

CONSTITUTION AND HUMAN RIGHTS



**Distance and
Continuing Education**

**MANONMANIAM
SUNDARANAR
UNIVERSITY
TIRUNELVELI**

[0462- 2321614]

[0462- 2322973]

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**Complied
by
Dr. Syed Umarhathab
Assistant Professor and Faculty-in-Charge
Department of Criminology and Criminal
Justice
MSU**

MANONMANIAM SUNDARANAR UNIVERSITY
TIRUNELVELI
Directorate of Distance and Continuing Education
M.A. Criminology & Police Science
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CONSTITUTION AND HUMAN RIGHTS

UNIT-I: FUNDAMENTALS OF CONSTITUTION

Introduction: Constitution of India

The Constitution of India is the supreme law of India. It lays down the framework defining fundamental political principles, establishes the structure, procedures, powers and duties of government institutions and sets out fundamental rights, directive principles and the duties of citizens. It is the longest written constitution of any sovereign country in the world. The nation is governed by it. Dr. B. R. Ambedkar is regarded as its chief architect. It imparts constitutional supremacy and not parliamentary supremacy, as it is not created by the Parliament but, by a constituent assembly, and adopted by its people, with a declaration in its preamble. Parliament cannot override the constitution.

It was adopted by the Constituent Assembly on 26 November 1949, and came into effect on 26 January 1950. With its adoption, the Union of India became the modern and contemporary Republic of India replacing the Government of India Act, 1935 as the country's fundamental governing document. To ensure constitutional autochthony, the framers of the constitution repealed the prior Acts of the British Parliament via Article 395 of the constitution. India celebrates its coming into force on 26 January each year, as Republic Day. It declares India a sovereign, socialist, secular, democratic republic, assuring its citizens of justice, equality, and liberty, and endeavors to promote fraternity among them.

Supremacy of Indian Constitution

In India, as inscribed in Preamble, the Constitution derives its powers from "We the people". So, we the people are sovereign, while we have given the supreme authority to Constitution, as the supreme law of the land. Parliament runs according to the laws given in the constitution. Whenever the parliament passes any bill / act in transgression with the Constitution, the Supreme Court voids that particular Act. Thus, the rules mentioned in the Constitution are supreme in the land. The power to the constitution, however, is given by the sovereign, the people of India, who are directly represented by the Parliament. Constitution is supreme because of reason that parliament works according to constitution and not just parliament every union state and executive body works according to the constitution of India. The term Constitutional supremacy means that, the constitution is supreme over the parliament. And parliament can exercise its function being only within bounds of the constitution. Constitutional supremacy is only possible where the constitution is written and rigid.

How Constitution of India is Supreme?

Some intrinsic features of constitutional supremacy are given below

- The condition of the constitutional supremacy is that, the constitution must be written.
- The constitution must be rigid and maintain procedure.
- In constitutional supremacy, there has distinction between constitutional law and ordinary law.
- Parliament is created by the constitution itself.
- Parliament can exercise its function being only within the bounds of the constitution.
- In constitutional supremacy, there has judicial review.
- If any contradiction between constitutional law and ordinary law of the republic, the constitution shall get prevail and get priority.

Sources and Salient features of the Constitution

Sources of Indian Constitution

The Constitution refers to the fundamental laws and principles which prescribe the nature, functions and the limits of a government. It reflects the aspirations of the people it belongs to. In India, the Constituent Assembly was constituted in November 1946, under the scheme formulated by the Cabinet Mission Plan. The Constituent Assembly was to be a partly elected and partly nominated body. The members were to be indirectly elected by the members of the provincial assemblies, who themselves were elected on a limited franchise. It comprised of representatives of all sections of Indian society. The Constitution framers adopted from several sources, features which are present in the Indian Constitution. The main sources may be identified as

i. Government of India Act, 1935: Federal Scheme, Office of Governor, Judiciary, Public Service Commissions, Emergency provisions, Administrative details.

ii. British Constitution: Parliamentary government, Rule of Law, Legislative procedure, Single citizenship, Cabinet System, Prerogative Writs.

iii. US Constitution: Fundamental Rights, Independence of Judiciary, Judicial Review, Impeachment of the President, Removal of Supreme Court and High Court judges and post of Vice- President.

iv. Irish Constitution: Directive Principles of State Policy, nomination of members to Rajya Sabha and method of election of President, Federation with a strong centre, Vesting of residuary powers in the Centre, appointment of State Governors by the Centre and advisory jurisdiction of the Supreme Court.

v. Canadian Constitution: Federation with a strong centre, residuary powers with the centre, appointment of state governors by the centre and advisory jurisdiction of the Supreme Court.

vi. Australian Constitution: Concurrent List, Freedom of trade, commerce and intercourse joint sitting of the two Houses of Parliament.

vii. Weimar Constitution: Suspension of Fundamental Rights during Emergency.

viii. Soviet Constitution: Fundamental duties, the ideal of justice (social, economic and political) in the Preamble.

ix. French Constitution: Republic and the ideals of liberty equality and fraternity in the Preamble.

x. South African Constitution: Procedure for amendment, the Constitution and election of the members of Rajya Sabha.

xi. Japanese Constitution: Procedure established by law. The drafted Constitution was finally adopted on November 26, 1949.

Salient Features of Indian Constitution

The Constitution of India has some outstanding features which distinguish it from other constitutions. The framers of our constitution studied other constitutions, selected their valuable features and put them with necessary modifications in our constitution. Ours is not a borrowed constitution, though it has been influenced by other constitutions. The framers of the constitution of India did not aim at a completely new or original constitution. They just wanted to produce "a good and workable" constitution. And they succeeded doing this. The fact that the constitution, for last 59 years, has been working satisfactorily is a testimony to its quality and utility. The salient features of the constitution are analyzed below.

1. Preamble

The Preamble, the preface to the constitution, describes the source nature, ideology, goals and objectives of the constitution. It describes India as a sovereign socialist, secular, democratic republic and underlines the national objective of social just: economic justice and political justice as well as fraternity. It emphasizes the dignity of the individual and the unity and integrity of the nation. It declares that in India the people sovereign.

2. Written Constitution

There are two types of constitutions in the world. Most of the constitutions are written. The first modern written constitution was the American constitution. On the other hand, the British constitution is unwritten. It consists of customs and conventions which have grown over the years. In India, we have a written constitution. The framers of our constitution tried to put everything in black and white.

3. Longest Constitution

The Constitution of India is the longest one in the world. Originally it had 395 Articles and 8 schedules. During the period since 1950 a few Articles have been deleted, but many more have been added through amendments.

4. Partly Rigid, Partly Flexible

Whether a constitution is rigid or flexible depends on the nature of amendment. If the constitutional laws and ordinary laws are amended separate ways, it is a rigid constitution. On the contrary, in a flexible constitution constitutional laws and ordinary laws are amended in the same way.

5. Parliamentary Democracy

In India, there is a parliamentary form of govern. The majority party in the Lower House (Lok Sabha) forms government. The Council Ministers is responsible to the Lok Sabha. The Cabinet is the real executive head. In Presidential form of government, the President is the executive head. In India, the President is only the nominal head.

6. Role of Conventions

Though India has a very detailed constitution, there is some scope for conventions to influence its functioning. On some vital issues constitution is silent and one has to depend upon well established parliament conventions on such occasions.

For example, the constitution does not say whether government, defeated on a 'snap vote' in the Lok Sabha, will be required to resign whether the recommendation of a defeated government for the dissolution of the Sabha is to be accepted by the President of India.

7. Federal Government with Unitary Bias

India is a federation, although word 'federation' does not find a place in the whole text of the Indian Constitution. The elements of federation are present in the Indian Constitution. It is a written and rigid constitution. There is dual polity and there is constitutional division of powers between the centre and the states. There is also an independent judiciary. The Supreme Car bitrates the disputes between the centre and the states. All these provisions make India a federation.

8. Fundamental Rights

The Fundamental Rights are guaranteed to the individuals by our constitution. These are enumerated in Pail III of the constitution. These rights are fundamental because they are basic to the moral and spiritual development of the individual and these rights cannot be easily abridged by the parliament.

The six fundamental rights are (1) Right to Equality, (2) Right to Freedom, (3) Right against Exploitation, (4) Right to Freedom of Religion, (5) Cultural and Educational Rights and (6) Right to Constitutional Remedies. The Fundamental Rights are subject to some restrictions. The idea of fundamental rights has been borrowed from the American Constitution.

9. Directive Principles of State Policy

The Directive Principles of State Policy are enumerated in Part IV of the constitution. They are instructions or directives from the constitution to the state and the government. It is the duty of the government to implement them.

Originally there were 20 Directive Principles. Three more were added by the 42nd Amendment Act, 1976. Thus, in total, there are now 23 Directive Principles.

10. An Independent and Integrated Judiciary

An independent judiciary is a none of any federation. The judiciary in India is independent and impartial. It is an integrated judiciary with the Supreme Court at the apex of the hierarchy. The High Courts stand in its middle, and the lower courts are located at its bottom.

11. Universal Franchise

Article 326 of the Constitution of India provides universal adult suffrage. The voting age has now come down from 21 to 18. Anybody who has completed 18 years of age is eligible to vote in general elections. This is one of the most revolutionary aspects of Indian democracy.

12. Secularism

India is a secular state. Although the 42nd Amendment Act, inserted the word 'secular' in the Preamble to the constitution, India has been secularism since independence. India is a country of several religions and each individual has fundamental profess any religion he likes. The state cannot force him to accept any specific India is a secular state. In India, there is no State Religion. In matters relating to the state is neutral and non- interfering. It does not patronize any religion. Nor discriminate against any religion.

13. Single Citizenship

In the United States of America, there is double citizenship. An American is a citizen of America and at the same time he is also a citizen of the 50 States of America. In India, there is only single citizenship. An Indian is a citizen of India only. He is not a citizen of any Indian state. Single citizenship is meant to s national unity and national integration.

14. Fundamental Duties

Fundamental Duties did not form part of the constitution. Ten Fundamental Duties were inserted in Part IV of the constitution 42nd Amendment Act, 1976. Some of the important Fundamental Duties are

- To abide by the constitution and respect the ideals and institutions, the national flag and the national anthem;
- To uphold and protect the sovereignty, unity and integrity of India;
- To defend the country and render national service;
- To protect and improve the natural environment;
- To safeguard public property and to abjure violence.

A new Article 51A enumerates ten Fundamental Duties. These duties are assigned only to citizens and not to aliens. These duties are not justifiable, but, in case of conflict, they will prevail over Fundamental Rights.

15. Welfare State

Our constitution aims at building a Welfare State. It provides for development of weaker and depressed sections of the society. It underlines the need of improving the conditions of women, Scheduled Castes and Scheduled Tribes who have remained neglected for long. Our constitution is opposed to concentration of wealth and means of production. Workers should be involved in management and they should get fair wages. Children should not be exposed to hazards. All these provisions are expected to help in building a Welfare State.

16. Democratic System

Our constitution lays a lot of emphasis on democratic values, and a number of democratic institutions have been established to give shape to these values. The centre, states and local self governing bodies follow democratic principles, and all elections from gram panchayat to parliament are democratically held.

All persons of 18 years age and more, irrespective of their caste, religion and gender, are eligible to vote in elections, and the constitution has provided for reservations in elections for dalits and tribal's. No democracy can survive if citizens are not allowed fundamental rights. The Indian constitution has granted a number of valuable fundamental rights to the citizens.

Preamble of the Constitution

The Constitution of India initiates with a Preamble. The Preamble consists of the ideals, objectives and basic principles of the Constitution. The salient features of the Constitution have developed directly and indirectly from these objectives which flow from the Preamble. The Preamble is described as an introduction or preface of a book. As an overview, it is not a part of the contents but it explains the purposes and objectives with which the document has been written. So is the case with the 'Preamble' to the Indian Constitution. As such the 'Preamble' provides the guide lines of the Constitution. Basically, it is a brief introductory statement that sets out the guiding purpose and principles of the document, and it indicate the source from which derives its authority, meaning, and the people.

The Preamble describes the objectives of the Constitution in two ways: one, is about the structure of the governance and secondly, it explains the ideals to be achieved in independent India. It is because of this, the Preamble is considered to be the major element of the Constitution.

The objectives, which are laid down in the Preamble, are

1. Description of Indian State as Sovereign, Socialist, Secular, Democratic Republic. (Socialist, Secular added by 42nd Amendment, 1976).
2. Provision to all the citizens of India i.e.
 - a. Justice social, economic and political.
 - b. Liberty of thought, expression, belief, faith and worship.
 - c. Equality of status and opportunity.
 - d. Fraternity assuring dignity of the individual and unity and integrity of the nation.

The Preamble to the Constitution of India is a well drafted document which signifies the values of the constitution. It asserts India to be a Sovereign Socialist Secular Democratic Republic and a welfare state committed to secure justice, liberty and equality for the people and for promoting fraternity, dignity the individual, and unity and integrity of the nation. The Preamble is the nature of Indian state and the objectives it is committed to secure for the people.

Constitution of India– Fundamental Rights (Articles 14, 19, 20, 21, 22 and 32)

The Constitution of India grants and guarantees Fundamental Rights to its citizens. It is called the Indian Bill of Rights. Initially, seven Fundamental Rights were granted but after the deletion of the Right to Property from the list of Fundamental Rights (44th Amendment Act 1979) their number came down to six. The constitution of India confirms the basic principle that every individual is permitted to enjoy certain basic rights and part III of the Constitution deals with those rights which are known as fundamental right.

The Six Fundamental Rights are under

1. Right to Equality

It provides for Equality before Law, End of Discrimination, Equality of Opportunity, Abolition of untouchability and Abolition of Titles.

2. Right to Freedom

It incorporates six fundamental freedoms that include freedoms of speech and expression, freedom to form associations, freedom to assemble peaceably without arms, freedom to move freely in India, freedom of residence in any part, and freedom of adopting any profession or trade or occupation. It safeguards personal freedom and protection in respect of conviction for certain offences.

The Constitution lays down that the freedom of life and liberty cannot be limited or denied except in accordance with the procedure established by law. Now under Art 21A Right to Education for the children between the ages of 6-14 years has been granted. Art. 22 guarantees protection against arbitrary arrest and detention.

3. Right against Exploitation

This Fundamental Right forbids sale and purchase of human beings, forced labour (begar) and employment of children in hazardous jobs and factories.

4. Right to Freedom of Religion

The objectives of this right include the freedom of conscience, religion and worship. Any person can follow any religion. It gives to all religions freedom to establish and maintain their religious institutions.

Citizens cannot be compelled to pay any tax for the propagation of any religion. The state cannot levy a tax for any religion and constitution prohibits the imparting of religious instructions in schools and colleges.

5. Cultural and Educational Rights

In this right, the Constitution guarantees the rights of the minorities to maintain and develop their languages and cultures. It also confers upon them the right to establish, maintain and administer their educational institutions.

6. Right to Constitutional Remedies (Art. 32)

This fundamental right is the key of the entire Bill of Rights. It provides for the enforcement and protection of Fundamental Rights by the courts. It empowers the Supreme Court and High Courts to issue writs for the enforcement of these rights.

It is stated that these fundamental rights are justifiable and the individual can move to the higher judiciary that is the Supreme Court or the High Courts, if there is an encroachment on any of these rights. The right to move to the Supreme Court straight for the enforcement of fundamental rights has been guaranteed under Article 32 (Right to Constitutional Remedies). However, fundamental rights in India are not absolute. Reasonable constraints can be imposed keeping in view the security requirements of the state.

It is further added by political scientist that fundamental rights for Indians have also been intended to overturn the inequalities of pre independence social practices. Precisely, they have also been used to abolish untouchability and thus prohibit discrimination on the basis of religion, race, caste, sex, or place of birth. They also prohibit trafficking of human beings and forced labour. They also protect cultural and educational rights of ethnic and religious minorities by allowing them to preserve their languages and also establish and administer their own education institutions. They are covered under articles 14 to 32 of the Indian constitution.

Fundamental Duties

Fundamental Duties of constitution are as under: A new part IV (A) after the Directive Principles of State Policy was combined in the constitution by the 42nd Amendment, 1976 for fundamental duties. These duties are mentioned below

- To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
- To apprise and follow the noble ideals, which inspired our national struggle for freedom.
- To sustain and protect the sovereignty, unity and integrity of India.
- To defend the country and render national service when called upon to do so.
- To promote coordination and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic, regional or sectional diversities, to renounce practices derogatory to the dignity of woman.
- To value and preserve the rich heritage of our composite culture.
- To protect and improve the natural environments including forests, lakes, rivers and wild life and to have compassion for living creatures.
- To develop scientific temper, humanism and the spirit of inquiry and reform.
- To defend public property and to abjure violence.
- To endeavour towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of Endeavour and achievement.

The main aim of integrating these duties in the Constitution is to remind the people that while enjoying their right as citizens, should also perform their duties as rights and duties are correlative.

Directive Principles of State Policy

Part IV of Indian Constitution deals with Directive Principles of our State Policy (DPSP). The provisions contained in this Part cannot be enforced by any court, but these principles are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws. The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. While most of the Fundamental Rights are negative obligations on the state, DPSP are positive obligations on the state, though not enforceable in a court of law.

Article 36: Definition

In this Part, unless the context otherwise requires, “the State” has the same meaning as in Part III.

Article 37: Application of the principles contained in this Part

The provisions contained in this Part shall not be enforced by any court, but the principles therein laid down are nevertheless fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.

Article 38: State to secure a social order for the promotion of welfare of the people

(1) The State shall strive to promote the welfare of the people by securing and protecting as effectively as it may a social order in which justice, social, economic and political, shall inform all the institutions of the national life.

(2) The State shall, in particular, strive to minimise the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.

Article 39: Certain principles of policy to be followed by the State

The State shall, in particular, direct its policy towards securing –

- That the citizen, men and women equally, have the right to an adequate means of livelihood;
- That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;
- That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- That there is equal pay for equal work for both men and women;
- That the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

- That children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

Article 39A: Equal justice and free legal aid

The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes 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 40: Organization of village panchayats

The State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self government.

Article 41: Right to work, to education and to public assistance in certain cases

The State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

Article 42: Provision for just and humane conditions of work and maternity relief

The State shall make provision for securing just and humane conditions of work and for maternity relief.

Article 43: Living wage, etc., for workers

The State shall endeavor to secure, by suitable legislation or economic organisation or in any other way, to all workers agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

Article 43A: Participation of workers in management of industries

The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisation engaged in any industry.

Article 44: Uniform civil code for the citizen

The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.

Article 45: Provision for free and compulsory education for children

The State shall endeavor to provide, within a period of ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.

Article 46: Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections

The State shall promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

Article 47: Duty of the State to raise the level of nutrition and the standard of living and to improve public health

The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purpose of intoxicating drinks and of drugs which are injurious to health.

Article 48: Organization of agriculture and animal husbandry

The State shall endeavour to organize agriculture and animal husbandry on modern and scientific lines and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

Article 48A: Protection and improvement of environment and safeguarding of forests and wild life

The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

Article 49: Protection of monuments and places and objects of national importance

It shall be the obligation of the State to protect every monument or place or object of artistic or historic interest, declared by or under law made by Parliament to be of national importance, from spoliation, disfigurement, destruction, removal, disposal or export, as the case may be.

Article 50: Separation of judiciary from executive

The State shall take steps to separate the judiciary from the executive in the public services of the State.

Article 51: Promotion of international peace and security

The State shall endeavour to –

- (a) Promote international peace and security;
- (b) Maintain just and honorable relations between nations;
- (c) Foster respect for international law and treaty obligations in the dealings of organized people with one another; and
- (d) Encourage settlement of international disputes by arbitration.

UNIT-II HUMAN RIGHTS BASICS

Universal Declaration of Human Rights, 1948

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at the Palais de Chaillot, Paris. The Declaration arose directly from the experience of the Second World War and represents the first global expression of what many people believe to be the rights to which all human beings are inherently entitled.

The Declaration consists of thirty articles which, although not legally binding, have been elaborated in subsequent international treaties, economic transfers, regional human rights instruments, national constitutions, and other laws. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights and its two Optional Protocols.

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 defense.

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

- Everyone has the right to freedom of movement and residence within the borders of each State.
- Everyone has the right to leave any country, including his own, and to return to his country.

Article 14

- Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- This right may not be invoked in the case of prosecutions genuinely arising from nonpolitical crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15

- Everyone has the right to a nationality.
- 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

- Everyone has the right to own property alone as well as in association with others.
- 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

- Everyone has the right to freedom of peaceful assembly and association.
- 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 to 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 cooperation and in accordance with the organisation 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 wellbeing 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 realised.

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.

Human Rights in Criminal Justice

Human Rights are those rights which every individual has by virtue of his birth as a human being. Naturally they are inherent and inalienable. In every walk of life today, the individual is threatened with the possibility of violation of his human rights not only by other fellow individuals but also by societal institutions established with the solemn purpose of safeguarding rights of all.

The end of the twentieth century has given a momentum to the human rights movements in the new millennium. Indeed, human rights have become the socio-political normative language of the new era. Human rights are those minimal rights, which every individual must have by virtue of his being a member of human family, irrespective of any other consideration. They are based on mankind's demand for a life in which the inherent dignity of human being will receive respect and consideration. The Universal Declaration of Human Rights clearly states that respect to human rights and human dignity is "the foundation of freedom, peace and justice in the world". Indeed, denial of human rights and fundamental freedom is not only an individual and personal tragedy, but also creates conditions of chaos in the society. The Criminal Justice System consisting of Police, Judiciary and Correctional Institutions play a major role in implementing human rights and thereby protect and safeguard the human rights of the citizens of a country. But, violence in police custody and prisons go against the tenets of human rights. Despite frequent intervention of the judiciary to control these excesses, such incidents of human rights violations have been increasing.

Our criminal justice is archaic, obsolete and oppressive, as it is comes under heavy criticism when issues of human rights are raised at national and international fora. When the criticism comes from our own human rights activists, scholars, writers, media persons, the chieftains of criminal justice system maintain discreet silence, but when the criticism comes from international (alien) sources, like Amnesty International, World Watch, etc., there are strong rebuttals bordering on contemptuous disregard of allegations. The fact of the situation is that both silence and rebuttals are often unfortunate and uncalled for. The tragedy of the situation is that two-third of the criminal justice system comprising of police and prisons quite often violate human rights and perpetuates human wrongs, and the tiny one-third the judiciary (largely through apex court) tries to protect and promote human rights. The two sub-systems blame the apex court and some of its human rights minded judges as bleeding-heart liberals, impractical idealists, arm-chair theoreticians, etc. The Court on the contrary, churns out judgments and judgments, which fret at the derelictions of police and prisons. The result is that our system of criminal justice has a double face; one hurts and the other tries to heal.

In a crisis that characterizes our criminal justice system, we have, with all good intentions, created an Ombudsman - the National Human Rights Commission to remedy the situation and attend to pressing problems of the country's human rights front. Like the apex court, the Commission too has a crowded agenda, and hence any sense of euphoria is misplaced.

The Protection of Human Rights under the Indian Criminal Justice Administration

The Criminal Justice System consisting of Police, Judiciary and Correctional Institutions play a major role in implementing human rights and thereby protect and safeguard the human rights of the citizens of a country. But, violence in police custody and prisons go against the

tenets of human rights. Despite frequent intervention of the judiciary to control these excesses, such incidents of human rights violations have been increasing.

Thus, Indian Constitution as illustrated by a number of decisions of the Supreme Court provide for protection of human rights in conformity with the international standards. The Human Rights Commission Act, 1993 provides for constitution of National and State Human Rights Commissions to enquire into complaints of violations of human rights and inefficiency on the part of the Government machinery in preventing such violations and to suggest measures for effective implementation of guarantees provided by the Constitution and various laws of the country.

In a crisis that characterizes our criminal justice system, we have, with all good intentions, created an Ombudsman - the National Human Rights Commission to remedy the situation and attend to pressing problems of the country's human rights front. Like the apex court, the Commission too has a crowded agenda, and hence any sense of euphoria is misplaced. There are two facets of the reality, one is rhetorical and the other is real. The rhetorical part entails

- Enumeration of constitutional guarantees having imprints of human rights.
- Citation of judicial pronouncements making new and innovative holdings on matters concerning the infringement of human rights; and
- Reiteration of the provisions of substantial and procedural laws likewise, the reality part entails : (i) Toleration of human rights violations;
(ii) Cover-up exercise to counter criticism, and
(iii) Emboldened attitude of human rights violators and the utter helplessness of the victims.

The challenge before India is to develop human rights in its domestic criminal administration by upgrading its law-enforcement machinery, and on the other hand not to be swayed away at the cost of social development and nation's unity. The establishment of National Human Rights Commission can contribute if, instead of becoming a face-saving device against international criticism of human rights conditions, it dedicates itself sincerely to the detection of human rights violations in crime control activity and activates itself towards corrective and remedial steps. Reconciliation lies in improving the domestic culture of human rights which in turn will replenish our image in the international platform also.

Human Rights and Fundamental Freedoms in relation to accused

The rights of the accused under the Indian Constitution (Preventive Detention)

Article 22

No person shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult and to be defended by, legal practitioner of his choice.

Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty four hours of such arrest excluding the time necessary for such journey from the place of arrest to the court of magistrate and no person shall be detained in custody beyond the said period without the authority of the magistrate.

Nothing in clauses

- (1) and (2) shall apply To any person for the time being an enemy alien
- To any person who is arrested or detained under any law providing for preventive detention.
- No law providing for preventive detention shall authorize the detention of any person for a period longer than three months unless
- An advisory Board consisting of persons who are qualified to be appointed as, Judges of High Court has reported before the expiration of the said period that there is, in its opinion sufficient cause for such detention: Provided that nothing in this clause shall authorize such detention beyond the period specified by any law made by Parliament
- When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.
- Nothing in clause (5) shall require the authority making such order to disclose the facts which such authority considers to be against the public interest to disclose. 'Preventive detention' means the detention of a person without trial in such circumstances that the evidence before the authority is not sufficient to make out a legal charge or to secure the conviction of the detenu by legal proof, but still may be sufficient to justify his detention. The object of preventive detention is to prevent a person from doing something. No offence is proved, nor any charge formulated: and the justification is suspicion or reasonable probability and not criminal conviction which only can be warranted by legal evidence.

The object of the framers of the Constitution to give Constitutional status to preventive detention was that though they recognized the need for such laws, they wanted to provide safeguards to prevent abuse of power. The procedural requirements are mandatory and any violation would render the detention invalid.

Specific rights for criminal defendants, including

- The right to trial by jury
- The right to trial in a timely manner
- The right to be informed of the nature and cause of all accusations against you
- The right to confront witnesses against you
- The right to have legal counsel available to you
- The right to compel witnesses to testify on your behalf

Prisoner's rights - Landmark Judgments

The past decade has witnessed an increasing consciousness about the desirability of prison reforms, it is now being recognized that a reformatory philosophy and a rehabilitative strategy must form a part of prison justice.

The role of the Supreme Court in the past five years in introducing jail reforms has been commendable. Its quest for prison justice is probably a result of its attempt to revive liberty after extinguishing it in the Habeas Corpus case. In fact, the Supreme Court had commented in that case during the emergency that the treatment meted out to the detainees was almost maternal.

The Supreme Court carried the ratio of the habeas Corpus case (ADM Jabalpur Vs. Shiv Kant Shukla) that Article 21 is the sole repository of life and liberty and during the emergency when liberty is suspended, due to the Presidential proclamation suspending Article 21, to the Prison conditions, and held in Bhanudas's case that a detainee during emergency could not agitate for better Jail Conditions and facilities.

Maneka Gandhi's case was a landmark in Indian jurisprudence. The Maneka principle was extended to prison conditions and particularly to the plight of under trials.

A series of news items appeared in "The Indian Express" about the continued incarceration of under trials in Bihar Jails. Some of them were never produced before the courts. Some others had spent more time in jails as under trials than the maximum penalty that could be imposed upon them if they were convicted of the offences they were charged with. The Supreme Court in the Writs of Habeas Corpus for under trials stated that

"The information contained in these newspaper cuttings is most distressing and it is sufficient to stir the conscience and disturb the equanimity of any socially motivated lawyer or judge. Some of the under trial prisoners whose names are given in the newspaper cuttings have been in jail for as many as 5, 7, or 9 years and a few of them for even more than 10 years without their trial being begun. What faith can these lost souls have in a judicial system which denies them a bare trial for so many years, and keeps them behind bars, not because they are guilty, but because they are too poor to afford bail and the courts have no time to try them. There can be little doubt after the dynamic interpretations placed by this court on Article 21 in Maneka Gandhi vs. Union of India that a procedure which keeps such large number, of people behind bars without trial so long cannot possibly be regarded as reasonable, just or fair so as to be in conflict with the requirement of the Article."

It was with these observations that the Supreme Court directed the Bihar Government and the Patna High Court to furnish to the Supreme Court details of criminal cases pending in Bihar and their year wise breakup. The Supreme Court thereafter directed the release of such under trials that were in detention for a unduly long period.

The Supreme Court again in a separate writ petition filed by Sunil Batra and Charles Sobharaj, two prisoners in Delhi's Tihar jail, made an effort to humanize jail conditions. The question before the Court was: "Does a prison setting, ipso facto, outlaw the rule of law, lock out the judicial process from the jail gates and declare a long holiday for human rights of convicts in confinement? And if there is no total eclipse what luscious segment is open for judicial justice? Sunil Batra, sentenced to death had challenged his incarceration in solitary confinement and Charles Sobhraj had challenged his confinement with barfettters.

The Supreme Court held that there is no total deprivation of a prisoner's rights of life and liberty. The "safe keeping" in jail custody is the limited jurisdiction of the jailer. "To desert safekeeping into a hidden opportunity to care the ward and to traumatize him is to betray the custodian of law, safe custody does not mean deprivations, violation, banishment from the lantern barguet of prison life and infliction's of travails as if guardianship were best fulfilled by making the ward suffer near insanity."

The court held that Sunil Batra's mercy petition to the President/Governor had not been disposed off and Batra was not "under sentence of death." His solitary confinement was quashed. In the case of Charles Sobhraj, it was held that there was no arbitrary power to put an undertrial under barfeters. The discretion to impose "irons" is a quasijudicial decision and a previous hearing is essential before putting a prisoners in fetters. The grounds for imposing fetters would be given to each victim in his language. It was further laid down that no "fetters" shall continue beyond day time and a prolonged continuance of barfeters shall be with the approval of the Chief Judicial Magistrate or a Sessions Judge.

In another case of "Prem Shankar Shukla Vs. Delhi Administration," the Supreme Court struck down the provisions of the Panjab Police rules which discriminated between the rich and the poor prisoner in determining who was to be handcuffed. The Court also held that in the absence of the escorting authority recording why the prisoner is being put under handcuffs, the procedure of handcuffing is a violation of Article 21.

The court concluded with the observation: "We clearly declare and it shall be obeyed from the Inspector General of Police and Inspector General of Prisons to the escort constable and the jail warder that the rule regarding a prisoner in transit between prison house and court house is freedom from handcuffs and the exception, under conditions of judicial supervision we have indicated earlier, will be restraints with irons to be justified before or after. We mandate the judicial officer before whom the prisoner is produced to interrogate the prisoner as a rule, whether he has been subjected to handcuffs or other 'irons' treatment, and if he has been, the official concerned shall be asked to explain the action forthwith in the light of this judgement."

The Supreme Court has given a new dimension to the writ of habeas corpus by its judgement in Sunil Batra 'II' vs. Delhi Administration. While the decision of the Constitution Bench of the Supreme Court in Sunil Batra I vs. Delhi Admn. Had crystalized the legally enforceable rights of a prisoner, the later decision in Sunil Batra II has radicalised the procedure for the enforcement of the rights of the prisoners.

The habeas corpus writ was traditionally used for securing the release of a person detained illegally. It is a favoured remedy because of its simplicity, nontechnicality and the priority which is given to its hearing by courts. Sunil Batra II lays down the important principle of law that a writ of habeas corpus is available not only to secure the release of a prisoner illegally detained but also to regulate the conditions and manner of detention of a person whose detention is lawful. Thus a speedy and simple remedy is available to prisoners to seek redress of their grievances about the manner of their detention.

The prisoners now have an important forum for the enforcement of their rights. As all the grievances could formerly be aired only through the prison hierarchy, very few prisoners voiced any complaints for fear of retaliation. The very existence of the remedy of a writ of habeas corpus would be a deterrent to jail authorities and could prevent arbitrary and capricious action.

In another recent landmark judgement in the case of "Francies Corale Mullin vs. the Administrator, Union Territory of Delhi & others", the Supreme Court explained the ingredients of personal liberty under Article 21. The case arose out of the rights of a detainee under COFEPOSA to have an interview with his family members and lawyers. The meeting with

family members was restricted to one a month and the lawyer could be met only in the presence of an officer of the customs department. The Supreme Court ruled that the right to life and liberty included his right to live with human dignity and therefore a detainee would be entitled to have interviews with family members, friends and lawyers without these severe restrictions.

Preservation of Human Rights

Human rights in India is an issue complicated by the country's large size & population, widespread poverty, lack of proper education & its diverse culture, even though being the world's largest sovereign, secular, democratic republic. The Constitution of India provides for Fundamental rights, which include freedom of religion. Clauses also provide for freedom of speech, as well as separation of executive and judiciary and freedom of movement within the country and abroad. The country also has an independent judiciary and well as bodies to look into issues of human rights.

The 2016 report of Human Rights Watch accepts the abovementioned faculties but goes to state that India has "serious human rights concerns. Civil society groups face harassment and government critics face intimidation and lawsuits. Free speech has come under attack both from the state and by interest groups. Muslim and Christian minorities accuse authorities of not doing enough to protect their rights. But in the recent years, more emphasis is given to minority rights & freedom of speech. The government is yet to repeal laws that grant public officials and security forces immunity from prosecution for abuses.

Preventive Measures for Protection of Human Rights

The following measures are helps to protect the human rights

1. Know your rights

The first way to prevent human rights violation is adequate knowledge of human rights. As we all know, information and knowledge, they say is power. What do we mean by know your rights? It simply means that, you have to possess the knowledge of human rights and equally know what to do and where to go to seek redress if your rights are violated.

2. Never give bribe

One of the easiest ways to get violated is giving bribes. It would interest you to know that, if you give bribe once to get favor, you are likely to give bribe over and over again to get anything done even if you are not required or demanded to do so. Therefore, if you have given bribe once and for any reason, you refused to give bribe another time due to whatever reason, you are likely to be violated by your previous collaborators.

3. Insist on your rights

In this part of the world, I have encountered many people who are of the view that, insisting on your rights is like wasting your time because you stand to lose more than you gain. However, what they didn't know is that, when you insist on your rights, it can't be a waste of time, but instead, you are rather making the other person accountable and insisting on the right thing. The time you invest in insisting on your rights can be said to be a time devoted to public service for your own good and the general good of the society.

4. Educate the violator

If people are allowed to do the wrong thing unchallenged over and over again, they later see such act as being a right. This means that, once violating others becomes part and parcel of people, their ability to see it as something wrong dies naturally. Therefore, when you encounter a prospective violator or a confirmed violator, educate them. When you educate a violator, you are indirectly appealing to his or her raw emotions and raising their dead conscience. This is in addition to the fact that you will always insist on your rights and never give in to being violated.

5. Be ready to commit your time

Remember, the rights you enjoy today were not there before now, some people sacrificed their time for you to enjoy such liberty. Therefore, if others can commit their time for you, you must also be ready to commit your time for yourself. People invested time and energy in coming up with the universal declaration of human rights, they spent time before the world accept the fact that, we are all born free and equal in rights and dignity.

Therefore, what is worth doing is worth doing well. if you want to be educated, you must be ready to commit your time to going to school. If you want to be an artist, you must be ready to spend time in studios and if you want to be a writer, you must be ready to commit your time to reading and writing. It's the same with your rights. If you want to enjoy a life devoid of violation, you must be ready to invest your time.

6. Never let go when you are violated

When you are violated by whomever, never let go. Write letters, short notes on social media, talk to the media, approach the authority to complain and seek redress. If need be, engage the service of a lawyer or meet human rights organizations for assistance. Note that, If you are violated once, you are likely to be violated over and over again, but accepting such violation is like accepting failure, never accept failure. Continue to challenge it until you defeat it and get justice.

7. Expose the culprit and publish your encounter

It is always good to take pictures, audio or video record of violation. Everyone wants to be seen as good, which is why people protect their images at whatever cost. Families encourage their children to conduct themselves well in public and never to soil the good name of their family.

8. Take pictures, voice or video recording to back up your claims

It is easy to deny claims of violations, but as they say, pictures don't lie. However, In this modern era, we have seen pictures lying with several Photoshop creations. Still, it is important to take pictures and if possible, audio and video records.

9. Protect the right of others

The violation of one is the violation of all. Therefore, if someone is being violated, it is our responsibility to come to their aid and join in the pursuit of justice. If you see any violation, call those you know who can assist, if you don't know anyone, share the story with the media or online or any other medium and get people to be aware. If you don't have access to any of the above, you are a vital element yourself. Show concern, solidarity with the victims, approach the

authority on their behavior or help confront the violator. When you do this for others, be rest assured, many would do the same for you.

10. Never violate others

You can't be a violator and not be violated, this is a natural law. Human rights itself means do not violate and don't be violated. If you violate others, it is likely that you will be violated with no one coming to your aid. Some people violate others where they are powerful, and cry for being violated in another way. This is not right. We are expected to protect people and not to violate them in whatever capacity we are just as we expect not to be violated. Knowing how hard we feel when we are violated, we should also try to avoid the temptation of making others go through what we don't want to go through.

11. Speak politely and softly, not forcefully with vulgar words

Speaking rudely to violator is not a good way to correct them or to protect your right, it actually makes the victim more prone to violation. When you speak to people harshly, they tend to reply you in the same manner, and if they are in the position to do more than talk, they do so with anger.

12. Be right and stay upright

You can't be wrong and claiming right, you have to be right to be protected by law. As long as you are right, the law will always be there to protect you. Even if those in authority are against you, the law is behind you. So, while being on your rights, you must stay upright and not do what would implicate or complicate your situation. The law can easily turn against you if you act without thinking of the consequences. Don't act rash out of anger, be right and stay upright.

13. Follow up till the end

As soon as you report a case to higher authorities, it is your duty to always follow up the case. Even in court, you must follow up to get justice. It is wrong to report a case and never follow up; it would be assumed that you are not sure of what you reported. But when you report a case, always spare time to go ask about the progress and be willing to add additional information if need be. If they abandon your report and you show up asking, definitely, they must continue to work on it until the end. If you didn't follow it up, you already helped them kill the case.

14. Educate everyone around you.

An educated fellow in the midst of ignorant people is also an ignorant person. This can only change if he or she tries to educate those around him. It is important that we educate everyone around us about human rights, just as we know, let them also know so we can complement each other. As soon as we all know our rights, know where and how to seek redress when violated knows who and where to report violations, certainly, we can live a life devoid of extreme human right violations.

Curative measures for preservation of Human rights

Human rights are fundamental rights that all human beings possess regardless of their race, ethnicity, sex, national or ethnic origin, color, residence, religion or any other status. These rights cannot be earned and they cannot be taken away, but they can be repressed or violated by individuals, nations or governments. While there are a number of national and international laws

in place to protect human rights, every person has an affirmative duty to also promote and protect these rights. Individuals can promote human rights locally by participating in activist events, or professionally by becoming a human rights lawyer or working for a human rights organization.

1. Recognize civil rights. In 1948, the United Nations General Assembly set forth the Universal Declaration of Human Rights (UDHR), which is a list of human rights inherent to all people. Members of the UN pledged to protect and promote these rights. The largest concentration of rights in the UDHR can be categorized as “civil rights,” which are rights related to one’s physical integrity and protection under the law. The first 18 tenets of the UDHR set forth individual’s civil rights, which include

- The right to equality and the right to life, liberty, and personal security.
- Freedom from discrimination, slavery, and from torture and degrading treatment.
- The right to recognition as a person before the law and equality under the law.
- The right to a remedy from a competent tribunal and to a fair public hearing.
- Freedom from arbitrary arrest and exile and from interference with privacy, family, home and correspondence.
- The right to be considered innocent until proven guilty.
- The right to free movement in and out of one’s own country and the right to asylum from persecution in other countries.
- The right to a nationality and the freedom to change it.
- The right to marriage and family, and to own property.
- Freedom of belief and religion.

2. Identify political rights. Human rights that are political in nature include those rights related to a person’s participation in government and the freedom from governmental intrusion. These rights are set forth in Articles 19 to 21 of the UDHR and include

- Freedom of opinion and expression and the right to information.
- Freedom of peaceful assembly and association.
- The right to participate in government, equal access to public service in his or her country, and the right to vote in free elections.
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3. Recognize economic and social rights. These rights establish the conditions that are necessary for individuals to prosper and to have an adequate standard of living. Articles 22 to 26 of the UDHR set forth economic and social rights, which include

- The right to social security.
- The right to participate in desirable work and to join trade unions.
- The right to rest and leisure and an adequate living standard for one’s health and wellbeing.
- The right to education, which is free during elementary and fundamental stages of development.

4. Be aware of cultural rights. Article 27 of the UDHR sets forth a person’s cultural rights. These rights include the right to participate in the cultural life of the community and the

protection of the moral and material interest in a person's own scientific, literary or artistic production.

5. Embrace the duty to protect and promote human rights. The protection and promotion of human rights is not limited to the United Nations or governments. Every person has an affirmative duty to help create an environment in which human rights are promoted and respected.

6. Learn about human rights. There are a numbers or ways that you can become educated about human rights, human rights abuses, and activism against human rights. Take a course at a local college on human rights. Depending on the course you choose, you may get an introduction to human rights and the law, the way that rights are monitored and protected and the steps that are taken to respond to human rights violations.

7. Participate in local human rights activism. Not all people are able to advocate for human rights on an international or national scale. Yet there is plenty of work that individuals can do locally to promote and support human rights. Attend a local event sponsored by human rights organizations such as Amnesty International. By participating in a local event against a human rights violation, such as protesting the death penalty, your actions are part of a larger collective action against injustice.

8. Document human rights violations. If you witness a violation of any of the human rights set forth in the UDHR (discussed above), you can report these violations to organizations dedicated to protecting and preserving human rights for all.

9. Report local human rights violations to a trusted organization. After documenting local human rights abuses, you should report these abuses to a trusted organization dedicated to protecting and preserving human rights. Even if the perpetrators are not criminally prosecuted, by reporting violations you enable these organizations to shed light on the abuses and hopefully pressure the perpetrators into changing their behavior. You can report human rights abuses to:

- Amnesty International at: <https://www.amnesty.org/en/aboutus/contact/>.
- Human Rights Action Center at: <http://www.humanrightSACTIONcenter.org/about/>.
- Human Rights Watch at: <https://www.hrw.org/contact>.
- Children's Defense Fund at: <http://www.childrensdefense.org/contact/>.

Policing and Human Rights

Policing in a democratic society is seen as upholding the dignity of the individual by safeguarding the constitutional and legal rights. Democracy gets threatened when the police cease to respect the legal and constitutional rights of the citizens and persistently disregard the due process of law. It is a known fact that a common complainant of crime is rudely received in the police stations and is treated with discourtesy, indifference and indignity. The use of third degree methods, torture, to be precise, is an accepted practice of the police methodology of interrogating the accused.

While being widely recognized as a violation of fundamental rights, and whilst being forbidden under the law, the torture is pervasive and routine in our police stations. The main

reason why police malpractices of the olden days persist and are practiced is that the system protects them from being punished for their human rights infringements. The victims of police perversions are almost always the disadvantaged sections of society who are incapable of legitimate self defence. In the garb of combating criminality, the police take law into their hands and trample upon the basic human rights of the crime-suspects. The abominable records of police deviance are reflected in the encounter deaths, and the rapes and deaths in the police custody. These no doubt, are the cruelest forms of human rights violations. Ironically, a sharp rise in such forms of abuses and excesses by police take place with sickening regularity despite the India's ratification in June 1997, the International Convention against Torture and other forms of cruel, inhuman and degrading treatment and punishment. Nothing is more revolting than the betrayal of the custodial trust by the guardians of law.

The basic cause of the malaise is rooted in the Police Act of 1861, which has all the manifestations of a repressive colonial force. There has been often organized effort to change the police culture; it still has some awesome powers, which are misused. To cut a long story short, our police have become so impervious to judicial inquiries and court structures that it continues to behave in a recalcitrant manner and refuses to follow the human rights mandate.

Responsible Police

The police, the Government and the society each have a role to play in improving the law enforcement situation and in developing a human rights-friendly police in the country. A lot can be accomplished to change public perceptions and to improve the standards of policing if the leadership in the police organization is fully committed to reform. After all, every profession has the primary responsibility to discipline its members and maintain a code of ethical behaviour by internal mechanisms by peer groups in the organization.

Organizational behaviour is largely the outcome of training and continuing education. Police training is archaic in content and methods. The emphasis is still more on muscle than on mind. Human Rights, if at all, form an insignificant module in the training program and there is hardly anything on human rights in the training of constables who form 85% of the force. Respect for human rights is not rewarded. If the leadership itself is doubtful about the imperatives of human rights in policing and if they disregard its importance in the training of subordinate officers, what is the point in expecting change in the behaviour of the ordinary sub inspectors and constables.

All sections of society, and more particularly the media, can help improve the status and efficiency of the police force. At least, they can afford not to disparage the police without rhyme or reason. If they can extend co-operation in law enforcement, there is bound to be a welcome response from the other side, which eventually will result in greater social defence and better law and order situation. People and Police ought not to maintain an adversarial relationship as it harms both. There are black sheep in every organization; it is in isolating them and in cultivating the talented that right thinking sections of the community, the media and the NGOs have a significant role to play. In such a partnership lies the guarantee of human protection, the security of life and property and a credible system of criminal justice in the country.

UNIT-III SPECIFIC RIGHTS

Specific Rights: Civil Rights

Civil and political rights are a class of rights that protect individuals' freedom from infringement by governments, social organizations, and private individuals. They ensure one's ability to participate in the civil and political life of the society and state without discrimination or repression.

Civil rights include the ensuring of peoples' physical and mental integrity, life, and safety; Protection from discrimination on grounds such as race, gender, national origin, colour, age, political affiliation, ethnicity, religion, or disability; and individual rights such as privacy and the freedoms of thought, speech, religion, press, assembly, and movement.

Civil and political rights form the original and main part of international human rights. They comprise the first portion of the 1948 Universal Declaration of Human Rights (with economic, social, and cultural rights comprising the second portion). The theory of three generations of human rights considers this group of rights to be "first generation rights", and the theory of negative and positive rights considers them to be generally negative rights.

History

The phrase "civil rights" is a translation of Latin *ius civis* (rights of a citizen). Roman citizens could be either free (*libertas*) or servile (*servitus*), but they all had rights in law. After the Edict of Milan in 313, these rights included the freedom of religion. Roman legal doctrine was lost during the Middle Ages, but claims of universal rights could still be made based on religious doctrine. According to the leaders of Kett's Rebellion (1549), "all bond men may be made free, for God made all free with his precious blood shedding.

In the 17th century, English common law judge Sir Edward Coke revived the idea of rights based on citizenship by arguing that Englishmen had historically enjoyed such rights. The Parliament of England adopted the English Bill of Rights in 1689. The Virginia Declaration of Rights, by George Mason and James Madison, was adopted in 1776. The Virginia declaration is the direct ancestor and model for the U.S. Bill of Rights (1789).

The removal by legislation of a civil right constitutes a "civil disability". In early 19th century Britain, the phrase "civil rights" most commonly referred to the issue of such legal discrimination against Catholics. In the House of Commons support for civil rights was divided, with many politicians agreeing with the existing civil disabilities of Catholics. The Roman Catholic Relief Act 1829 restored their civil rights.

In the 1860s, Americans adapted this usage to newly freed blacks. Congress enacted civil rights acts in 1866, 1871, 1875, 1957, 1960, 1964, 1968, and 1991.

Women Rights

The rights available to woman (ladies) in India can be classified into two categories, namely as constitutional rights and legal rights. The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights, on the other hand, are those which are provided in the various laws (acts) of the Parliament and the State Legislatures.

Constitutional Rights of Women

The rights and safeguards enshrined in the constitution for women in India are listed below:

- The state shall not discriminate against any citizen of India on the ground of sex [Article 15(1)].
- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women [Article 15(3)].
- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [Article 16(2)].
- Traffic in human beings and forced labour are prohibited [Article 23(1)].
- The state to secure for men and women equally the right to an adequate means of livelihood [Article 39(a)].
- The state to secure equal pay for equal work for both Indian men and women [Article 39(d)].
- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [Article 39(e)].
- The state shall make provision for securing just and humane conditions of work and maternity relief [Article 42].
- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [Article 51-A(e)].
- One-third of the total number of seats to be filled by direct election in every Panchayats shall be reserved for women [Article 243-D(3)].
- One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [Article 243-D(4)].
- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [Article 243-T(3)].
- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [Article 243-T(4)].

Legal Rights to Women

The following legislation's deals with several rights and safeguards for women:

- Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.

- Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organised means of living.
- Indecent Representation of Women (Prohibition) Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
- Commission of Sati (Prevention) Act (1987) provides for the more effective prevention of the commission of sati and its glorification on women.
- Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women.
- Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.
- Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
- Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female feticide.
- Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
- Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
- Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands.
- Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
- Indian Penal Code (1860) contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.
- Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
- Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
- Legal Services Authorities Act (1987) provides for free legal services to Indian women.
- Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.
- Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men.
- Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
- Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.

The following other legislation's also contain certain rights and safeguards for women

- Employees' State Insurance Act (1948)
- Plantation Labour Act (1951)

- Bonded Labour System (Abolition) Act (1976)
 - Legal Practitioners (Women) Act (1923)
 - Indian Succession Act (1925)
 - Indian Divorce Act (1869)
 - Parsi Marriage and Divorce Act (1936)
 - Special Marriage Act (1954)
 - Foreign Marriage Act (1969)
 - Indian Evidence Act (1872)
 - Hindu Adoptions and Maintenance Act (1956).
- National Commission for Women Act (1990) provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women.
 - Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal). Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organized or unorganized.

Dalit Rights

The word “Dalit” comes from the Sanskrit root dal- and means “broken, ground-down, downtrodden, or oppressed.” Those previously known as Untouchables, Depressed Classes, and Harijans are today increasingly adopting the term “Dalit” as a name for themselves. “Dalit” refers to one’s caste rather than class; it applies to members of those menial castes which have born the stigma of “untouchability” because of the extreme impurity and pollution connected with their traditional occupations.

Dalits are ‘outcastes’ falling outside the traditional four-fold caste system consisting of the hereditary Brahmin, Kshatriya, Vaishya, and Shudra classes; they are considered impure and polluting and are therefore physically and socially excluded and isolated from the rest of society.

Dalits represent a community of 170 million in India, constituting 17% of the population. One out of every six Indians is Dalit, yet due to their caste identity Dalits regularly face discrimination and violence which prevent them from enjoying the basic human rights and dignity promised to all citizens of India. Caste-based social organization extends beyond India, finding corollaries in Nepal, Pakistan, Sri Lanka, and Bangladesh, as well as other countries outside of South Asia (see below). More than 260 million people worldwide suffer from this “hidden apartheid” of segregation, exclusion, and discrimination.

The Indian Constitution banned the practice of untouchability under Article 17 and the Schedule Caste/ Schedule Tribes (Prevention of Atrocities Act), 1989 was introduced to combat persecution and discrimination against Dalits and Adivasi (tribal) people.

Despite the existence of these strong legal provisions, Dalit and Adivasi populations have found it virtually impossible to access their rights through the legal system. In this context, the Dalit and Adivasi Rights Initiative provides legal aid and rights-awareness to members of Dalit and Adivasi communities and uses the law to ensure that the violation of Dalit and Adivasi rights are addressed through the legal system.

The rights of dalits are follows

- Fundamental rights (Right to equality, Right to freedom, Right against exploitation, Right to freedom of religion, Cultural and educational rights, Right to constitutional remedies)
- Right against Untouchability
- Right against exploitation
- Right against discrimination
- Right against Unorganized labour (Migrant Labour, Bonded Labour & Child Labour etc.)
- Right against Manual scavenging
- Right to take Affirmative action's/ Protective Discrimination

Rights of Prisoners

It is established that conviction for a crime does not reduce the person into a non-person, so he is entitled to all the rights, which are generally available to the non-prisoner. On the other hand, it cannot be denied that he is not entitled for any absolute right, which is available to a non-prisoner citizen but subject to some legal restrictions.

The Supreme Court of United States as well as the Indian Supreme Court held that prisoner is a human being, a natural person and also a legal person. Being a prisoner he does not cease to be a human being, natural person or legal person. Conviction for a crime does not reduce the person into a non person, whose rights are subject to the whim of the prison administration and therefore, the imposition of any major punishment within the prison system is conditional upon the absence of procedural safeguards.

The courts which send offenders into prison, have an onerous duty to ensure that during detention, *detenués* have freedom from torture and follow the words of *William Black* that "*Prisons are built with stones o f Law*". So, when human rights are harassed behind the bars, constitutional justice comes forward to uphold the law. The rights of the prisoners are follows;

- Right to fundamental rights
- Right to life and personal liberty
- Right to live with human dignity
- Right to health and medical treatment
- Right to speedy trial
- Right to free legal aid
- Right to protection of custodial torture and mal treatment in prisons
- Right to bail during pendency of appeal
- Right to be released on due date
- Right to education
- Right to receive books and magazines inside the jail
- Right to publication
- Right to reasonable wages for work
- Right to security of life inside the jail
- Right to interaction with the society
- Right to compensation in case of miscarriage of justice

Rights of Victims

A victim is usually defined as a person who has been directly harmed by a crime that was committed by another person. In some states, victims' rights apply only to victims of felonies (more serious crimes) while other states also grant legal rights to victims of misdemeanors (less serious crimes). Some states allow a family member of a homicide victim or the parent or guardian of a minor, incompetent person, or person with a disability to exercise these rights on behalf of the victims. The victim rights are follows

1. Right to Be Treated with Dignity, Respect, and Sensitivity

Victims generally have the right to be treated with courtesy, fairness, and care by law enforcement and other officials throughout the entire criminal justice process. This right is included in the constitutions of most states that have victims' rights amendments and in the statutes of more than half the states. Victim impact statements allow crime victims, during the decision making process on sentencing or parole, to describe to the court or parole board the impact of the crime on their lives. The victim impact statement may include a description of psychological, financial, physical, or emotional harm the victim experienced as a result of the crime. A judge may use information from these statements to help determine an offender's sentence; A parole board may use such information to help decide whether to grant a parole and what conditions to impose in releasing an offender. Many victims have reported that making victim impact statements improved their satisfaction with the criminal justice process and helped them recover from the crime.

In some states, the prosecutor is required to confer with the victim before making important decisions. In all states, however, the prosecutor (and not the victim) makes decisions about the case.

2. Right to be informed

The purpose of this right is to make sure that victims have the information they need to exercise their rights and to seek services and resources that are available to them. Victims generally have the right to receive information about victims' rights, victim compensation (see "Right to Apply for Compensation," below), available services and resources, how to contact criminal justice officials, and what to expect in the criminal justice system. Victims also usually have the right to receive notification of important events in their cases. Although state laws vary, most states require that victims receive notice of the following events

- The arrest and arraignment of the offender
- Bail proceedings
- Pretrial proceedings
- Dismissal of charges
- Plea negotiations
- Trial
- Sentencing
- Appeals
- Probation or parole hearings
- Release or escape of the offender

States have different ways of providing such information to victims. Usually, information about court proceedings is mailed to the victim. Some states have an automated victim notification system that automatically calls or emails the victim with updates on the status of the offender, while others require the victim to telephone the authorities to receive such updates.

3. Right to Protection

In many states, victims have the right to protection from threats, intimidation, or retaliation during criminal proceedings. Depending on the jurisdiction, victims may receive the following types of protection

- Police escorts
- Witness protection programs
- Relocation
- Restraining orders

Some states also have laws to protect the employment of victims who are attending criminal proceedings (see "Right to Attend Criminal Proceedings," above).

4. Right to Apply for Compensation

All states provide crime victim compensation to reimburse victims of violent crime for some of the out of pocket expenses that resulted from the crime. The purpose of compensation is to recognize victims' financial losses and to help them recover some of these costs. All states have a cap on the total compensation award for each crime, and not all crime related expenses are covered. To be eligible for compensation, victims must submit an application, usually within a certain period of time, and show that the losses they are claiming occurred through no fault of their own. Some types of losses that are usually covered include

- Medical and counseling expenses
- Lost wages
- Funeral expenses
-

Compensation programs seldom cover property loss or pain and suffering. Also, victim compensation is a payer of last resort; Compensation programs will not cover expenses that can be paid by some other program, such as health insurance or workman's compensation.

5. Right to Restitution from the Offender

In many states, victims of crime have the right to restitution, which means the offender must pay to repair some of the damage that resulted from the crime. The purpose of this right is to hold offenders directly responsible to victims for the financial harm they caused. The court orders the offender to pay a specific amount of restitution either in a lump sum or a series of payments. Some types of losses covered by restitution include

- Lost wages
- Property loss
- Insurance deductibles

6. Right to Prompt Return of Personal Property

Crime investigators must often seize some of the victim's property as evidence for a criminal case. In most states, authorities must return such property to the victim when it is no longer needed. To speed up the return of property, some states allow law enforcement to use photographs of the item, rather than the item itself, as evidence. The prompt return of personal property reduces inconvenience to victims and helps restore their sense of security.

7. Right to a Speedy Trial

The philosophy of Right to Speedy trial has grown in age but its goals are yet unforeseen. Right to Speedy Trial is a concept which deals with disposal of cases as soon as possible so as to make the Judiciary more efficient and trustworthy. The main aim of Right to Speedy trial is to inculcate Justice in the society. It is the human life that necessitates human rights. Being in a civilized society organized with law and a system as such, it is essential to ensure for every citizen a reasonably dignified life. Thus every right is a human right as that helps a human to live like a human being. The very basic purpose for which every state shall set up the court system is to award justice to the victims of crimes. The constitution of India imposes heavy duty on the judicial system for providing legal mechanism to deal with problem relating to imparting justice. The setting up an independent judicial system, inclusion of fundamental rights and directive principles of state policies further shows the commitment of our constitution makers in making the judicial system an effective organ of state machinery on which people can rely with trust and hope of justice.

The right to a speedy trial is first mentioned in that landmark document of English law, the Magna Carta. Article 21 declares that "no person shall be deprived of his life or personal liberty except according to the procedure laid by law." Justice Krishna Iyer while dealing with the bail petition in Babu Singh v. State of UP, remarked, "Our justice system even in grave cases, suffers from slow motion syndrome which is lethal to 'fair trial' whatever the ultimate decision. Speedy justice is a component of social justice since the community, as a whole, is concerned in the criminal being condignly and finally punished within a reasonable time and the innocent being absolved from the inordinate ordeal of criminal proceedings." Right to speedy trial is a concept gaining recognition and importance day by day.

Speedy trial is a fundamental right implicit in the guarantee of life and personal liberty enshrined in Article 21 of the Constitution and any accused who is denied this right of speedy trial is entitled to approach Supreme Court under Article 32 for the purpose of enforcing such right. This Court in discharge of its constitutional obligation has the power to give necessary directions to the State Governments and other appropriate authorities for securing this right to the accused.

8. Right to Enforcement of Victims' Rights

To be meaningful, legal rights must be enforced. States are beginning to pass laws to enforce victims' rights, and several states have created offices to receive and investigate reports of violations of victims' rights. Other states have laws that permit victims to assert their rights in court.

Child Rights

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.

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)).

Besides these they also have rights as equal citizens of India, just as any other adult male or female

- Right to equality (Article 14).
- Right against discrimination (Article 15).
- Right to personal liberty and due process of law (Article 21).
- Right to being protected from being trafficked and forced into bonded labour (Article 23).
- Right of weaker sections of the people to be protected from social injustice and all forms of exploitation (Article 46).

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.

Labour Rights

Labor rights or workers' rights are a group of legal rights and claimed human rights having to do with labor relations between workers and their employers, usually obtained under labor and employment law. In general, these rights' debates have to do with negotiating workers' pay, benefits, and safe working conditions. One of the most central of these rights is the right to unionize. Unions take advantage of collective bargaining and industrial action to increase their members' wages and otherwise change their working situation. Labor rights can also take in the form of worker's control and worker's self management in which workers have a democratic voice in decision and policy making. The labor movement initially focused on this "right to unionize", but attention has shifted elsewhere.

Labor rights are a relatively new addition to the modern corpus of human rights. The modern concept of labor rights dates to the 19th century after the creation of labor unions

following the industrialization processes. Karl Marx stands out as one of the earliest and most prominent advocates for workers rights. His philosophy and economic theory focused on labor issues and advocates his economic system of socialism, a society which would be ruled by the workers. Many of the social movements for the rights of the workers were associated with groups influenced by Marx such as the socialists and communists. More moderate democratic socialists and social democrats supported worker's interests as well. More recent workers rights advocacy has focused on the particular role, exploitation, and needs of women workers, and of increasingly mobile global flows of casual, service, or guest workers.

The International Labour Organization was formed in 1919 as part of the League of Nations to protect worker's rights. The ILO later became incorporated into the United Nations. The UN itself backed workers rights by incorporating several into two articles of the United Nations Declaration of Human Rights, which is the basis of the International Covenant on Economic, Social and Cultural Rights (article 68).

Article 23

- a) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- b) Everyone, without any discrimination, has the right to equal pay for equal work.
- c) Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- d) 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.

The ILO and several other groups have sought international labor standards to create legal rights for workers across the world. Recent movements have also been made to encourage countries to promote labor rights at the international level through fair trade.

The core labor standards are

- Freedom of association: workers are able to join trade unions that are independent of government and employer influence;
- The right to collective bargaining: workers may negotiate with employers collectively, as opposed to individually;
- The prohibition of all forms of forced labor: includes security from prison labor and slavery, and prevents workers from being forced to work under duress;
- Elimination of the worst forms of child labor: implementing a minimum working age and certain working condition requirements for children;
- Nondiscrimination in employment: equal pay for equal work.

Role of NGO's in the protection of Human Rights

Several nongovernmental organizations around the world have dedicated their efforts to protecting human rights and advocating against human rights abuses. In fact, major human rights NGOs maintain websites and other platforms documenting violations and calling for remedial action both, at government and even grassroots levels. Through these platforms, they have been able to acquire public support and condemn abuses of human rights considering the fact that calls for reforms are always successful when backed by strong advocacy from the public.

In order to help in the protection of human rights, quite a number of nongovernmental organizations like Amnesty International, Human Rights Watch, Human Rights Without Frontiers, Human Rights Action Center among others have been on the front line, monitoring the actions of governments and exerting pressure on them to act in accordance with human rights principles.

As a result of this, various governments have been able to also initiate programs advocating against human rights abuses. In some cases, such pressure has also pushed some government to arrest, prosecute and charge individuals who have been accused of acts of human rights violations.

UNIT-IV LEGAL PROCEDURES AND HUMAN RIGHTS

Code of Criminal Procedure (sections 50, 54, 56, 57, 58, 167(1) and (2), 300, 303, 304, 327, 436, 437 and 438) - Provisions for human rights.

The following sections have provisions of human rights in Criminal Procedure Code

Section 50: Person arrested to be informed of grounds of arrest and of right to bail

(1) Every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest

(2) Where a police officer arrests without warrant any person other than a person accused of a non-bailable offence, he shall inform the person arrested that he is entitled to be released on bail and that he may arrange for sureties on his behalf

Section 54: Examination of arrested person by medical practitioner at the request of the arrested person

When a person who is arrested, whether on a charge or otherwise, alleges, at the time when he is produced before a Magistrate or at any time during the period of his detention in custody that the examination of his body will afford evidence which will disprove the commission by him of any offence or which will establish the commission by any other person of any offence against his body, the Magistrate shall, if requested by the arrested person so to do direct the examination of the body of such person by a registered medical practitioner unless the Magistrate considers that the request is made for the purpose of vexation or delay or for defeating the ends of justice

The UP State Government made an amendment in this section. It said that the "The registered medical practitioner shall forthwith furnish to the arrested person a copy of the report of such examination free of cost"

Section 56: Person arrested to be taken before Magistrate or officer in charge of police station

A police officer making an arrest without warrant shall, without unnecessary delay and subject to the provisions herein contained as to bail, take or send the person arrested before a Magistrate having jurisdiction in the case, or before the officer in charge of a police station

Section 57: Person arrested not to be detained more than twenty-four hours

No police officer shall detain in custody a person arrested without warrant for a longer period than under all the circumstances of the case is reasonable, and such period shall not, in the absence of a special order of a Magistrate under section 167, exceed twenty-four hours exclusive of the time necessary for the journey from the place of arrest to the Magistrate's Court

Section 58: Police to report apprehensions

Officers in charge of police stations shall report to the District Magistrate, or, if he so directs, to the Sub-divisional Magistrate, the cases of all persons arrested without warrant, within the limits of their respective stations, whether such persons have been admitted to bail or otherwise

Section 167: Procedure when investigation cannot be completed in twenty-four hours

(1) Whenever any person is arrested and detained in custody, and it appears that the investigation cannot be completed within the period of twenty-four hours fixed by section 57, and there are grounds for believing that the accusation or information is well-founded, the officer in charge of the police station or the police officer making the investigation, if he is not below the rank of sub-inspector, shall forthwith transmit to the nearest Judicial Magistrate a copy of the entries in the diary hereinafter prescribed relating to the case, and shall at the same time forward the accused to such Magistrate

(2) The Magistrate to whom an accused person is forwarded under this section may, whether he has or has not jurisdiction to try the case, from time to time, authorise the detention of the accused in such custody as such Magistrate thinks fit, a term not exceeding fifteen days in the whole; and if he has no jurisdiction to try the case or commit it for trial, and considers further detention unnecessary, he may order the accused to be forwarded to a Magistrate having such jurisdiction:

Provided that—

(a) the Magistrate may authorise the detention of the accused person, otherwise than in the custody of the police, beyond the period of fifteen days, if he is satisfied that adequate grounds exist for doing so, but no Magistrate shall authorise the detention of the accused person in custody under this paragraph for a total period exceeding—

(i) ninety days, where the investigation relates to an offence punishable with death, imprisonment for life or imprisonment for a term of not less than ten years;

(ii) sixty days, where the investigation relates to any other offence, and, on the expiry of the said period of ninety days, or sixty days, as the case may be, the accused person shall be released on bail if he is prepared to and does furnish bail, and every person released on bail under this sub-section shall be deemed to be released under the provisions of Chapter XXXIII for the purposes of that Chapter;

(b) No Magistrate shall authorise detention in any custody under this section unless the accused is produced before him;

(c) No Magistrate of the second class, not specially empowered in this behalf by the High Court, shall authorise detention in the custody of the police

Section 300: Person once convicted or acquitted not to be tried for same offence

(1) A person who has once been tried by a Court of competent jurisdiction for an offence and convicted or acquitted of such offence shall, while such conviction or acquittal remains in force, not be liable to be tried again for the same offence, nor on the same facts for any other

offence for which a different charge from the one made against him might have been made under subsection

(2) A person acquitted or convicted of any offence may be afterwards tried, with the consent of the State Government for any distinct offence for which a separate charge might have been made against him at the former trial under sub-section (1) of section 220.

(3) A person convicted of any offence constituted by any act causing consequences which, together with such act, constituted a different offence from that of which he was convicted, may be afterwards tried for such last-mentioned offence, if the consequences had not happened or were not known to the Court to have happened, at the time when he was convicted.

(4) A person acquitted or convicted of any offence constituted by any acts may, notwithstanding such acquittal or conviction be subsequently charged with, and tried for, any other offence constituted by the same acts which he may have committed if the Court by which he was first tried was not competent to try the offence with which he is subsequently charged.

(5) A person discharged under section 258 shall not be tried again for the same offence except with the consent of the Court by which he was discharged or of any other Court to which the first-mentioned Court is subordinate.

(6) Nothing in this section shall affect the provisions of section 26 of the General Clauses Act, 1897 (10 of 1897) or of section 188 of this Code.

Section 303: Right of person against whom proceedings are instituted to be defended

Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be defended by a pleader of his choice.

Section 304: Legal aid to accused at State expense in certain cases

(1) Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State.

(2) The High Court may, with the previous approval of the State Government make rule providing for—

(a) The mode of selecting pleaders for defence under sub-section (2);

(b) The facilities to be allowed to such pleaders by the Courts;

(c) The fee payable to such pleaders by the Government, and generally, for carrying out the purposes of sub-section (1).

(3) The State Government may, by notification, direct that, as from such date as may be specified in the notification, the provisions of sub-sections (1) and (2) shall apply in relation to any class of trials before other Courts in the State as they apply in relation to trials before the Courts of Session.

Section 327: Court to be open

(1) The place in which any criminal Court is held for the purpose of inquiring into or trying any offence shall be deemed to be an open Court to which the public generally may have access, so far as the same can conveniently contain them: Provided that the presiding Judge or Magistrate may, if he thinks fit, order at any stage of any inquiry into, or trial of, any particular case, that the public generally, or any particular person, shall not have access to, or be or remain in, the room building used by the Court.

(2) Notwithstanding anything contained in sub-section (1), the inquiry into and trial of rape or an offence under section 376, section 376A, section 376 B, section 376C or section 376D of the Indian Penal Code (45 of 1860) shall be conducted *in camera*: Provided that the presiding Judge may, if he thinks fit, or on an application made by either of the parties, allow any particular person to have access to, or be or remain in, the room or building used by the Court.

(3) Where any proceedings are held under sub-section (2), it shall not be lawful for any person to print or publish any matter in relation to any such proceedings, except with the previous permission of the Court.

Section 436: In what cases bail to be taken

(1) When any person other than a person accused of a non-bailable offence is arrested or detained without warrant by an officer in charge of a police station, or appears or is brought before a Court, and is prepared at any time while in the custody of such officer or at any stage of the proceeding before such Court to give bail, such person shall be released on bail: Provided that such officer or Court, if he or it thinks fit, may, instead of taking bail from such person, discharge him on his executing a bond without sureties for his appearance as hereinafter provided: Provided further that nothing in this section shall be deemed to affect the provisions of sub-section (3) of section 116 or section 446A.

(2) Notwithstanding anything contained in sub-section (1), where a person has failed to comply with the conditions of the bail-bond as regards the time and place of attendance, the Court may refuse to release him on bail, when on a subsequent occasion in the same case he appears before the Court or is brought in custody and any such refusal shall be without prejudice to the powers of the Court to call upon any person bound by such bond to pay the penalty thereof under section 446.

Section 437: When bail may be taken in case of non-bailable offence

(1) When any person accused of, or suspected of, the commission of any non-bailable offence is arrested or detained without warrant by an officer in charge of a police station or appears or is brought before a Court other than the High Court or Court of Session, he may be released on bail, but—

(i) such person shall not be so released if there appear reasonable grounds for believing that he has been guilty of an offence punishable with death or imprisonment for life;

(ii) such person shall not be so released if such offence is a cognizable offence and he had been previously convicted of an offence punishable with death, imprisonment for life or imprisonment for seven years or more, or he had been previously convicted on two or more occasions of a non-bailable and cognizable offence:

Section 438: Direction for grant of bail to person apprehending arrest

(1) When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for direction under this section; and that Court may, if it thinks fit, direct that in the event of such arrest, he shall be released on bail.

(2) When the High Court or the Court of Session makes a direction under sub-section (1), it may include such conditions in such directions in the light of the facts of the particular case, as it may think fit, including—

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court;

(iv) such other condition as may be imposed under sub-section (3) of section 437, as if the bail were granted under that section.

(3) If such person is thereafter arrested without warrant by an officer in charge of a police station on such accusation, and is prepared either at the time of arrest or at any time while in the custody of such officer to give bail, he shall be released on bail, and if a Magistrate taking cognizance of such offence decides that a warrant should issue in the first instance against that person, he shall issue a bailable warrant in conformity with the direction of the Court under sub-section (1).

The Indian Evidence Act (sections 24, 25, 26, 112 A and B, 114 and 133)

The Indian Evidence Act

The following sections have provisions of human rights Indian Evidence Act

Section 24: Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding

Confession caused by inducement, threat or promise, when irrelevant in criminal proceeding.-A confession made by an accused person is irrelevant in a criminal proceeding, if the making of the confession appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against the accused person, proceeding from a person in authority and sufficient, in the opinion of the Court, to give the accused person grounds, which would appear to him reasonable, for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceedings against him.

Section 25: Confession to police-officer not to be proved

Confession to police-officer not to be proved.-No confession made to a police-officer, shall be proved as against a person accused of any offence.

Section 26: Confession by accused while in custody of police not to be proved against him

Confession by accused while in custody of police not to be proved against him.-No confession made by any person whilst he is in the custody of a police-officer, unless it be made in the immediate presence of a Magistrate, shall be proved as against such person.

Section 112: Birth during marriage, conclusive proof of legitimacy

Birth during marriage, conclusive proof of legitimacy.-The fact that any person was born during the continuance of a valid marriage between his mother and any man, or within two hundred and eighty days after its dissolution, the mother remaining unmarried, shall be conclusive proof that he is the legitimate son of that man, unless it can be shown that the parties to the marriage had no access to each other at any time when he could have been begotten.

Section 114: Court may presume existence of certain facts

Court may presume existence of certain facts. The Court may presume the existence of any fact which it thinks likely to have happened, regard being had to the common course of natural events, human conduct and public and private business, in their relation to the facts of the particular case.

Illustrations

The Court may presume-

- (a) that a man who is in possession of stolen goods soon after the theft is either the thief or has received the goods knowing them to be stolen, unless he can account for his possession;
- (b) that an accomplice is unworthy of credit, unless he is corroborated in material particulars;
- (c) That a bill of exchange, accepted or endorsed, was accepted or endorsed for good consideration;
- (d) That a thing or state of things which has been shown to be in existence within a period shorter than that within which such things or states of things usually cease to exist, is still in existence;
- (e) That judicial and official acts have been regularly performed;
- (f) That the common course of business has been followed in particular cases;
- (g) That evidence which could be and is not produced would, if produced, be unfavorable to the person who withholds it;
- (h) That if a man refuses to answer a question which he is not compelled to answer by law, the answer, if given, would be unfavourable to him;
- (i) That when a document creating an obligation is in the hands of the obligor, the obligation has been discharged.

Section 133: Accomplice

Accomplice.-An accomplice shall be a competent witness against an accused person; and a conviction is not illegal merely because it proceeds upon the uncorroborated testimony of an accomplice.

Provisions for human rights

THE PROTECTION OF HUMAN RIGHTS ACT, 1993

No. 10 of 1994 (8th January, 1994)

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the forty-fourth year of the Republic of India as follows

(1) This Act may be called the Protection of Human Rights Act, 1993.

(2) It extends to the whole of India.

Provided that it shall apply to the State of Jammu and Kashmir only in so far as it pertains to the matters relatable to any of the entries enumerated in List I or List III in the Seventh Schedule to the Constitution as applicable to that State.

(3) It shall be deemed to have come into force on the 28th day of September, 1993.

The protection Human Rights Act have eight chapters and 43 sections. The chapters are deals with the followings.

Sec **Chapter 1 – Preliminary**

1. Short title, extent and commencement
2. Definitions

Chapter II - The National Human Rights Commission

3. Constitution of a National Human Rights Commission
4. Appointment of Chairperson and other Members
5. Resignation and removal of Chairperson and Members
6. Term of Office of Chairperson and Members
7. Member to act as Chairperson or to discharge his functions in certain circumstances
8. Terms and conditions of service of Chairperson and Members
9. Vacancies etc., not to invalidate the proceedings of the Commission
10. Procedure to be regulated by the Commission
11. Officers and other staff of the Commission

Chapter III - Functions and Powers of the Commission

12. Functions of the Commission
13. Powers relating to inquiries
14. Investigation
15. Statement made by persons to the Commission
16. Persons likely to be prejudicially affected to be heard

Chapter IV – Procedure

17. Inquiry into complaints
18. Steps during and after inquiry
19. Procedure with respect to armed forces
- 20 Annual and special reports of the Commission

Chapter V - State Human Rights Commission

21. Constitution of State Human Rights Commissions
22. Appointment of Chairperson and Members of State Commission
23. Resignation and Removal of Chairperson or a Member of the State Commission
24. Term of office of Chairperson and Members of the State Commission
25. Member to act as Chairperson or to discharge his functions in certain circumstances
26. Terms and conditions of service of Chairperson and Members of State Commission
27. Officers and other staff of the State Commission
28. Annual and special reports of State Commission
29. Application of certain provisions relating to National Human Rights Commission to State Commissions

Chapter VI - Human Rights Courts

30. Human Rights Courts
31. Special Public Prosecutor

Chapter VII - Finance, Accounts and Audit

32. Grants by the Central Government
33. Grants by the State Government
34. Accounts and Audit
35. Accounts and Audit of State Commission

Chapter VIII – Miscellaneous

36. Matters not subject to jurisdiction of the Commission
37. Constitution of special investigation teams
38. Protection of action taken in good faith
39. Members and officers to be public servants
40. Power of Central Government to make rules
- 40 (A). Power to make rules retrospectively
- 40 (B). Power of Commission to make Regulations
41. Power of State Government to make rules
42. Power to remove difficulties
43. Repeal and Savings

Structure and Functions of National Human Rights Commission

Structure of NHRC

The structures of National Human Rights Commission are follows;

- (a) The Prime Minister — Chairperson
- (b) Speaker of the House of the People — Member
- (c) Minister in-charge of the Ministry of Home Affairs in the Government of India — Member
- (d) Leader of the Opposition in the House of the People — Member
- (e) Leader of the Opposition in the Council of States — Member
- (f) Deputy Chairman of the Council of States — Member.

The Chairperson and [the Members] shall be appointed by the President by warrant under his hand and seal.

No sitting Judge of the Supreme Court or sitting Chief Justice of a High Court shall be appointed except after consultation with the Chief Justice of India.

A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years.

Provided that no Member shall hold office after he has attained the age of seventy years.

On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of India or under the Government of any State.

Functions of NHRC

- Promote and protect human rights;
- Review the safeguard provided by or under any enactment for the protection of human rights;
- Review the factors or difficulties that inhibit the enjoyment of human rights;
- Submit to the Minister any opinion, recommendation, proposal or report on any matter concerning the promotion and protection of human rights;
- Prepare reports on the national situation with regard to human rights in general, and on more specific matters;
- Inform the Minister of situations of violation of human rights and advise on ways in which such situations can be ended;
- Promote and ensure the harmonization of national legislation and practices with the international human rights instruments to which Mauritius is a party, and their effective implementation;
- Encourage ratification or accession to the instruments referred to in paragraph (g), and ensure their implementation;

- Contribute to the reports which Mauritius is required to submit to United Nations bodies and committees, and to regional institutions, pursuant to its treaty obligations and, where necessary, to express an opinion on the subject, with due respect for its independence;
- Cooperate with the United Nations and any other organisation in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the protection and promotion of human rights;
- Assist in the formulation of programmes for the teaching of, and research into, human rights and take part in their execution in schools, universities and professional circles;
- publicize human rights and efforts to combat all forms of discrimination by increasing public awareness, especially through information and education and by making use of all press organs;
- Exercise such other functions as it may consider being conducive to the promotion and protection of human rights.
- Carry out an enquiry as to whether a case where a person who believes that he has been unjustly convicted.

The NHRC can deal only with the Human Rights listed in Chapter II of the Constitution

- Protection of the right to life
- Protection of the right to personal liberty
- Protection from slavery and forced labour
- Protection from inhuman treatment
- Protection from deprivation of property
- Protection for privacy of home and other property
- Provisions to secure protection of law
- Protection of freedom of conscience
- Protection of freedom of expression
- Protection of freedom of assembly and association
- Protection of freedom to establish schools
- Protection of freedom of movement
- Protection from discrimination in the public sector on the ground of race, caste, place of origin, political opinions, colour, creed or sex

Structure and Functions of STATE HUMAN RIGHTS COMMISSION – SHRC

Structure of SHRC- The structure of SHRC is as follows

- (a) The Chief Minister — Chairperson
- (b) Speaker of the Legislative Assembly — Member
- (c) Minister in-charge of the Department of Home, in that State —

Member

- (d) Leader of the Opposition in the Legislative Assembly — Member

The Chairperson and Members shall be appointed by the Governor by warrant under his hand and seal.

Where there is a Legislative Council in a State, the Chairman of that Council and the Leader of the Opposition in that Council shall also be members of the Committee.

No sitting Judge of a High Court or a sitting District Judge shall be appointed except after consultation with the Chief Justice of the High Court of the concerned State.

A person appointed as Chairperson shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier;

A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years;

Provided that no Member shall hold office after he has attained the age of seventy years.

On ceasing to hold office, a Chairperson or a Member shall be ineligible for further employment under the Government of a State or under the Government of India.

Functions of SHRC

The commission shall, perform all or any of the following functions

Inquire, on its own initiative or on a petition presented to it by a victim or any person on his behalf, into complaint of

- Violation of human rights or abetment thereof or
- Negligence in the prevention of such violation by a public servant.
- Intervene in any proceeding involving any allegation of violation of human right pending before a court with the approval of such court.
- Visit, under intimation to the State Government, any jail or any other institution of the State Government, where persons are detained or lodged for purposes of treatment reformation or protection for the study of the living condition of the inmates and make recommendation thereon to Government.
- Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation.
- Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures.
- Study treaties and other international instruments on human rights and make recommend for their effective implementation.
- Undertake and promote research in the field of human rights.
- Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media seminars and other available means.
- Encourage the efforts of nongovernmental organizations and institutions working in the field of human rights.
- Such other functions as it may consider necessary for the protection of human rights.

Human Rights Courts

The Human Rights courts are mentioned in Chapter VI of the Protection of Human rights act (Sec 30 & 31).

Sec 30: For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court,

by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.

Provided that nothing in this section shall apply if

- (a) A Court of Session is already specified as a special court; or
- (b) A special court is already constituted, for such offences under any other law for the time being in force.

31. Special Public Prosecutor

For every Human Rights Court, the State Government shall, by notification, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

Legislations relating to the welfare of women: Dowry prohibition Act 1961

THE DOWRY PROHIBITION ACT 1961 ACT NO. 28 OF 1961 [20th May, 1961]

An Act to prohibit the giving or taking of dowry

BE it enacted by Parliament in the Twelfth Year of the Republic of India as follows.-

1. Short title, extent and commencement

1. Short title, extent and commencement. (1) This Act may be called the Dowry Prohibition Act, 1961.

(2) It extends to the whole of India except the State of Jam and Kashmir.

(3) It shall come into force on such date' as the Central Government may, by notification in the Official Gazette, appoint.

2. Definition of "dowry"

2. Definition of "dowry". In this Act, "dowry" means any property or valuable security given or agreed to be given either directly or indirectly-

(a) by one party to a marriage to the other party to the marriage; or

(b) by the parents of either party to a marriage or by a other person, to either party to the marriage or to any other person; at or before or after the marriage us consideration for the marriage of the said parties, but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

3. Penalty for giving or taking dowry

If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

4. Penalty for demanding dowry

If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both:

Provided that no court shall take cognizance of any offence under this section except with the previous sanction of the State Government or of such officer as the State Government may, by general or special order, specify in this behalf.

5. Agreement for giving or taking dowry to be void

5. Agreement for giving or taking dowry to be void. Any agreement for the giving or taking of dowry shall be void.

6. Dowry to be for the benefit of the wife or her heirs

(1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman-

(a) If the dowry was received before marriage, within one year after the date of marriage;
or

(b) If the dowry was received at the time of or after the marriage, within one year after the date of its receipt; or

(c) If the dowry was received when the woman was a minor, within one year after she has attained the age of eighteen years; and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by subsection (1) and within the time limited there for, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

7. Cognizance of offences.

Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (5 of 1898.)--

(a) No court inferior to that of a presidency magistrate or a magistrate of the first class shall try any offence under this Act;

(b) No court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence;

(c) It shall be lawful for a presidency magistrate or a magistrate of the first class to pass any sentence authorized by this Act on any person convicted of an offence under this Act.

8. Offences to be non-cognizable, bailable and non-compoundable

Every offence under this Act shall be non-cognizable, bailable and non-compoundable

9. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may

be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

10. Repeals

10. Repeals. The Andhra Pradesh Dowry Prohibition Act, 1958, (Andhra Pradesh Act 1 of 1958.) and the Bihar Dowry Restraint Act, 1950, (25 of 1950.) are hereby repealed.

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the prevention of immoral traffic.

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called The Immoral Traffic (Prevention) Act, 1956.

(2) It extends to the whole of India.

(3) This section shall come into force at once; and the remaining provisions of this come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Definitions.—In this Act. Unless the context otherwise requires

(a) “brothel“ includes any house, room, conveyance or place, or any portion of any house, room, conveyance or place, which is used for purposes of sexual exploitation or abuse for the gain of another person or for the mutual gain of two or more prostitutes;

(aa) “child“ means a person who has not completed the age of eighteen years;

(b) “corrective institution“ means an institution, by whatever name called (being an institution established or licenced as such under Section 21), in which persons, who are in need of correction, may be detained under this Act, and includes a shelter where under trials may be kept in pursuance of this Act;

(c) “magistrate“ means a Magistrate specified in the second column of the Schedule as being competent to exercise the powers conferred by the section in which the expression occurs and which is specified in the first column of the Schedule;

(d) “prescribed“ means prescribed by rules made under this Act;

(e) [1] [* * * * *].

(f) “prostitution“ means the sexual exploitation or abuse of persons for commercial purposes or for consideration in money or in any other kind, and the expression “prostitute” shall be construed accordingly;

(g) “protective home“ means an institution, by whatever name called (being an institution established or licensed as such under Section 21), in which persons who are in need of care and protection, may be kept under this Act and where appropriate technically qualified persons, equipments and other facilities have been provided but does not include,—

(i) a shelter where under trials may be kept in pursuance of this Act, or

(ii) a corrective institution;

(h) “public place“ means any place intended for use by, or accessible to, the public and includes any public conveyance;

(i) “Special police officer” means a police officer appointed by or on behalf of the State Government to be in charge of police duties within a specified area for the purpose of this Act;

(j) “Trafficking police officer“ means a police officer appointed by the Central Government under subsection (4) of Section 13.

3. Punishment for keeping a brothel or allowing premises to be used as a brothel

(1) Any person who keeps or manages, or acts or assists in the keeping or management of, a brothel shall be punishable on first conviction with rigorous imprisonment for a term of not less than two years and which may extend to three years and also with fine which may extend to ten thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which shall not be less than three years and which may extend to seven years and shall also be liable to fine which may extend to two lakh rupees.

(2) a any person who,

(a) being the tenant, lessee, occupier or person in charge of any premises, uses, or knowingly allows any other person to use, such premises or any part thereof as a brothel, or

(b) being the owner, lessor or landlord of any premises or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof is intended to be used as a brothel, or is wilfully a party to the use of such premises or any part thereof as a brothel, shall be punishable on first conviction with imprisonment for a term which may extend to two years and with fine which fine which may extend to two thousand rupees and in the event of a second or subsequent conviction, with rigorous imprisonment for a term which may extend to five years and also with fine.

4. Punishment for living on the earnings of prostitution

(1) Any person over the age of eighteen years who knowingly lives, wholly or in part, on the earnings of the prostitution of any other person shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to one thousand rupees, or with both, and where such earnings relate to the prostitution of a child, shall be punishable with imprisonment for a term of not less than seven years and not more than ten years.

5. Procuring, inducing or taking person for the sake of prostitution

(1) Any person who

- (a) Procures or attempts to procure a person whether with or without his/her consent, for the purpose of prostitution; or
- (b) induces a person to go from any place, with the intent that he/she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or
- (c) takes or attempts to take a person or causes a person to be taken, from one place to another with a view to his/her carrying on, or being brought up to carry on prostitution ; or
- (d) Causes or induces a person to carry on prostitution; shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

5A. Whoever recruits, transports, transfers, harbours, or receives a person for the purpose of prostitution by means of

- (a) Threat or use of force or coercion, abduction, fraud, deception; or
- (b) Abuse of power or a position of vulnerability; or
- (c) Giving or receiving of payments or benefits to achieve the consent of such person having control over another person, commits the offence of trafficking in persons.

5B. (1) Any person who commits trafficking in persons shall be punishable on first conviction with rigorous imprisonment for a term which shall not be less than seven years and in the event of a second or subsequent conviction with imprisonment for life.

(2) Any person who attempts to commit, or abets trafficking in persons shall also be deemed to have committed such trafficking in persons and shall be punishable with the punishment hereinbefore described.

5C. Any person who visits or is found in a brothel for the purpose of sexual exploitation of any victim of trafficking in persons shall on first conviction be punishable with imprisonment for a term which may extend to three months or with fine which may extend to twenty thousand rupees or with both and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and shall also be liable to fine which may extend to fifty thousand rupees.

6. Detaining a person in premises where prostitution is carried on

(1) Any person who detains any other person, whether with or without his consent,

- (a) In any brothel, or
- (b) In or upon any premises with intent that such person may have sexual intercourse with a person, who is not the spouse of such person,

Shall be punishable on conviction, with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine which may extend to one lakh rupees:

7. Prostitution in or in the vicinity of public place

(1) Any person who carries on prostitution and the person with whom such prostitution is carried on, in any premises:

- (a) Which are within the area or areas, notified under sub-section (3), or
- (b) Which are within a distance of two hundred meters of any place of public religious worship, educational institution, hotel, hospital, nursing home or such other public place of any kind as may be notified in this behalf by the Commissioner of Police or Magistrate in the manner prescribed, shall be punishable with imprisonment for a term which may extend to three months.

(1-A) Where an offence committed under sub-section (1) is in respect of a child, the person committing the offence shall be punishable with imprisonment of either description for a term which not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine: Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than seven years.

(2) Any person who

- (a) being the keeper of any public place knowingly permits prostitutes for purposes of their trade to resort to or remain in such place; or
- (b) being the tenant, lessee, occupier or person in charge of any premises referred to in sub-section (1) knowingly permits the same or any part thereof to be used for prostitution; or
- (c) being the owner, lessor or landlord of any premises referred to in sub-section (1), or the agent of such owner, lessor or landlord, lets the same or any part thereof with the knowledge that the same or any part thereof may be used for prostitution, or is willfully a party to such use.

shall be punishable on first conviction with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred rupees, or with both, and in the event of a second or subsequent conviction with imprisonment for a term which may extend to six months and also with fine, which may extend to two hundred rupees, and if the public place or premises happen to be a hotel, the licence for carrying on the business of such hotel under any law for the time being in force shall also be liable to be suspended for a period of not less than three months but which may extend to one year:

9. Seduction of a person in custody

Any person who having the custody, charge or care of or in a position of authority over any person causes or aids or abets the seduction for prostitution of that shall be punishable on conviction with imprisonment of either description for a term which shall not be less than seven years but which may be for life or for a term which may extend to ten years and shall also be liable to fine:

10-A. Detention in a corrective institution.—(1) Where

- (a) A female offender is found guilty of an offence under Section 7, and
- (b) The character, state of health and mental condition of the offender and the other circumstances of the case are such that it is expedient that she should be subject to detention for such term and such instruction and discipline as are conducive to her correction,

It shall be lawful for the court to pass, in lieu of a sentence of imprisonment, an order for detention in a corrective institution for such term, not being less than two years and not being more than seven years, as the court thinks fit:

11. Notification of address of previously convicted offenders .—(1) When any person having been convicted—

(a) by a court in India of an offence punishable under this Act or punishable under Section 363, Section 365, Section 366, Section 366-A, Section 366-B, Section 367, Section 368, Section 370, Section 371, Section 372 or Section 373 of the Indian Penal Code (45 of 1860), with imprisonment for a term of two years or up wards; or

(b) by a court or tribunal in any other country of an offence which would, if committed in India, have been punishable under this Act, or under any of the aforesaid sections with imprisonment for a like term, is within a period of five years after release from prison, again convicted of any offence punishable under this Act or under any of those section with, imprisonment for a term of two years or upwards by a court, such court may, if it thinks fit, at the time of passing the sentence of imprisonment on such person, also order that his residence, and any change of, or absence from, such residence, after release, be notified according to rules made under Section 23 for a period not exceeding five years from the date of expiration of that sentence.

[12.*****]

13. Special police officer and advisory body

(1) There shall be for each area to be specified by the State Government in this behalf a special police officer appointed by or on behalf of that government for dealing with offences under this Act in that area.

(2) The special police officer shall not be below the rank of a sub-inspector of Police.

(2-A) The District Magistrate may, if he considers it necessary or expedient so to do, confer upon any retired police or military officer all or any of the powers conferred by or under this Act on a special police officer, with respect to particular cases or classes of cases or to cases generally.

13A.

(1) The Central Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.

(2) The members of the Authority shall be appointed by the Central Government and shall be of such number and chosen in such manner as may be prescribed.

(3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the Central Government.

(4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.

13B.

- (1) The State Government may constitute an Authority for the purposes of effectively preventing and combating the offence of trafficking in persons.
- (2) The members of the Authority shall be appointed by the State Government and shall be of such number and chosen in such manner as may be prescribed.
- (3) The Chairperson of the Authority shall be one of the members appointed under sub-section (2) to be nominated by the State Government.
- (4) The term of office of the members of the Authority, the manner of filling vacancies among and the procedure to be followed in the discharge of their functions by the members shall be such as may be prescribed.

14. Offences to be cognizable

Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an offence punishable under this Act shall be deemed to be a cognizable offence within the meaning of that Code:

15. Search without warrant

(1) Notwithstanding anything contained in any other law for the time being in force, whenever the special police officer or the trafficking police officer as the case may be, has reasonable grounds for believing that an offence punishable under this Act has been or is being committed in respect of a person living in any premises, and that search of the premises with warrant cannot be made without undue delay, such officer may, after recording the grounds of his belief, enter and search such premises without a warrant.

(2) Before making a search under sub-section (1), the special police officer or the trafficking police officer, as the case may be shall call upon two or more respectable inhabitants (at least one of whom shall be a woman) of the locality in which the place to be searched is situate, to attend and witness the search and may issue an order in writing to them or any of them so to do

(3) Any person who, without reasonable cause, refuses or neglects, to attend and witness a search under this section, when called upon to do so by an order in writing delivered or tendered to him, shall be deemed to have committed an offence under Section 187 of the Indian Penal Code (45 of 1860).

(4) The special police officer or the trafficking police officer, as the case may be, entering any premises under sub-section (1) shall be entitled to remove there from all the persons found therein.

(5) The special police officer or the trafficking police officer, as the case may be, after removing person under sub-section (4) shall forthwith produce her before the appropriate Magistrate.

16. Rescue of person

(1) Where a Magistrate has reason to believe from information received from the police or from any other person authorized by State Government in this behalf or otherwise, that any person is living, or is carrying, or is being made to carry on, prostitution in a brothel, he may direct a

police officer not below the rank of a sub-inspector to enter such brothel, and to remove there from such person and produce her before him.

(2) The police officer, after removing the person shall forthwith produce her before the Magistrate issuing the order.

17. Intermediate custody, of persons removed under Section 15 or rescued under Sec 16.

(1) When the special police officer removing a person under sub-section (4) of Section 15 or a police officer rescuing a person under sub-section (1) of Section 16, is for any reason unable to produce her before the appropriate Magistrate as required by sub-section (5) of Section 15, or before the Magistrate issuing the order under sub-section (2) of Section 16, he shall forthwith produce her before the nearest Magistrate of any class, who shall pass such orders as he deems proper for her safe custody until she is produced before the appropriate Magistrate, or, as the case may be, the Magistrate issuing the order:

(2) when the person is produced before the appropriate Magistrate under sub-section (5) of Section 15 or the Magistrate under sub-section (2) of Section 16, he shall, after giving her an opportunity of being heard, cause an inquiry to be made as to the correctness of the information received under sub-section (1) of Section 16, the age, character and antecedents of the person and the suitability of her parents, guardian or husband for taking charge of her and the nature of the influence which the conditions in her home are likely to have on her if she is sent home, and, for this purpose, he may direct a Probation Officer appointed under the Probation of Offenders Act, 1958, to inquire into the above circumstances and into the personality of the person and the prospects of her rehabilitation.

(3) The Magistrate may, while an inquiry is made into a case under sub-section (2), pass such orders as he deems proper for the safe custody of the person:

(4) Where the Magistrate is satisfied, after making an inquiry as required under sub-section (2),—

- (a) That the information received is correct; and
- (b) That she is in need of care and protection,

17-A. Conditions to be observed before placing persons rescued under Section 16 to parents or guardians

Notwithstanding anything contained in sub-section (2) of Section 17, the magistrate making an inquiry under Section 17, may, before passing an order for handing over any person rescued under Section 16 to the parents, guardian or husband, satisfy himself about the capacity or genuineness of the parents, guardian or husband to keep such person by causing an investigation to be made by a recognized welfare institution or organisation.

18. Closure of brothel and eviction of offenders from the premises

(1) A Magistrate may, on receipt of information from the police or otherwise, that any house, room, place or any portion thereof within a distance of two hundred metres of any public place referred to in sub-section (1) of Section 7 is being run or used as a brothel by any person, or is being used by prostitutes for carrying on their trade, issue notice on the owner, lessor or landlord or such house, room, place or portion or the agent of the owner, lessor or landlord or on the tenant, lessee, occupier of, or any other person in charge of such house, room, place, or portion, to show cause within seven days of the receipt of the notice why the same should not be attached for improper use thereof, and if, after hearing the person concerned, the Magistrate is satisfied that the house, room, place or portion is being used as a brothel or for carrying on prostitution, then the Magistrate may pass orders,—

(a) Directing eviction of the occupier within seven days of the passing of the order from the house, room, place, or portion;

(b) directing that before letting it out during the period of one year or in a case where a child has been found in such house, room, place or portion during a search under Section 15, during the period of three years, immediately after the passing of the order, the owner, lessor or landlord or the agent of the owner, lessor or landlord shall obtain the previous approval of the Magistrate.

19. Application for being kept in a protective home or provided care and protection by court

(1) A person who is carrying on, or is being made to carry on prostitution, may make an application, to the Magistrate within the local limits of whose jurisdiction she is carrying on, or is being made to carry on prostitution, for an order that she may be—

(a) Kept in a protective home, or

(b) Provided care and protection by the court in the manner specified in sub-section (3).

(2) The Magistrate may pending inquiry under sub-section (3) direct that the person be kept in such custody as he may consider proper, having regard to the circumstances of the case.

(3) If the Magistrate after hearing the applicant and making such inquiry as he may consider necessary, including an inquiry by a Probation Officer appointed under the Probation of Offender Act, 1958, (20 of 1958) into the personality, conditions of home and prospects of rehabilitation of the applicant, is satisfied that an order should be made under this section, he shall for reasons to be recorded, make an order that the applicant to be kept

(i) In a protective home, or

(ii) In a corrective institution, or

(iii) Under the supervision of a person appointed by the Magistrate for such period as may be specified in the order.

21. Protective homes

(1) The State Government may in its discretion establish as many protective homes and corrective institutions under this Act as it thinks fit and such homes and institutions when established shall be maintained in such manner as may be prescribed.

(2) No person or no authority other than the State government shall, after the commencement of this Act, establish or maintain any protective home or corrective institution except under and in accordance with the conditions of, a license issued under this section by the State Government.

(3) The State Government may, on application made to it in this behalf by a person or authority, issue to such person or authority a license in the prescribed form for establishing and maintaining or as the case may be, for maintaining a protective home or corrective institution and a license so issued may contain such conditions as the State Government may think fit to impose in accordance with the rules made under this Act:

(4) Before issuing a license, the State Government may require such officer or authority as it may appoint for this purpose, to make a full and complete investigation in respect of the application received in this behalf and report to it the result of such investigation and in making any such investigation the officer or authority shall allow such procedure as may be prescribed.

(5) A license, unless sooner revoked, shall remain in force for such period as may be specified in the license and may, on application made in this behalf at least thirty days before the date of its expiration, be renewed for a like period.

(6) No license issued or renewed under this Act shall be transferable.

21-A. Production of records

Every person or authority who is licensed under sub-section (3) of Section 21 to establish or maintain, or, as the case may be, for maintaining, a protective home or corrective institution shall whenever required by a Court, produce the records and other documents maintained by such home or institution before such court.

22. (1) Trials

No Court, inferior to that of a Metropolitan Magistrate or a Judicial magistrate of the first class, shall try any offence under Section 3, Section 4, Section 5, Section 5B, Section 5C, Section 6 or Section 7.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the trial of the proceedings under this Act shall be conducted *in camera*.

22-A. Power to Establish Special Courts

(1) If the State Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act in any district or metropolitan area, it may, by notification in the official Gazette and after consultation with the High Court, establish one or more Courts of Judicial Magistrates of the first class, or, as the case may be, Metropolitan Magistrate, in such district or metropolitan area.

(2) Unless otherwise directed by the High Court, a court established under sub-section (1) shall exercise jurisdiction only in respect of cases under this Act.

(3) Subject to the provisions of sub-section (2), the jurisdiction and powers of the presiding officer of a court established under sub-section (1) in any district or metropolitan area shall extend throughout the district or the metropolitan area, as the case may be.

(4) Subject to the foregoing provisions of this section, a Court established under sub-section (1) in any district or metropolitan area shall be deemed to be a court established under sub-section (1) of Section 11, or, as the case may be, sub-section (1) of Section 16 of the Code of Criminal Procedure, 1973 (2 of 1974) and provisions of the Code shall apply accordingly in relation to such courts.

22-AA. Power of Central Government to establish special courts

(1) If the Central Government is satisfied that it is necessary for the purpose of providing for speedy trial of offences under this Act and committed in more than one State, it may, by notification in the official Gazette and after consultation with the High Court concerned, establish one or more courts of Judicial Magistrates of the first class or Metropolitan Magistrates for the trial of such offences.

(2) The provisions of Section 22-A, shall, so far as may be, apply to the courts established under subsection (1), as they apply to Courts established under that section.

22-B. Power of court to try cases summarily

Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the State Government may, if it considers it necessary so to do, direct that offences under this Act shall be tried in a summary way by a Magistrate including the presiding officer of a court established under sub-section (1) of Section 22-A and the provisions of Section 262 to 265 (both inclusive) of the said Code, shall, as far as may be, apply to such trial.

23. Power to make rules

(1) The State Government may, by notification in the official Gazette, make rules for carrying on the purposes of this Act.

23A. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

24. Act not to be in derogation of certain other Acts. Nothing in this Act shall be construed to be in derogation of the provisions of the Reformatory Schools Act, 1897 or any State Act enacted in modification of the said Act or otherwise, relating to juvenile offenders.

25. Repeal and savings

(1) As from the date of the coming into force in any State of the provisions other than Section 1 of this Act, all State Acts relating to suppression of immoral traffic in persons or to the prevention of prostitution, in force in that State immediately before such date shall stand repealed.

**Supreme Court guidelines on sexual harassment in workplace
(Vishaka Guidelines against Sexual Harassment in the Workplace)**

The Vishakha Guidelines were a set of procedural guidelines for use in India in cases of sexual harassment. They were promulgated by the Indian Supreme Court in 1997 and were superseded in 2013 by The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The guidelines are follows;

It is necessary and expedient for employers in work places as well as other responsible persons or institutions to observe certain guidelines to ensure the prevention of sexual harassment of women.

1. Duty of the Employer or other responsible persons in work places and other institutions

It shall be the duty of the employer or other responsible persons in work places or other institutions to prevent or deter the commission of acts of sexual harassment and to provide the procedures for the resolution, settlement or prosecution of acts, of sexual harassment by taking all steps required.

2. Definition

For this purpose, sexual harassment includes such unwelcome sexually determined behaviour (whether directly or by implication) as:

- a) Physical contact and advances;
- b) A demand or request for sexual favours;
- c) Sexually coloured remarks;
- d) Showing pornography;
- e) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature

Where any of these acts is committed in circumstances where-under the victim of such conduct has a reasonable apprehension that in relation to the victim's employment or work whether she is drawing salary, or honorarium or voluntary, whether in government, public or private enterprise such conduct can be humiliating and may constitute a health and safety problem. It is discriminatory for instance when the woman has reasonable grounds to believe that her objection would disadvantage her in connection with her employment or work including recruiting or promotion or when it creates a hostile work environment. Adverse consequences might be visited if the victim does not consent to the conduct in question or raises any objection thereto.

3. Preventive Steps

All employers or persons in charge of work place whether in public or private sector should take appropriate steps to prevent sexual harassment. Without prejudice to the generality of this obligation they should take the following steps:

- (a) Express prohibition of sexual harassment as defined above at the work place should be notified, published and circulated in appropriate ways.
- (b) The Rules/Regulations of Government and Public Sector bodies relating to conduct and discipline should include rules/regulations prohibiting sexual harassment and provide for appropriate penalties in such rules against the offender.

(c) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.

(d) Appropriate work conditions should be provided in respect of work, leisure, health and hygiene to further ensure that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.

4. Criminal Proceedings

Where such conduct amounts to a specific offence under the Indian Penal Code or under any other law, the employer shall initiate appropriate action in accordance with law by making a complaint with the appropriate authority.

In particular, it should ensure that victims or witnesses are not victimized or discriminated against while dealing with complaints of sexual harassment. The victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

5. Disciplinary Action

Where such conduct amounts to misconduct in employment as defined by the relevant service rules, appropriate disciplinary action should be initiated by the employer in accordance with those rules.

6. Complaint Mechanism

Whether or not such conduct constitutes an offence under law or a breach of the service rules, an appropriate complaint mechanism should be created in the employer's organisation for redress of the complaint made by the victim. Such complaint mechanism should ensure time bound treatment of complaints.

7. Complaints Committee

The complaint mechanism, referred to in (6) above, should be adequate to provide, where necessary, a Complaints Committee, a special counsellor or other support service, including the maintenance of confidentiality.

The Complaints Committee should be headed by a woman and not less than half of its member should be women. Further, to prevent the possibility of any undue pressure or influence from senior levels, such Complaints Committee should involve a third party, either NGO or other body who is familiar with the issue of sexual harassment.

The Complaints Committee must make an annual report to the Government department concerned of the complaints and action taken by them.

The employers and person in charge will also report on the compliance with the aforesaid guidelines including on the reports of the Complaints Committee to the Government department.

8. Worker's Initiative

Employees should be allowed to raise issues of sexual harassment at a workers' meeting and in other appropriate forum and it should be affirmatively discussed in Employer-Employee Meetings.

9. Awareness

Awareness of the rights of female employees in this regard should be created in particular by prominently notifying the guidelines (and appropriate legislation when enacted on the subject) in a suitable manner.

10. Third Party Harassment

Where sexual harassment occurs as a result of an act or omission by any third party or outsider, the employer and person in charge will take all steps necessary and reasonable to assist the affected person in terms of support and preventive action.

11. The Central/State Governments are requested to consider adopting suitable measures including legislation to ensure that the guidelines laid down by this order are also observed by the employers in Private Sector.

12. These guidelines will not prejudice any rights available under the Protection of Human Rights Act, 1993.

**THE PROTECTION OF WOMEN FROM DOMESTIC
VIOLENCE ACT, 2005
NO. 43 OF 2005
[13th September, 2005]**

An Act to provide for more effective protection of the rights of women guaranteed under the Constitution who are victims of violence of any kind occurring within the family and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:-

1. Short title, extent and commencement.

- (1) This Act may be called the Protection of Women from Domestic Violence Act, 2005.
- (2) It extends to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.-In this section discuss about the definition of following words-

Aggrieved person, Child, Compensation order, Custody order, Domestic incident report, Domestic relationship, Domestic violence, Dowry, Magistrate, Medical facility, Monetary relief, Notification, Prescribed, Protection Officer, Protection order, Residence order, Respondent, Service provider, Shared household and Shelter home.

3. Definition of domestic violence

For the purposes of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it –

- (a) Harms or injures or endangers the health, safety, life, limb or well-being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse, sexual abuse, verbal and emotional abuse and economic abuse; or
- (b) harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security; or
- (c) has the effect of threatening the aggrieved person or any person related to her by any conduct mentioned in clause (a) or clause (b); or
- (d) Otherwise injures or causes harm, whether physical or mental, to the aggrieved person.

4. Information to Protection Officer and exclusion of liability of informant

(1) Any person who has reason to believe that an act of domestic violence has been, or is being, or is likely to be committed, may give information about it to the concerned Protection Officer.

(2) No liability, civil or criminal, shall be incurred by any person for giving in good faith of information for the purpose of sub-section (1).

5. Duties of police officers, service providers and Magistrate

A police officer, Protection Officer, service provider or Magistrate who has received a complaint of domestic violence or is otherwise present at the place of an incident of domestic violence or when the incident of domestic violence is reported to him, shall inform the aggrieved person-

- (a) of her right to make an application for obtaining a relief by way of a protection order, an order for monetary relief, a custody order, a residence order, a compensation order or more than one such order under this Act;
- (b) of the availability of services of service providers;
- (c) of the availability of services of the Protection Officers;
- (d) of her right to free legal services under the Legal Services Authorities Act, 1987 (39 of 1987);
- (e) of her right to file a complaint under section 498A of the Indian Penal Code (45 of 1860), wherever relevant:

Provided that nothing in this Act shall be construed in any manner as to relieve a police officer from his duty to proceed in accordance with law upon receipt of information as to the commission of a cognizable offence.

6. Duties of shelter homes

If an aggrieved person or on her behalf a Protection Officer or a service provider requests the person in charge of a shelter home to provide shelter to her, such person in charge of the shelter home shall provide shelter to the aggrieved person in the shelter home.

7. Duties of medical facilities

If an aggrieved person or, on her behalf a Protection officer or a service provider requests the person in charge of a medical facility to provide any medical aid to her, such person in charge of the medical facility shall provide medical aid to the aggrieved person in the medical facility.

8. Appointment of Protection Officers

(1) The State Government shall, by notification, appoint such number of Protection Officers in each district as it may consider necessary and shall also notify the area or areas within which a Protection Officer shall exercise the powers and perform the duties conferred on him by or under this Act.

(2) The Protection Officers shall as far as possible be women and shall possess such qualifications and experience as may be prescribed.

(3) The terms and conditions of service of the Protection Officer and the other officers subordinate to him shall be such as may be prescribed.

9. Duties and functions of Protection Officers

(1) It shall be the duty of the Protection Officer-

(a) to assist the Magistrate in the discharge of his functions under this Act;

(b) to make a domestic incident report to the Magistrate, in such form and in such manner as may be prescribed, upon receipt of a complaint of domestic violence and forward copies thereof to the police officer in charge of the police station within the local limits of whose jurisdiction domestic violence is alleged to have been committed and to the service providers in that area;

(c) to make an application in such form and in such manner as may be prescribed to the Magistrate, if the aggrieved person so desires, claiming relief for issuance of a protection order;

(d) to ensure that the aggrieved person is provided legal aid under the Legal Services

Authorities Act, 1987 (39 of 1987) and make available free of cost the prescribed form in which a complaint is to be made;

(e) to maintain a list of all service providers providing legal aid or counseling, shelter homes and medical facilities in a local area within the jurisdiction of the Magistrate;

(f) to make available a safe shelter home, if the aggrieved person so requires and forward a copy of his report of having lodged the aggrieved person in a shelter home to the police station and the Magistrate having jurisdiction in the area where the shelter home is situated;

(g) to get the aggrieved person medically examined, if she has sustained bodily injuries and forward a copy of the medical report to the police station and the Magistrate having jurisdiction in the area where the domestic violence is alleged to have been taken place;

(h) to ensure that the order for monetary relief under section 20 is complied with and executed, in accordance with the procedure prescribed under the Code of Criminal Procedure, 1973 (2 of 1974);

(i) to perform such other duties as may be prescribed.

10. Service Providers

(1) Subject to such rules as may be made in this behalf, any voluntary association registered under the Societies Registration Act, 1860 (21 of 1860) or a company registered under the Companies Act, 1956 (1 of 1956) or any other law for the time being in force with the objective of protecting the rights and interests of women by any lawful means including providing of legal

aid, medical, financial or other assistance shall register itself with the State Government as a service provider for the purposes of this Act.

11. Duties of Government

The Central Government and every State Government, shall take all measures to ensure that-

- (a) The provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) The Central Government and State Government officers including the police officers and the members of the judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- (c) effective co-ordination between the services provided by concerned Ministries and Departments dealing with law, home affairs including law and order, health and human resources to address issues of domestic violence is established and periodical review of the same is conducted;
- (d) Protocols for the various Ministries concerned with the delivery of services to women under this Act including the courts are prepared and put in place.

12. Application to Magistrate

(1) An aggrieved person or a Protection Officer or any other person on behalf of the aggrieved person may present an application to the Magistrate seeking one or more reliefs under this Act:

Provided that before passing any order on such application, the Magistrate shall take into consideration any domestic incident report received by him from the Protection Officer or the service provider.

13. Service of Notice

(1) A notice of the date of hearing fixed under section 12 shall be given by the Magistrate to the Protection Officer, who shall get it served by such means as may be prescribed on the respondent, and on any other person, as directed by the Magistrate within a maximum period of two days or such further reasonable time as may be allowed by the Magistrate from the date of its receipt.

(2) A declaration of service of notice made by the Protection Officer in such form as may be prescribed shall be the proof that such notice was served upon the respondent and on any other person as directed by the Magistrate unless the contrary is proved.

14. Counseling

(1) The Magistrate may, at any stage of the proceedings under this Act, direct the respondent or the aggrieved person, either singly or jointly, to undergo counseling with any member of a service provider who possess such qualifications and experience in counseling as may be prescribed.

(2) Where the Magistrate has issued any direction under sub-section (1), he shall fix the next date of hearing of the case within a period not exceeding two months.

15. Assistance of Welfare Expert

In any proceeding under this Act, the Magistrate may secure the services of such person, preferably a woman, whether related to the aggrieved person or not, including a person engaged in promoting family welfare as he thinks fit, for the purpose of assisting him in discharging his functions.

16. Proceedings to be held in Camera

If the Magistrate considers that the circumstances of the case so warrant, and if either party to the proceedings so desires, he may conduct the proceedings under this Act in camera.

17. Right to reside in a Shared Household

(1) Notwithstanding anything contained in any other law for the time being in force, every woman in a domestic relationship shall have the right to reside in the shared household, whether or not she has any right, title or beneficial interest in the same.

(2) The aggrieved person shall not be evicted or excluded from the shared household or any part of it by the respondent save in accordance with the procedure established by law.

18. Protection Orders

The Magistrate may, after giving the aggrieved person and the respondent an opportunity of being heard and on being prima facie satisfied that domestic violence has taken place or is likely to take place, pass a protection order in favour of the aggrieved person and prohibit the respondent from domestic violence and its impacts.

19. Residence Orders

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may, on being satisfied that domestic violence has taken place, pass a residence order.

20. Monetary Reliefs

(1) While disposing of an application under sub-section (1) of section 12, the Magistrate may direct the respondent to pay monetary relief to meet the expenses incurred and losses suffered by the aggrieved person and any child of the aggrieved person as a result of the domestic violence and such relief may include, but not limited to,

- (a) the loss of earnings;
- (b) the medical expenses;
- (c) the loss caused due to the destruction, damage or removal of any property from the control of the aggrieved person; and
- (d) the maintenance for the aggrieved person as well as her children, if any, including an order under or in addition to an order of maintenance under section 125 of the Code of Criminal Procedure, 1973 (2 of 1974) or any other law for the time being in force.

21. Custody Orders

If the Magistrate is of the opinion that any visit of the respondent may be harmful to the interests of the child or children, the Magistrate shall refuse to allow such visit.

22. Compensation Orders

In addition to other reliefs as may be granted under this Act, the Magistrate may on an application being made by the aggrieved person, pass an order directing the respondent to pay compensation and damages for the injuries, including mental torture and emotional distress, caused by the acts of domestic violence committed by that respondent.

23. Power to grant interim and Ex Parte Orders

(1) In any proceeding before him under this Act, the Magistrate may pass such interim order as he deems just and proper.

(2) If the Magistrate is satisfied that an application prima facie discloses that the respondent is committing, or has committed an act of domestic violence or that there is a likelihood that the respondent may commit an act of domestic violence, he may grant an ex parte order on the basis of the affidavit in such form, as may be prescribed, of the aggrieved person under section 18, section 19, section 20, section 21 or, as the case may be, section 22 against the respondent.

24. Court to give copies of order Free of Cost

The Magistrate shall, in all cases where he has passed any order under this Act, order that a copy of such order, shall be given free of cost, to the parties to the application, the police officer in-charge of the police station in the jurisdiction of which the Magistrate has been approached, and any service provider located within the local limits of the jurisdiction of the court and if any service provider has registered a domestic incident report, to that service provider.

25. Duration and Alteration of Orders

A protection order made under section 18 shall be in force till the aggrieved person applies for discharge.

26. Relief in other suits and Legal Proceedings

(1) Any relief available under sections 18, 19, 20, 21 and 22 may also be sought in any legal proceeding, before a civil court, family court or a criminal court, affecting the aggrieved person and the respondent whether such proceeding was initiated before or after the commencement of this Act.

27. Jurisdiction

(1) The court of Judicial Magistrate of the first class or the Metropolitan Magistrate, as the case may be, within the local limits of which-

- (a) the person aggrieved permanently or temporarily resides or carries on business or is employed; or
 - (b) the respondent resides or carries on business or is employed; or
 - (c) the cause of action has arisen, shall be the competent court to grant a protection order and other orders under this Act and to try offences under this Act.
- (2) Any order made under this Act shall be enforceable throughout India.

28. Procedure

- (1) Save as otherwise provided in this Act, all proceedings under sections 12, 18, 19, 20, 21, 22 and 23 and offences under section 31 shall be governed by the provisions of the Code of Criminal Procedure, 1973 (2 of 1974).

29. Appeal

There shall lie an appeal to the Court of Session within thirty days from the date on which the order made by the Magistrate is served on the aggrieved person or the respondent, as the case may be, whichever is later.

30. Protection Officers and members of service providers to be public servants

The Protection Officers and members of service providers, while acting or purporting to act in pursuance of any of the provisions of this Act or any rules or orders made there under shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

31. Penalty for breach of protection order by respondent

- (1) A breach of protection order, or of an interim protection order, by the respondent shall be an offence under this Act and shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

32. Cognizance and Proof

- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under sub-section (1) of section 31 shall be cognizable and non-bailable.

33. Penalty for not discharging duty by Protection Officer

If any Protection Officer fails or refuses to discharge his duties as directed by the Magistrate in the protection order without any sufficient cause, he shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to twenty thousand rupees, or with both.

34. Cognizance of offence committed by Protection Officer

No prosecution or other legal proceeding shall lie against the Protection Officer unless a complaint is filed with the previous sanction of the State Government or an officer authorised by it in this behalf.

35. Protection of action taken in good faith

No suit, prosecution or other legal proceeding shall lie against the Protection Officer for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act or any rule or order made there under.

36. Act not in derogation of any other law

The provisions of this Act shall be in addition to, and not in derogation of the provisions of any other law, for the time being in force.

37. Power of Central Government to make rules.

(1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

TN Prevention of Women Harassment Act, 2009

The Tamil Nadu Prohibition Of Harassment Of Women Act, 1998 Act No. 44 of 1998 An Act to prohibit Harassment of Women in any place in the State of Tamil Nadu. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty-ninth year of the Republic of India as follows:

1. Short title and commencement

(1) This Act may be called THE TAMIL NADU PROHIBITION OF HARASSMENT OF WOMEN ACT, 1998. (2) It shall be deemed to have come into force on the 30th day of July 1998.

2. Definitions

In this Act, unless the context otherwise requires,—(a) "harassment" means any indecent conduct or act by a man which causes or is likely to cause intimidation, fear, shame or embarrassment, including abusing or causing hurt or nuisance or assault or use of force; (b) "public service vehicle" shall have the same meaning as defined in clause (35) of Section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988); (c) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Indian Penal Code, 1860 (Central Act 45 of 1860).

3. Prohibition of harassment of women

Harassment of women at any place is prohibited.

4. Penalty for harassment of women

Whoever commits or participates in or abets harassment of women in or within the precincts of any educational institution, temple or other place of worship, bus stop, road, railway station, cinema theatre, park, beach, place of festival, public service vehicle or vessel or any other place shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than ten thousand rupees.

4A. Harassment death

(1) Where the death of a woman is caused by bodily injury or occurs otherwise than under normal circumstances and if it is shown that soon before her death, she was subjected to harassment or

that in respect of her an offence under Section 294, 354 or 509 of the Indian Penal Code (Central Act 45 of 1860) was committed, such death shall be called harassment death.

(2)Notwithstanding anything contained in Section 4, whoever commits harassment death and if the act by which the death is caused,—(i) is done with the intention of causing death or of causing such bodily injury as is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to imprisonment for life and with fine which shall not be less than fifty thousand rupees; (ii)is done with knowledge that it is likely to cause death but without any intention to cause death or such bodily injury as is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to ten years and with fine which shall not be less than fifty thousand rupees;(iii)is rash or negligent, shall be punished with imprisonment of either description for a term which may extend to ten years and with fine which shall not be less than twenty-five thousand rupees.

4B. Harassment suicide

(1)If any woman commits suicide and it is shown that soon before her death, she was subjected to harassment by any person or that in respect of her an offence under Section 294, 354 or 509 of the Indian Penal Code (Central Act 45 of 1860) was committed, such suicide shall be called the harassment suicide and such person shall be deemed to have abetted the suicide.

(2)Notwithstanding anything contained in Section 4, whoever abets harassment suicide shall be punished with imprisonment of either description for a term which may extend to ten years and with fine which shall not be less than fifty thousand rupees.

4C. Presumption as to harassment death and abetment of harassment suicide

When the question is whether any person had caused harassment death or abetted harassment suicide of a women, the court shall, unless the contrary is proved, presume that such person had caused the harassment death or abetted the harassment suicide, as the case may be, when it is shown that before her death, such women had been subjected to harassment or, in respect of her an offence was committed under Section 294, 354 or 509 of Indian Penal Code (Central Act 45 of 1860) and bodily injury was caused in furtherance of such harassment or commission of the said offence by or at the instance of that person and it resulted in death or suicide, as the case may be, of that women.

5. Responsibility of management of any precinct

(1)Any person who is in-charge of educational institution, temple or other places of worship, cinema theatre or any other precinct shall, —(2)Any person who fails to take action under subsection (1) shall be liable to fine which may extend to two thousand rupees.

6. Duty of crew in public service vehicle

(1)The crew of a public service vehicle or vessel shall take such steps as they may deem fit to prevent harassment of women in the vehicle or vessel. Where such harassment is committed in public service vehicle, the crew of such vehicle shall, on a complaint made by the aggrieved

person, take such vehicle to the nearest police station and give information to the police.(2)Any crew who fails to take steps under sub-section (1) shall be liable to fine which may extend to one thousand rupees.

7. Deemed abetment

(1)Where any vehicle or vessel is used in the commission of any offence punishable under Section 4, 4-A or 4-B, the driver of such vehicle or vessel shall, unless the contrary is proved, be deemed to have abetted the offence under Section 4, 4-A or 4-B, as the case may be, and shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than five thousand rupees.(2)The vehicle or vessel specified in sub-section (1) shall be confiscated unless the owner of such vehicle or vessel proves that such vehicle was used in committing harassment of women without his knowledge.

7A. Order to pay compensation

The court may, when awarding a sentence under Section 4, 4-A or 4-B, order the accused to pay, by way of compensation, such amount as may be specified in the order, to the person who has suffered any loss or injury or disability or mental agony by reason of the act which the accused person has been so sentenced or to her legal heir.

8. Operation of other laws not affected

The provisions of this Act shall be in addition to and not in derogation of, any other law for the time being in force.

9. Power to make Rules

(1)The State Government may make Rules for carrying out the purposes of this Act.
 (2)All Rules made under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.
 (3)Every Rule made under this Act shall, as soon as possible after it is made, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or the next session, the Assembly makes any modification in any such Rule, or the Assembly decides that the Rule should not be made, the Rule shall thereafter have effect only on such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that Rule.

10. Repeal and saving.—

(1)The Tamil Nadu Prohibition of Eve-teasing Ordinance, 1998 (Tamil Nadu Ordinance 4 of 1998) is hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken under the Ordinance shall be deemed to have been done or taken under this Act.

LEGISLATION FOR THE AMELIORATION OF SOCIAL PROBLEMS

Prevention of Atrocities Act 1989, The SC and the ST (Prevention of Atrocities) Act, 1989

ACT No. 33 of 1989

An Act to prevent the commission of offences of atrocities against the members of the Scheduled Castes and the Scheduled Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fourteenth Year of the Republic of India as follows:

CHAPTER I

1.1. Short title, extent and commencement

(i) This Act may be called the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

(ii) It extends to the whole of India except the State of Jammu & Kashmir.

(iii) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

3. (I) In this Act, unless the context otherwise requires,

(a) "Atrocity" means an offence punishable under section 3;

(b) "Code" means the Code of Criminal Procedure, 1973 (2 of 1974) ;

(c) "Scheduled Castes and Scheduled Tribes" shall have the meaning assigned to them respectively under clause (24) and clause (25) of article 366 of the Constitution;

(d) "Special Court" means a Court of Session specified as a Special Court in section 14;

(e) "Special Public Prosecutor" means a Public Prosecutor specified as a Special Public Prosecutor or an advocate referred to in section 15;

(f) Words and expressions used but not defined in this Act and defined in the Code or the Indian Penal Code (45 of 1860) shall have the meanings assigned to them respectively in the Code, or as the case may be, in the Indian Penal Code.

2. Any reference in this Act to any enactment or any provision thereof shall, in relation to an area in which such enactment or such provision is not in force, be construed as a reference to the corresponding law, if any, in force in that area.

CHAPTER II OFFENCE OF ATROCITIES

1.2. Punishments for offence of atrocities, whoever, not being a member of a Scheduled Castes or a Scheduled Tribes,

(i) Forces a member of a Scheduled Castes or a Scheduled Tribes to drink or eat any inedible or obnoxious substance;

(ii) Acts with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe by dumping excreta, waste matter, carcasses or any other obnoxious substance in his premise or neighborhood;

- (iii) Forcibly removes clothes from the person of a member of a Scheduled Caste or a Scheduled Tribe or parades him naked or with painted face or body or commits any similar act which is derogatory to human dignity;
- (iv) Wrongfully occupies or cultivates any land owned by, or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe or gets the land allotted to him transferred;
- (v) Wrongfully dispossesses a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his right over any land, premises or water;
- (vi) Compels or entices a Scheduled Caste or a Scheduled Tribe to do 'begar' or other similar forms of forced or bonded labour other than compulsory service for public purposes imposed by Government;
- (vii) Forces or intimidates a member of a Scheduled Caste or a Scheduled Tribe not to vote or to vote to a particular candidate or to vote in a manner other than that provided by law;
- (viii) Institutes false, malicious or vexatious suit or criminal or other legal proceedings against a Scheduled Caste or a Scheduled Tribe;
- (ix) Gives, any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a Scheduled Caste or a Scheduled Tribe;
- (x) Intentionally insults or intimidates with intent to humiliate a Scheduled Caste or a Scheduled Tribe in any place within public view;
- (xi) Assaults or uses force to any woman belonging to a Scheduled Caste or a Scheduled Tribe with intent to dishonor or outrage her modesty;
- (xii) Being in a position to dominate the will of a Scheduled Caste or a Scheduled Tribe and uses that position to exploit the sexually to which she would not have otherwise agreed;
- (xiii) Corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- (xiv) Denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any section thereof have a right to use or access to;
- (xv) Forces or causes a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.

(2) Whoever, not being a Scheduled Caste or a Scheduled Tribe

- (i) Gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is capital by law for the time being in force shall be punished with imprisonment for life and with fine; and if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;
- (ii) Gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or onwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

(iii) Commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

(iv) Commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

(v) Commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person of property on the ground that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member, shall be punishable with imprisonment for life and with fine;

(vi) Knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence; or

(vii) Being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

4. Punishment for neglect of duties

Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, willfully neglect his duties required to be performed by him under this Act, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

5. Enhanced punishment for subsequent conviction

Whoever, having already been convicted an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

6. Application for certain provisions of the Indian Penal Code

Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXVIII of the Indian Penal Code (45 of 1860), shall, so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

7. Forfeiture of property of certain persons

(i) where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government.

(ii) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both, belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realization of any fine imposed this Chapter.

8. Presumption as to offences

In a prosecution for an offence under this Chapter, if it is proved that

(a) The accused rendered any financial assistance to a person accused of, or reasonable suspected of committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is provided, that such person had abetted the offence;

(b) A group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object.

9. Conferment of powers

(i) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do:

(a) for the prevention of and for coping with any offence under this Act, or

(b) for any case or class or group of cases under this Act., in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof, as the case may be,

CHAPTER III

EXTERNMENT

10. Removal of Person likely to commit offence

(1) Where the Special Court is satisfied, upon a complaint, or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding two years, as may be specified in the order.

(2) The Special Court shall, along with the order under sub-section (1) communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Special Court may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such

order has been made or by any other person on his behalf within thirty days from the date of the order.

11. Procedure on failure of person to remove himself from area and enter thereon after removal

(1) If a person to whom a direction has been issued under section 10 to remove himself from any area-

(a) Fails to remove himself as directed; or

(b) Having so removed himself enters such area within the period specified in the order, Otherwise than with the permission in writing of the Special Court under sub-section (2), the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

(2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under section 10 without a fresh permission.

(5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

12. Taking measurements and photographs etc., of persons against whom order under section 10

(1) Every person against whom an order has been made under section 10 shall, if so required by the Special Court, allow his measurements and photographs, to be taken by a police officer.

(2) If any person referred to in sub-section (1), when required to allow his measurements or photographs to be taken resists or refuses to allow his taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof. made.

(3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).

(4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.

13. Penalty for non compliance of order under section 10

Any person contravening an order of the Special Court made under section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

CHAPTER IV SPECIAL COURTS

14. Special Court

For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for each district a Court of Session to be a Special Court to try the offences under this Act.

15. Special Public Prosecutor

For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose of conducting cases in that Court.

CHAPTER V MISCELLANEOUS

16. Power of State Government to impose collective fine

The provisions of Section 10-A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realization of collective fine and for all other matters connected therewith under this Act.

17. Preventive action to be taken by the law and order machinery

(1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such enquiry as he may think necessary, has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behavior and maintenance of public order and tranquillity and may take preventive action.

(2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-Section (1).

(3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-Section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

18. Section 438 of the Code not to apply to persons committing an offence under the Act

Nothing in Section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.

19. Section 360 of the Code and the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act

The provisions of Section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 (20 of 1958) shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

20. Act to override other laws

Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.

21. Duty of Government to ensure effective implementation of the Act

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include,-

- (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice-
- (ii) the provision for travelling and maintenance expenses to witnesses including the victims of atrocities, during investigation and trial of offences under this Act;
- (iii) the provision for the economic and social rehabilitation of the victims of the atrocities;
- (iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;
- (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;
- (vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;
- (vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-Section (1).

(4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this Section.

22. Protection of action taken in good faith

No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

23. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

The Protection of Civil Rights Act, 1955 **[Formerly known as Untouchability (Offences) Act, 1955]** **(Act no. 22 of 1955)**

An Act to prescribe punishment for the [the preaching and practice of “Untouchability”] for the enforcement of any disability arising there from and of matters connected therewith.

BE it enacted by Parliament in the Sixth Year of The Republic of India as follows:

1. Short title, extent and commencement

- (1) This Act may be called [the Protection of Civil Rights Act], 1955
- (2) It extends to the whole of India
- (3) It shall come into force on such date
 - o as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions

In this Act, unless the context otherwise requires,

- (a). “civil rights” means any right accruing to a person by reason of the abolition of “Untouchability” by article 17 of the Constitution;]
 - (aa) “Hotel” includes a refreshment room, a boarding house, a lodging house, a coffee house and a café;
- (b) “Place” includes a house, building and other structure and premises; and also includes a tent, vehicle and vessel.
- (c) “Place of public entertainment” includes any place to which the public are admitted and in which an entertainment is provided or held.
- (d) “place of public worship” means a place, by whatever name known, which is used as a place of public religious worship or which is dedicated generally to, or is used generally by, persons

professing any religion or belonging to any religious denomination or any section thereof, for the performance of any religious service, or for offering prayers therein.

(e) “Shop” means any premises where goods are sold either wholesale or by retail or both wholesale and by retail.

3. Punishment for enforcing religious disabilities

Whoever on the ground of “Untouchability” prevents any person-

(a) From entering any place of public worship which is open to other persons professing the same religion of any section thereof, as such person; or

(b) from worshipping or offering prayers or performing any religious service in any place of public worship or bathing in, or using the waters of, any sacred tank, well, spring or water-course 4[river or lake or bathing at any ghat of such tank, water-course, river or lake] in the same manner and to the same extent as is permissible to the other persons professing the same religion or any section thereof, as such person;

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees

4. Punishment for enforcing social disabilities

Whoever on the ground of “Untouchability” enforces against any person any disability with regard to-

(i) access to any shop, public restaurant, hotel or place of public entertainment;

(ii) the use of any utensils, and other articles kept in any public restaurant, hotel, dharmshala, sarai or musafirkhana for the use of the general public or of any section thereof; or

(iii) the practice of any profession or the carrying on of any occupation, trade or business [or employment in any job]; or

(iv) the use of, or access to, any river, stream, spring, well, tank, cistern, water tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road, or passage, or any other place of public resort which other members of the public, or [any section thereof], have a right to use or have access to; or

(v) the use of, or access to, any place used for a charitable or a public purpose maintained wholly or partly out of State funds or dedicated to the use of the general public or [any section thereof]; or

(vi) The enjoyment of any benefit under a charitable trust created for the benefit of the general public or of [any section thereof]; or

(vii) The use of, or access to, any public conveyance; or

(viii) The construction, acquisition, or occupation of any residential premises in any locality, whatsoever; or

(ix) The use of any dharmshala, sarai or musafirkhana which is open to the general public, or to [any section thereof]; or

(x) The observance of any social or religious custom, usage or ceremony or [taking part in, or taking out, any religious, social or cultural procession]; or

(xi) The use of jewellery and finery;

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

5. Punishment for refusing to admit persons in hospitals etc

Whoever on the ground of “Untouchability”-

- (a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or
- (b) Does any act which discriminates against any such person after admission to any of the aforesaid institutions;

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

6. Punishment for refusing to sell goods or render services

Whoever on the ground of “Untouchability” refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or which such goods are sold or services are rendered to other persons in the ordinary course of business

Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

7. Punishment for other offences arising out of "untouchability"

(1) Whoever-

- (a) prevents any person from exercising any right accruing to him by reason of the abolition of “Untouchability” under article 17 of the Constitution; or
- (b) molests, injures, annoys, obstructs or causes or attempts to cause obstruction to any person in the exercise of any such right or molests, injures, annoys or boycotts any person by reason of his having exercised any such right; or
- (c) by words, either spoken or written, or by signs or by visible representations or otherwise, incites or encourages any person or class of persons or the public generally to practice “Untouchability” in any form whatsoever; [or]
- (d) Insults or attempts to insult, on the ground of “Untouchability” a member of a Scheduled Caste.

(2) Whoever-

- (i) denies to any person belonging to his community or any section thereof any right or privilege to which such person would be entitled as a member of such community or section, or
- (ii) takes any part in the ex-communication of such person, on the ground that such person has refused to practise ‘untouchability’ or that such person has done any act in furtherance of the objects of this Act,

Shall be punishable with imprisonment for a term of not less than one month and not more than six months, and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

7A. Unlawful compulsory labour when to be deemed to be a practice of "untouchability"

(1) Whoever compels any person on the ground of "untouchability", to do any scavenging or sweeping or to remove any carcass or to flay any animal or to remove the umbilical cord or to do any other job of a similar nature shall be deemed to have enforced a disability arising out of "untouchability"

(2) Whoever is deemed under sub-section (1) to have enforced a disability arising out of "untouchability" shall be punishable with imprisonment for a term which shall not be less than three months and not more than six months and also with fine which shall not be less than one hundred rupees and not more than five hundred rupees.

8. Cancellation or suspension of licenses in certain cases

When a person who is convicted of an offence under section 6 holds any license under any law for the time being in force in respect of any profession, trade, calling or employment in relation to which the offence is committed, the court trying the offence may, without prejudice to any penalty to which such person may be liable under that section, direct that the license shall stand cancelled or be suspended for such period as the court may deem fit, and every order of the court so canceling or suspending a license shall have effect as if it had been passed by the authority competent to cancel or suspend the license under any such law.

9. Resumption or suspension of grants made by government

Where the manager or trustee of a place of public worship 1[or any educational institution or hostel] which is in receipt of a grant of land or money from the Government is convicted of an offence under this Act and such conviction is not reversed or quashed in any appeal or revision, the Government may, if in its opinion the circumstances of the case warrant such a course, direct the suspension or resumption of the whole or any part of such grant.

10. Abetment of offence

Whoever abets any offence under this Act shall be punishable with the punishment provided for the offence.

10 A. Power of State Government to impose collective fine

If, after an enquiry in the prescribed manner, the State Government is satisfied that the inhabitants of an area are concerned in, or abetting the commission of, any offence punishable under this Act, or harboring persons concerned in the commission of such offence or failing to render all the assistance in their power to discover or apprehend the offender or offenders or suppressing material evidence of the commission of such offence, the State Government, may by notification in the Official Gazette, impose a collective fine on such inhabitants and apportion such fine amongst the inhabitants who are liable collectively to pay it, and such apportionment

shall be made according to the State Government's judgment of the respective means of such inhabitants and in making any such apportionment the State Government may assign a portion of such fine to a Hindu undivided family to be payable by it:

Provided that the fine apportioned to an inhabitant shall not be realized until the petition, if any, filed by him under sub-section (3) is disposed of.

11. Enhanced penalty on subsequent conviction

Whoever having already been convicted of an offence under this Act or of an abetment of such offence is again convicted of any such offence or abetment. 1[shall, on conviction, be punishable—

- (a) for the second offence, with imprisonment for a term of not less than six months and not more than one year, and also with fine which shall be not less than two hundred rupees and not more than five hundred rupees;
- (b) for the third offence or any offence subsequent to the third offence, with imprisonment for a term of not less than one year and not more than two years, and also with fine which shall be not less than five hundred rupees and not more than one thousand rupees.

12. Presumption by courts in certain cases

Where any act constituting an offence under this Act is committed in relation to a member of a Scheduled Caste, the court shall presume, unless the contrary is proved, that such act was committed on the ground of “untouchability”

13. Limitation of jurisdiction of civil courts

- (1) No civil court shall entertain or continue any suit or proceeding or shall pass any decree or order or execute wholly or partially any decree or order if the claim involved in such suit or proceeding or if the passing of such decree or order
- (2) No court shall, in adjudicating any matter or executing any decree or order, recognize any custom or usage imposing any disability on any person on the ground of “untouchability”.

14. Offences by companies

- (1) If the person committing an offence under this Act is a company, every person who at the time the offence was committed was a charge of, and was responsible to, the company for the conduct of the business of the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:
- (2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed with the consent of any director or manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

14 A. Protection of action taken in good faith

- (1) No suit, prosecution or other legal proceeding shall lie against the Central Government or a State Government for anything which is in good faith done or intended to be done under this Act.

(2) No suit or other legal proceeding shall lie against the Central Government or a State Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done under this Act.

15. Offences to be cognizable and triable summarily

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, every offence punishable under this Act shall be cognizable and every such offence, except where it is punishable with imprisonment for a minimum term exceeding three months, may be tried summarily by a Judicial Magistrate of the first class or in a metropolitan area by a Metropolitan Magistrate in accordance with the procedure specified in the said

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, when any public servant is alleged to have committed the offence of abetment of an offence punishable under this Act, while acting or purporting to any in the discharge of his official duty, no court shall take cognizance of such offence of abetment except with the previous sanction.

15 A. Duty of State Government to ensure that rights accruing from the abolition of "untouchability" may be availed of by

(1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for ensuring that the rights arising from the abolition of "untouchability" are made available to, and are availed of by, the persons subjected to any disability arising out of "untouchability".

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), such measures may include—

(i) the provision of adequate facilities, including legal aid, to the persons subjected to any disability arising out of "untouchability" to enable them to avail themselves of such rights;

(ii) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

(iii) the setting up of special courts for the trial of offences under this Act;

(iv) the setting up of Committees at such appropriate levels as the State Government may think fit to assist the State Government in formulating or implementing such measures;

(v) Provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provisions of this Act;

(vi) the identification of the areas where persons are under any disability arising out of "untouchability" and adoption of such measures as would ensure the removal of such disability from such areas.

(3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

(4) The Central Government shall, every year, place on the Table of each House of Parliament, a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.

16. Act to override other Laws

Save as otherwise expressly provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, or any custom or usage or any instrument having effect by virtue of any such law or any decree or order of any court or other authority.

16A. Probation of Offenders Act, 1958, not to apply to persons above the age of fourteen years

The provisions of the Probation of Offenders Act, 1958, shall not apply to any person above the age of fourteen years who is found guilty of having committed any offence punishable under this Act.

16 B. Power to make rules

(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

17. Repeal

The enactments specified in the Schedule are hereby repealed to the extent to which they or any of the provisions contained therein correspond or are repugnant to this Act or to any of the provisions contained therein.

Tamil Nadu Prohibition of Ragging Act, 1997

The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 14th February 1997 and is hereby published for general information. Excerpts form Act No.7 of 1997.

An Act to prohibit ragging in educational institutions in the State of Tamil Nadu. Be it enacted by the Legislative Assembly of the State of Tamil Nadu in the Forty eighth year of Republic India as follows:

1) Short title, extend commencement

1. This Act may be called the Tamil Nadu Prohibition of Ragging Act, 1997.
2. It extends to the whole of the state of Tamil Nadu.
3. It shall be deemed to have come into force on the 19th day of December 1996.

2) Definition: In this Act unless the context otherwise requires, "ragging" means display of noisy, disorderly conduct doing any act which causes or is likely to cause physical or psychological harm or raise apprehension or fear or shame or embarrassment to a student in any educational institution and includes.

- a) teasing, abusing of playing practical jokes on, or causing hurt to such student or
- b) Asking the students to do any act or perform something which such student will not in the ordinary course willingly do.

3) Prohibition of ragging

Ragging within or without any educational institution is prohibited.

4) Penalty of ragging

Whoever directly or indirectly commits, participates in, abets or propagates "ragging" within or without any educational institution, shall be punished with imprisonment for a term which may extend to two years and shall also be liable to a fine which may extend to ten thousand rupees.

5) Dismissal of Student

Any student convicted of an offence under section 4 shall be dismissed from the educational institution and such student shall not be admitted in any other educational institution.

6) Suspension of student

(1) Without prejudice to the foregoing provisions, whenever any student complains of ragging to the Head of an Educational Institution, or to any other person responsible for the management of the educational institution he / she shall inquire into the same immediately and if found true shall suspend the student, who has committed the offence, from the educational institution.

(2) The decision of the Head of the Educational institution or the person responsible for the management of the Educational Institution that any student has indulged in ragging under subsection (1) shall be final.

7) Deemed abetment

If the head of the educational institution or the person responsible for the management of the educational institution fails or neglects to take action in the manner specified in subsection (1) of section 6 when a complaint or ragging is made, such person shall be deemed to have abetted the offence of ragging and shall be punished as provided for in Section 4.

8. Power to make Rules

1. The state government may take rules for carrying out all or any of the purpose of this act
2. All rules made under this act shall be published in the Tamil Nadu Government Gazette and unless, they are expressed to come into force on a particular day, shall come into force on the day on which they are so published.
3. Every rule made under this Act shall, as soon as possible after it is made, be placed on the table of the legislative assembly and if, before the expiry of the session in which it is so placed or the next session, the assembly makes any modification in any such rule, or the assembly decides that the rule should not be made, the rule shall thereafter have effect, only in such modified form or be of no effect, as the case may be so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

9. Repeal and Saving – Tamil Nadu Ordinance 10 of 1996

1. The Tamil Nadu prohibition of ragging ordinance, 1996 is hereby repealed.
2. Notwithstanding such repeal, anything done or any action taken under the ordinance shall be deemed to have been done of under this act.

RECOMMENDED READINGS

1. Basu D.D., (1993) *Introduction to the Constitution of India, P.H.L.*
2. Guar K.D., (1995) *Criminal Law*, Oxford University Press
3. *Human rights Today – A United Nations Priority*, U.N. Publications. Department of Public information, United Nation, New York.
4. *Human rights: A source book*, (1996) NCERT publications, New Delhi
5. Iyer V.R. Krishna (1986) *Human Rights and the Law*, Vedpal Law House, Indore.
6. Krishnamurthy S, (1987), *Impact of Social Legislations, on the Criminal Law in India*, R R Publishers, Bangalore.
7. Parmar, Lalit., (1998). *Human Rights*, Anmol Publications Pvt Ltd. New Delhi.
8. Pillai, A.P. S., (1996) *Criminal Law*, N.M. Tripathi.
9. Pylee M.V., (1994) *India's Constitution*, S. Chand & Company Ltd, New Delhi.
10. Sen S. (1998) *Human Rights in Developing Society*, APH Publishing Corporation, New Delhi

OTHER RELATED WEBSITES

- <http://aplsa.ap.nic.in>→
- <http://barcouncilofindia.org>→
- <http://ec.europa.eu/>→
- <http://en.wikipedia.org/wiki/lawsindia.com>→
- <http://ili.delhi.org>→
- <http://india.edunews.net/>→
- <http://lawcommissionofindia.nic.in>→
- <http://lawmin.nic.in>→
- <http://legalservices.com>→
- <http://nalsa.gov.in>→
- <http://nalsar.ac.in>→
- <http://nationalknowledgecommission.wordpress.com/>→
- <http://nlujodhpur.ac.in/>→
- <http://parliamentofindia.nic.in>→
- <http://supremecourtofindia.nic.in>→
- <http://supremecourtsonline.com>→
- <http://supremecourtscases.com>→
- <http://un.org/en/>→
- http://untreaty.un.org/cod/avl/pdf/ha/fatchr/Final_Act_of_TehranConfnf.pdf
- <http://www.laoc.org/Australia.html>→
- http://www.laoc.org/United_States.html→
- <http://www.legalservicesindia.com/forum>→
- <http://www.unodc.org/>→
- www.law.du.edu/documents/sports-and-entertainmentlaw.../right.pdf →
- www.realizingrights.org/pdf/Human_Rights_and_Development.pdf →
- www.ucmo.edu/cjinst/issue3→
- www.unesco.org/education/information/wer/PDFeng/wholewer→ PDF1