bodies.
- (iii) **The Nagaland Municipal Act 2001, Amendment 2006**, Reservation Bill for women, the 108 (Amendment) Act, 2008 (Women Reservation Bill) granting women “Political Rights” is a positive step taken by the Government to include women in decision making process.
- (VI) **Department of Women Resource Development**, The State Government created the Department of Women Resource Development to give special focus on the socio-economic development of women and their resources and empowerment of women through various activities like-
 1. Awareness Generation and Capacity Building
 2. Training and Skill Upgradation
 3. Promotion of Rural and Urban Entrepreneurship

4. Livelihood Support Intervention
5. Institution Building and Formation
6. Facilitation of Credit and Micro- Financing
7. Marketing- Training, Support & Linkage

(VII) The State Resource Centre for Women (SRCW)

The State Resource Centre for Women (SRCW) is the implementing agency of the National Mission for Empowerment of Women (NMEW). The SRCW provides institutional support to implement the activities of the mission in the state. The focus is to facilitate government and other stakeholders involved in women centric issues so as to implement gender sensitive programs, laws and schemes through effectual coordination. The primary objective of the SRCW is to work for holistic empowerment of women in the state cutting across multiple sectors.

(iv) Maternity Leave Benefit

The State Government through an Office Memorandum, dated- 3rd April,2017 has enhanced the existing ceiling of 90 days of maternity Leave under CSS (Leave) Rules,1792 to 180 days for the female State Government Employees.

(v) Nagaland Vision 2030.

In the vision 2030 document, specific chapters caption as “Gender Mainstreaming” has been included highlighting gender-based disadvantages issues and suggesting various steps for empowerment of women especially steps for ensuring participation of women in decision making and in leadership roles.