

## II - RIGHTS AND PRIVILEGES OF WOMEN IN INDIA

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### 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, ensures equality before the law, equal protection of law, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantees 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 and the improvement of public health **(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. LEGISLATIVE PROVISIONS

### Legal Rights

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 (upto 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, 1986
- 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 Child Marriage Restraint (Amendment) Act, 1979
- 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

### **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 72<sup>nd</sup> and 73<sup>rd</sup> 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 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.