



SHRIMATI INDIRA GANDHI COLLEGE



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CONTENT

UNITS	PAGES
UNIT 1	4-39
UNIT 2	40-88
UNIT 3	89-150
UNIT 4	151- 174
UNIT 5	175-264

Course Title: SOCIAL WELFARE ADMINISTRATION, SOCIAL POLICIES, AND SOCIAL LEGISLATIONS

Semester No : III

Core Course : IX

Course Code : CC - IX

I. Social Welfare Administration meaning and definition of social welfare administration and social work administration; purpose, historical development; principles, functions, and areas(policy making, planning, personnel, supervision, office administration, budgeting, finance, fund raising, accounting, auditing, purchase and stock keeping, record maintenance, co-ordination, public relation, monitoring and evaluation, and research, annual report); social welfare administration at national, state, and local levels.

II. Social Welfare Programmes and Agencies Evolution of Social Welfare in India; meaning, Definition, Types, and Models of NGOs; Role of NGOs in National Development Agency Registration: Methods, Advantages & Tax Exemptions for NGOs and FCRA. Government

III. Social Policy: definition, need, evolution and constitutional base; sources and instrument of social policy, policies regarding Other Backward Castes (OBCs), Scheduled Castes (SCs), Scheduled Tribes (STs), and de-notified communities; policies and programmes for women, children, aged, and handicapped; development and implementation of programmes for weaker sections. Planning Machinery at the State & National Levels and Concepts of Five-year Plan.

IV. Social Legislation: Definition, its roles as an instrument of social change, constitutional basis for social legislation: Fundamental Rights and Directive Principles of state Policy.

V. Laws Related to Marriage: Hindu, Muslim, Christian, and personal laws relating to marriage; divorce, minority, and guardianship; adoption, succession, and inheritance; legislation relating to social problems such as prostitution, juvenile delinquency, child labour, untouchability, physical, and mental disabilities.

UNIT-1

SOCIAL WELFARE ADMINISTRATION

Social welfare administration Meaning;

- **Social welfare administration** is a process through which **social** policy is transformed into **social** services. It involves the **administration** of public and private agencies.
- Social Welfare Administration translates social welfare policies and social legislation into social work practice. It administers the resources and personnel available for social work practice. It ventilates the many choices open to clients to adjust themselves as well as to recover themselves from problem situations.

Social Welfare Administration. Definition:

According to H. Trecker, “Social Welfare Administration is a process of working with people in ways that release and relate their energies so that they use all available resources to accomplish the purpose of providing needed community services and programmes.”

John C. Kidneigh: “Social Welfare Administration is the process of transferring the social policy into social services and the use of experiences in evaluating and modifying policies.”

Purpose :

Making plans for effectively carrying out the objectives of the agency on the basis of the alternatives selected.

- recruiting, selecting, appointing, inducting, training, supervising staff essential to the enterprise and in accordance with the plan and the organized division of work identifying volunteers, arranging their orientation and assigning tasks.
- arranging a division of work into such units that each unit can be assigned to one person for execution.
- establishing continuous use of appropriate measures, procedures and practices to ensure that all activities in the social welfare agency contribute to the attainment of the selected objectives of the agency programmes.

- collecting, recording, and analyzing pertinent facts during the cause of the total process that will serve as a basis.
- laying down and following financial practices in order to ensure economical and wise utilization of public funds.
- laying down standards of work in an agency and mechanism of their enforcement. establishing sound communication and supervision system and maintaining effective community relations.
- evolving mechanism of co-ordination within an agency and with other agencies.
- arranging a system of monitoring and evaluation of agency's work.

HISTORICAL EVOLUTION OF WELFARE ADMINISTRATION IN INDIA.

Historical Evolution of Welfare Administration in India.

Welfare administration is of pivotal importance in developing countries, like India. To day as a welfare state Indian is engaged in a massive effort to lift the people from a state of poverty, squalor, disease and want to a level of general happiness and prosperity. In India welfare administration evolved as an unique process from the ancient to the present day.

This process can be broadly divided into three phases.

1. Ancient medieval period,
2. British period, or Pre-independence period.
3. Post Independence period.

Ancient Medieval Period :

From the recent excavations the scholars have come to the conclusion that Government in Mohejo - Daro and Harappa was systematic. In the Indus valley civilization roads and drainage were planned, and there was a municipal Government which looked after the needs and made systematic arrangements for the cities. Moreover, the entire area covered by the Indus civilization contained one type of houses, a common system of weights and measures, and a common script. People enjoyed their life. And all these shows that there existed welfare administration and good governance.

Vedic period :

The Indus valley civilization was followed by the Vedic period and there was monarchical Government. The office of the king was hereditary, but the kings were not despotic and they had to take an oath at the time of coronation to work in the interest of the people. "The main duty of the king was to defend the people and for this purpose he made adequate arrangements.

Epic period :

Ramayana and Mahabharata are very old epics of our country. In the Ramayana period the form of government was monarchical. Administration was sufficiently developed. In consequence the people were prosperous and happy. The main purpose of the state was to fulfil its duties, to encourage morality, to increase prosperity and happiness of the people and to safeguard their interests. The king looked after the welfare of the people.

"During the Mahabharata period the state has been called 'Saptanghi' and the principal form of government was monarchy. The king set an example of high ideals and performance of one's duties."2 He was responsible for the welfare of the people.

Budha period :

During the period of Budha numerous republics existed. However, it is important that along with these republics there existed four big kingdoms of 'Magadha' 'Avanti', 'Vasta' and 'Kaushal'. In the republics the real power belonged to Sabhas which included the common people as well as the elite. The king was the head of the republic and was elected for a fixed period and was accountable for his action to the council or 'Sabha'.

Maurya period :

During this period Arthashastra was written. It's certainly the most authoritative treatise on the Hindu Polity. Kautilya occupies an eminent position among diplomats and statesmen of Indian polity his intellectual acumen and comprehensiveness of outlook is definitely unparalleled.

In ancient India he established for the first time the foundation stone of welfare Administration. According to him the main objective of the Government is to guarantee security and welfare of the people through an honest, loyal, and efficient administration. Arthashastra speaks the king should be a benevolent ruler, and a twenty-four hour servant of his subjects. He should

consider his subjects as his own son and daughter. He has no personal likes and dislikes other than those of his subjects. His success and glory lies in the pleasure and welfare of his subjects. He is a representative of God to rule the people so he cannot disobey the divine pledge, service to mankind is service to God, so the king should fulfill his pledge by implementing the welfare measures for the well being of his subjects. He should be a devoted and committed ruler for the happiness of his subjects.

Accordingly the great ruler Chandragupta implemented welfare administration by adopting various welfare measures.

Emperor Ashoka was a great ruler and was the most inspired and devoted follower of Buddhism. He entirely dedicated himself and all his property for the benevolence of his subjects. Welfare and security programmes were implemented in every corner of his great empire and, it reached at the highest position.

Moghul Period :

During Moghul regime Shershah and Emperor Akbar were the great protagonists of welfare administration and contributed a lot of wealth for this great purpose.

The Muslim administration was based on Koran in India. The King was the head of the Moghul Empire and his administration. Babur, Akbar Shershaha had firm faith in the doctrine of Divine rights.

In the pre-independence period :

In the pre-independence period welfare policies were essentially adopted by British Indian administration. It gave importance for the development of education, postal, Telegraph, Railways, and introduced a lot of welfare measures and social reforms for the benefit of the people. The assumptions and programmes of welfare administration were implicit in the economic and social objectives of the Indian National Congress Party which interpreted its goal of 'Swaraj' or independence as but a means to the welfare of the masses in the country.

The constituent Assembly of India, which met in December 1946, had the task of framing a constitution for a democratic polity, which would respect the fundamental rights of citizens and promote their welfare through welfare administration. The founding fathers of the Indian constitutions were convinced that India should become a modern welfare state, which should be committed to implement welfare administration.

Dr. Ambedkar, Pandit Nehru were great socialist leaders. All of them advocated the inclusion of Directive Principles of state policy in the Indian

Constitution. Their thinking was that free India's governance must play the key role in bringing about socio-economic development to ensure economic justice and equity among all people.

Dr. Ambedkar, the father of Indian constitution advocated the inclusion of Directive Principles in the following words.

We do not want merely to lay down a mechanism to enable people to come and capture power. The constitution also wishes to lay down an ideal before those who would be forming the government. It is therefore, no use saying that the directive principles have no value." In my judgment the directive principles have a great value, for they lay down that our ideal is economic democracy."

According to L.M. Singhvi, "The Directives are the life giving provision of the constitution."

It is widely believed that if all these principles were fully carried out, our country would indeed be a heaven on earth a welfare state in which there will be economic equality between its different citizens.

In fact these directives are affirmative directions or instructions to the union and state government, which must be followed while formulating policies. The directive principles as settled in the constituent Assembly and laid down in Part IV of the constitution required the Government of India and the state Government to promote the following essential principles of welfare, which were to be regarded functional in the government of the country.

A social order,

- 'In which justice social economic and political, shall inform all the institutions of national life'.
- The right of all citizens, men women equally to an adequate means of livelihood.
- The distribution of ownership and control of the material resources of the community to sub serve the common good.
- The operation of economic system in a way so as to prevent the "concentration of wealth and means of production to the common detriment",
- "Equal pay for equal work for both men and women"
- Protection of the health of workers, men, women and children;
- Protection of children and youth" against exploitation and against moral and material abandonment"
- Organization of village Panchayats as units of self-government;

- “Effective provision for securing the right to work to education and public assistance, in cases of unemployment, old age, sickness and disablement and in other cases of underserved want”,
- “Provision for securing just and human conditions of work and for maternity relief ,
- A living wage, enjoyment of leisure and social cultural opportunities.
- Promotion of cottage industries in rural areas.

A uniform civil for all India;

- Free and compulsory education for all children unit age of 14 years.
- The promotion of educational and economic interests of the scheduled castes, scheduled tribes and other weaker sections of the people and their protection from social injustice and all forms of exploitation”,
- Raising the level of nutrition and standards of living and improvement of public health and prohibition of intoxicating drinks and injurious drugs.
- The organization of agriculture and animal husbandry on modern and scientific lines and prohibition of the slaughter of cows, calves, and other milch and draught cattle”. Through legislation, when necessary and through executive measures the stat in India is required by the constitution to prompt both directly and indirectly, the common good of the Indian people.

After Independence:

Jawaharlal Nehru, the architect of planning in India, set up the National Planning committee towards the end of 1938.

The central theme of public policy and philosophy of national planning in India since independence has been the-promotion of balanced economic development so as to provide a foundation for sustained economic growth, for increasing opportunities for gainful employment : for promoting greater equality in incomes, and wealth and raising living standards and working conditions for the masses. The constitution has declared India to be a welfare state.

The need for planning for socio-economic development was realised even before independence. As early as in 1944, the National Planning Committee visualized the need for economic development.

The Bombay Plan in the same year stressed the necessity of balanced economy through rapid industrialisation. In the same vein, the People’s Plan drafted by

M.N. Roy advanced the ease of agriculture development and centralized planning for smooth and comprehensive development, with these basic ideas the country embarked upon a planned development.

The Planning Commission was established in 1950 with the basic functions to formulate the development plans, identify plan priorities and determine the machinery for the successful implementation of development programmes.

Functions of Social welfare administration:

According to Ray Johns:

- i) determining the purposes, aims and objects of the organisation.
- ii) Establishing the structure of the organisation and keeping the organisation strong.
- iii) Directing the work of the organisation, selecting and developing an able and adequate staff.
- iv) Working with boards and committees.
- v) Providing financial administration-securing and handling finances.
- vi) Maintaining effective public relations and proper co-ordination with the other agencies.
- vii) Evaluating accurately the total outcome in relation to established purposes.
- viii) Looking ahead and forecasting so that services are kept consistent with changing needs and resources,

Functions of Social Welfare Administration

Luther Gulick-

POSDCORB

P-Planning

O-Organising

S-Staffing

D-Decision making

CO-Co-ordinating

R-Recording

B-Budgeting

Principles:

Principles of Social Welfare Administration

Principles as explained by Trecker

1. **The Principle of Social Work Values:** The values of the profession are the foundation upon which services are developed and made available to persons who need them.
2. **The Principle of community and client needs:** The need of the community and the individuals within it are always the basis for the existence of social agencies and the provision of programs.
3. **The Principle of agency purpose:** The social purpose of the agency must be clearly formulated, stated, understood and utilized.
4. **The Principle of cultural setting:** The culture of the community must be understood in as much as it influences the way needs are expressed and the way services are authorized, supported, and utilized by the people who need them.
5. **The Principle of purposeful relationship:** Effective purposeful working relationship must be established between the administrator, the board, the staff and the constituency.
6. **The Principle of agency totality:** The agency must be understood in its totality and wholeness.
7. **The Principle of professional responsibility:** The administrator is responsible for the provision of high quality professional services based on standards of professional practice.
8. **The Principle of participation:** Appropriate contributions of board, staff and constituency are sought and utilized through the continuous process of dynamic participation.
9. **The Principle of Communication:** Open channels of communication are essential to the complete functioning of people.
10. **The Principle of leadership:** The administrator must carry major responsibility for the leadership of the agency in terms of goal attainment and the provision of professional services.
11. **The Principle of planning:** The Process of continuous planning is fundamental to the development of meaningful services. Social Welfare / work

administration has much in common with administration in business and Government. It also has distinguishing characters.

12. The Principle of organization: The work of many people must be arranged in an organized manner and must be structured so that responsibilities and relationships are clearly defined.

13. The Principle of delegation: The Delegation of responsibility and authority to other professional persons is essential

14. The Principle of co-ordination: The work delegated to many people must be properly coordinated.

15. The Principle of resource utilization: the resources of money facilities and personnel must be carefully fostered, conserved and utilized in keeping with the trust granted to the agency by society.

16. The Principle of change: The Process of change is continuous, both within the community and within the agency.

17. The Principle of evaluation: Continuous evaluation of processes and programs is essential to the fulfilment of the agency's objectives.

18. The Principle of growth: The growth and development of all participants is furthered by the administrator who provides challenging work assignments, thoughtful supervision, and opportunities for individual and group learning.

Social work administration meaning:

1. Administration is a dynamic process keeps its continuity of reaching the goal.
2. The administrative process goes on for meeting a common purpose or goal.
3. Planning, organizing, leadership, decision making, authority and communication are essential ingredients of administrative process.

Definition:

Friedlander (1955): "Administration of social agencies translates the provisions of social legislation and the aims of private philanthropy and religious charities into the dynamics of services and benefits of humanity".

Beavers (1950): Administration “as the processes of means by which the aims of an organization are determined, plans made for achieving these aims and the plans carried out”

Evolution of Social Work Administration:

In the pre-independence period voluntary agencies were mainly financed by the local contributions and the efforts of few philanthropists like local zamindars, rich man, land lords, businessmen or eminent industrialists. With the socialization of natural resources and state deciding to undertake social welfare programmes, the growth of private charity has not been increasing in proportion to the increase in the number of agencies. At that time the importance and scope of Social Work Administration was very less. After the independence a strong gap found regarding implementation of government grants. Mostly Christian missionaries receiving the grants and spent for the people's development. But gradually the situation has been changed. A number of Governmental Agencies was set up and were responsible for distributing the grant-in-aid to local voluntary organizations. The example is setting up Central Social Welfare Board in 1953, when 31 percent of expenditure of the voluntary agencies was met by the Government grants, this amount rose to 40 percent in 1961 and gradually due to growth of population, it was increased. In the nineties the proportion of the state assistance has gone up to 90 percent. A social work student in the 20th century looked out the developments and the country best utilization of funding's for the poverty stricken peoples or the vulnerable groups. Detailed developments are discussing below.

Stages of Development

First Phase & Early Stage

The different phases of development of administration as methods of social work started earlier in 1874 where National Conference of Charities and Corrections resolved that people, their social problems and delivery of social services should be the concern of leaders leading to emphasis on administrative problems and issues.

The observation made by Anna L. Dawes Pittsfield, Massachusetts in 1893 at the International Congress of Charities, Corrections and Philanthropy that schools should organize to train workers to help to provide effective social services to those in need is an important landmark in this direction.

In 1897, Mary E. Richmond, then General Secretary of Charity Organization Society of Baltimore, Maryland made same observations at National Conference of Charities and Corrections in United States. These recommendations were made mainly due to the non availability of competent personnel to take the place of generation than passing off the scene .

In the beginning of the 20th century; the theme of social administration was introduced into a few British Universities. For example, in 1901 the London School of Sociology and Economics was established. Thus various training courses started around the world due to this development.

Second Phase

From 1900 to 1930s the social work has been identified and recognized as an occupation in which social case work has been recognized as dominant methods of this emerging profession. As an effort in the direction of intensive professionalization:

1. Social work was introduced in hospitals, schools, judicial organizations, psychiatric settings.
2. Schools of social work were established, and
3. Professional organizations were formed were formed for monitoring and setting standards of social work education.

Thus in this period knowledge and competence in social case work was taken as the foundation of all forms of professional practice and administration was not ordinarily distinguished from direct practice, nor thought of as a separate function.

Third Phase

In this phase need of both the partners work. Governmental intensified work need involvement of local human resources .Recognition of administration in social work was intensified due to the involvement of Government in providing economic assistance to millions unemployed and economically dislocated people. For this a public welfare system was established by creating federal emergency Relief Administration in 1934 followed by passing of Social Security Act in 1935 which has created a federal state system of public assistance.

Thus, during the period of 1930 to 1960 administration has emerged a legitimate method of social work practice but still it was treated as minor method in some quarter. However it got same institutional acceptance which need further development in order to accepted as equal partner in realm of social work development in order to be accepted a equal partner in realm of social work methods.

Fourth Phase

In early 1960s, efforts were directed to develop theory and practice of social work administration which is evident from the following:

1. Establishment of institute in 1960 for conduction research in social work administration and community organization by the National Association of Social Workers.
2. In 1962 and 1969 the Council on Social Work Education permitted individual schools to experiment with new approaches to education for practice making room for specialized course on social work Council on Social Work.

Fifth Phase

In 1960s there was massive growth in social welfare programs resulting into unparalleled growth in social welfare expenditure. There were problems to manage this expenditure and massive enterprise of social welfare programs mainly due to a gradual shrinking of the physical dividend because of the combined effect of several tax cuts, the Vietnam war, increased social welfare expenditure, inflation and reduced rate of economic growth leading to policies of scarcity.

In this way, administration in social work becomes more visible. Consequently, the following propositions of curriculum study are noteworthy. The social work curriculum should provide for all students such knowledge and experience in the area of administration as well as support subsequent on the job learning and the application of professional knowledge in positions involving executive and sub-executive level responsibilities.

Twentieth Century Development

In Twentieth Century concepts like Hunger or Poverty is the biggest challenge for the Afro-Asian Countries. The United Nation has organized a number of Poverty Alleviations Programme for these countries. After the

independence, the constitution of India was worked from 1950. For the first time all welfare activities was getting the sanction of the constitution.

The constitution is the written document clearly directs various disciplinary measures for the welfare of the people. Like U.S India is a not purely a Federal Country rather it is the combination of both unitary and federal structure. The constitution is the principal source of power where various welfare polices has been prepared by Loksabha the principal legislative organ of India .

In independent India, social policies have been evolved mainly from Indian Constitution which declared India as a sovereign,, socialist, secular, democratic republic based on social, economic and political justice; liberty of thought, expression, belief in faith and worship, and equality of status and of opportunity.

For this, Indian Constitution made provision for Fundamental Rights and Directive Principles of State Policy. Through these provisions, social policies have been evolved for ensuring equity and social justice among different sections of society.

Principles of Social Work Administration

The principles of administration is same as in Public administration or in Managerial works or in administrative works meant for welfare of Public .But specifically “Administration” which works for “Social Welfare” looks out the problem primarily and after finding the cause of problems policies are prepared &social welfare experts normally prepared projects with a number of programmes for the welfare of the community .Then come the need of administrative requirements .More or less “Welfare “is the basic need and objectives of the “Social Welfare Administration” However, some of basic principles are as under:

- Adjustment between objectives, policy and programs of the agency.
- Here agency means the organization works for the specific problems .Agency means the general body that works with administrative objectives for the welfare of the community.
- Coordination between area of work, resources and authority at every level of administration.

- Area of works means where the exact work will be implemented, it might be in rural community or urban community Functions will be workout accordingly.
- Leaders and staff members are encouraged and expected to accept one and another accordingly and work with non-judgmental attitude.
- Administrative works implemented with a social work activities way .Administrators and allied staffs co-operates each other. Generosity and welfare is the prime motto of every member.
- Staff member should become a part of participatory administration and there should be internal democracy in administrative structure.
- Participatory and Democratic means among the members or staffs have that attitude of openness and frankness to work jointly .Maximum cooperation need for the same.
- Establishment of two-way-communicator in agency.
- Two way communicator indicates that from the organization side and the community side or from the administrative lookout and the from the community point of action plan always be sound.
- Existence of belief in human dignity, honesty, dignity of individual, self-determination and self-help.
- All the whole work will be established in positive attitudes like dignity, honest, determination and self –help basis.
- Cooperation from the masses.
- As we have discusses above that community cooperation maximum required

Function of social work administration:

1.Curative Function :

The services provided under curative functions are–medical and health services, services relating to psychiatry, child guidance, child welfare services, services for the handicapped or disable in the form of protection and rehabilitation. These kinds of services aim to cure the physical, social, material, psychological sickness of individuals in the society.

2.Correctional Function :

The correctional function of social work has three broad areas, such as:

a) Individual reform service which includes prison reform, probation, parole and other related services.

- b) Services for improving social relationship which includes family welfare services, school social work, industrial social work etc.
- c) Services for social reform that includes employment services, prevention of commercial sex work, beggary prohibition services and removal of untouchability etc.

3.Preventive Function:

It includes life insurance services, public assistance, social legislation, adult education and prevention of diseases etc. This type of function basically deals with the services relating to the prevention of problems like insecurity, unlawfulness, ignorance, sickness etc. It is directed towards the elimination of those factors in the social environment or those deficiencies in the development of personality that prevents the individual from achieving a minimum desirable standard of socio-economic life.

4.Developmental Function :

Developmental function includes the tasks of socio-economic development activities such as: education, recreational services, urban and rural development programmes and programmes of integration etc which are primarily concerned with the development of individuals, families, groups and communities.

Purposes of social work:

<u>Communicate and Engage</u>	Communicate and engage with organisations and people within communities to promote opportunities for children, adults, families and groups at risk or in need to function, participate and develop in society.
<u>Promote and Enable</u>	Promote opportunities for people to use their own strengths and expertise to enable them to meet responsibilities, secure rights and achieve change.
<u>Assess and Plan</u>	Work in partnership to assess and review peoples cicumstances and plan responses to need and risk.
<u>Intervene and Provide Services</u>	Intervene and provide services to achieve change, through provision or purchase of appropriate levels of support, care, protection and control.

<u>Work in Organisations</u>	Contribute to the work of organisations.
<u>Develop Professional Competence</u>	Manage and evaluate own capacity to develop professional competence.

AREAS OF SOCIAL WELFARE ADMINISTRATION

Policy making Process:

- Agenda Setting – problem must be brought to the attention of public officials
- **agenda** – set of issues to be discussed or given attention
- **systemic agenda** – all issues within jurisdiction of governments

governmental agenda:

- issues that will receive active and serious attention
- Policy Formulation.

policy formulation :

- crafting appropriate courses of action to resolve public problems
- Involves both political (what should be done) and technical (what will be done) aspects

Policy Adoption

- **policy adoption** – the approval of a policy proposal by the people with the requisite authority, such as a legislature.

Budgeting:

- most policies require money to be carried out.
 - policies can be killed by inadequate funding or lack of funding
- Policy Process

Policy Implementation

policy implementation

- The process of carrying out public policy through governmental agencies and the courts.

Authoritative techniques

- people must be directed or restrained by government. Product safety, broadcast obscenity, food & health.

Incentive techniques

- encourage people to act in their own best interest by offering payoffs or financial inducements. Tax deductions, credits, subsidies, sanctions by high taxes (tobacco, pollution).

Policy Evaluation

policy evaluation – the process of determining whether a course of action is achieving its intended goals.

Social Planning:

Planning is the process of preparing a blueprint of actions to attain stated objectives within a time frame. The determination of objectives, the specifications of targets, the strategy for mobilization of resources, the allocation of outlays to different development sectors, the blueprint of actions (including their operationalisation in the shape of policies, programmes and their delivery system) are aspects which have to be considered in any planning exercise.

- M. Webber defines planning as the process of making rational decisions about future goals and future courses of action, which relies upon explicit tracing of repercussions and the value implications associated with alternative courses of action and in turn requires explicit evaluation and choice among the alternative matching goal- action sets.
- Alfred J. Kahn defines planning as follows: Planning is policy choice and programming in the light of facts, projections and application of values.

Planning is policy formulation and realization through choices and rationalization.

- Planning is essential because it enables us to formulate with some precision what we intend to achieve within a given time frame. Prioritization among various objectives enables us to demarcate the more important objectives from those, which are less so.
- Once this is done one can decide what is feasible considering the resources at hand and how additional resources can be mobilized. Therefore, planning is a more scientific path towards achieving development objectives, and for bringing about economic and social transformation in a systematic manner.
- Perhaps, the most important reason, which comes to your mind, may be that you are faced with a severe shortage of certain resources/factors. Given the fact that each of these may also have different uses, you may be unable to decide how to utilize these resources.
- It is in such a situation that planning becomes extremely important. Therefore, you must plan the use of resources in some rational manner.

PERSONNEL SOCIAL WELFARE ADMINISTRATION:

The following list includes items which would generally be called "Personal Social Services". They are care, development, and welfare of the child, probation and correctional services for the juvenile delinquents, crime prevention programmes, welfare programmes for prisoners, victims and their families, institutional care for women and children, care and adoption by special parents,

family services and counselling, family social work, continuance of community services and protective services for the aged or geriatric social work.

Day care and preschool programmes for the children, referral programmes, holiday/vacation camps for children, youth, parents, handicapped and the elderly, income assistance and care programmes for average families, self-help and mutual aid programmes among disadvantaged and handicapped groups, counselling programmes for adolescents, marital counselling, planned parenthood counselling, disability counselling, aged counselling, specialized institutional services for destitute, infirm, beggars, poor, persons in moral danger etc. It also included De Addiction centres and programmes for the care of alcoholics and drug addicts, programmes for victims of HIV/AIDS etc. It also includes human development programmes and other social welfare services.

Employee welfare entails everything from services, facilities and benefits that are provided or done by an employer for the advantage or comfort of an employee. It is undertaken in order to motivate employees and raise the productivity levels.

In most cases, employee welfare comes in monetary form, but it doesn't always bend that way. Other forms of employee welfare include housing, health insurance, stipends, transportation and provision of food. An employer may also cater for employees' welfare by monitoring their working conditions.

Importance of employee welfare:

- Employee welfare raises the company's expenses but if it is done correctly, it has huge benefits for both employer and employee. Under the principles of employee welfare, if an employee feels that the management is concerned and cares for him/her as a person and not just as another employee, he/she will be more committed to his/her work. Other forms of welfare will aid the employee of financial burdens while welfare activities break the monotony of work.
- An employee who feels appreciated will be more fulfilled, satisfied and more productive. This will not only lead to higher productivity but also satisfied customers and hence profitability for the company. A satisfied employee will also not go looking for other job opportunities and hence an employer will get to keep the best talents and record lower employee turnover.
- During employment, the offered benefits will determine whether an employee commits to an organization or not. As such, good employee

welfare enables a company to compete favorably with other employers for the recruitment and retention of quality personnel.

Legal requirements

For employers, compliance to the law requires the extension of certain benefits to the employees. Some include matching the amount expended by the workers for Social Security taxes and instituting an insurance policy for worker's recompense.

Types of employee welfare:

- Employee welfare can be categorized as statutory or non-statutory, meaning as required by the law or by the will of the management respectively. Welfare activities can also be classified as either intra-mural (inside the workplace) or extra-mural (outside the workplace).
- Intramural welfare facilities are those within the working environment and include condition of the working environment (safety, cleanliness, and safety measures), employee convenience (bathrooms, drinking water), health services (first aid and treatment center, ambulance, counseling) and women and child welfare (family planning services, maternity aid).
- Extramural welfare activities are diverse with many of them being sponsored by government acts. Some include comfortable residences, proper roads and infrastructure and sanitation while constitutional acts such as the factories act of 1948 and contract labor act of 1970 are examples of governmental welfare activities.

SUPERVISION:

- Administrative Supervision is a learning process involving face-to-face regularly scheduled conferences with a qualified social work administrator, which are designed to promote the development of professional responsibility, knowledge, skill, and ethical conduct in the administration of social work/human service agencies or organizations. This is done through discussion of administrative tasks, such as developing and implementing policies, procedures, and budgets; hiring, supervising, and evaluating employees at all levels of the organization; representing agency/organization in interfacing with the community and professional organizations as well as with governing boards or other sources of authority. Social Work Administration is the management of material and human resources to meet the goals of a human service agency. It differs from clinical social work supervision in the focus on

management of larger systems, which provide the structure and support for direct or clinical services.

- The supervisor is the overseer of the work of another person to ensure its quality and completion within the stipulated period. In this sense, supervision is employed widely in many fields of human endeavour, especially the scientific, industrial, commercial and educational fields.
- Even in social work in its early stages, supervision was employed to see that the framework of the policies and regulations set down by the agency were observed.
- Knowledge, information and training, just enough to fulfil this goal, were given and workers were shown how to do a particular type of work without indicating how by so doing greater efficiency was achieved.
 - Training was by apprenticeship, largely imitative and lacked conceptualisation. The educational aspect of supervision, as understood today, was not developed, while the administrative aspect was emphasized.
- Social work leaders committed to strengthening organizations often are caught in the crunch of trying to help and support workers and consumers while satisfying agency demands, and balancing legality, fairness, and efficiency. This section focuses on leadership and advocacy consistent with the core values of social work, and will be of interest to social work administrators, directors, managers, supervisors, mentors, field instructors, and lead social workers.

Office administration :

Office administration is a set of day-to-day activities that are related to financial planning, record keeping & billing, personnel, physical distribution and logistics, within an organization. An employee that undertakes these activities is commonly called an **office administrator** or **office manager**, and plays a key role in any organizations infrastructure, regardless of the scale. Many administrative positions require the candidate to have an advanced skill set in the software applications Microsoft Word, Excel and Access.

Office Administrator:

An office administrator has the responsibility of ensuring that the administrative activities within an organization run efficiently, by providing structure to other employees throughout the organization. These activities can range from being responsible for the management of human resources, budgets and records, to undertaking the role of supervising other

employees. These responsibilities can vary depending on the employer and level of education.

Skill Set

The importance of an office administrator to an organization is substantial due to the duties that they are entrusted with, therefore specialized training is required in order for the employee to work efficiently and productively, these being;

- Payroll training that involves the responsibility in ensuring that all employees receive their pay slips on time.
- To have good communication skills in order to coordinate with other employees around the organization.
- The ability of being able to supervise support workers
- The ability of adapting to changing environments and new technologies that could be implemented e.g. New software installation.
- Show good initiative
- To be able to work under pressure when given a task that is of vital importance to the organization.

Roles

There are some an extensive range of roles that can be associated with an office administrator, these being; organizations advertise junior office administrator vacancies targeted at students that are currently studying or who have left secondary school or college, the opportunity to gain experience or build a career through full-time work or an internship over the course of a summer break.

Receptionists play a key role in the organizations management, as they are entrusted with arranging and greeting the clients, suppliers and visitors directly via emails, phone calls or direct mail. The employee undertaking the role of a receptionist must show good organisational, communication and customer service skills in order to ensure efficiency with the organisation. The receptionist should be aware from those scammers who try to obtain the inner information of your office/ medical practice to abuse or exploit it. Other responsibilities that a receptionist is entrusted with are;

- Ensure that the outgoing and incoming mail is allocated to the right department within the organisation
- Organise and assist fellow employees with meetings, conferences and direct telephone calls when required
- To communicate with members of the public when an inquiry is made
- Manage and maintain the filing system that has been implemented into the organisation e.g. information systems

- Clerical duties that involve the ordering of equipment, office supplies and other inventories that are required.

BUDGETING:

Every organizational work related to peoples development & financial supports are necessary for the concerned development .But expenditure in a planning way need a pre-planning of income and expenditure plan or plan of income and expenditure which called as a “Budget”.

This a financial plan or to assess the expenditure . Budget is not a new word .The work “Budget” is a financial term which has nice history . The word “budget” is derived from a French word, Bougette, meaning a leather bag or wallet .

Rene Stown: “Budget is a document containing a preliminary approved plan of public revenue and expenditure”.

Social Welfare or agencies considered the followings as types of budget singly or in combination form.

A. Line Item Budget. This budget shows that how the money is to be spent but shows not depict what the agency does. It is not program oriented. The proposed expenditures for each department or unit are listed for a specific period of time.

B. Program Budgeting. It is related to cost estimates and specifies of each program and this budget may cover several years particularly as a program is offered and approved for specific amount of time.

C. Functional Budgeting. This budget lists all revenues and expenditures, particularly as they relate to management and general functions, fundraising functions and identifiable program offered by the agency.

D. Zero Based Budgeting. This budgeting operates on the premise that an agency must start from scratch and each year justify financial request it makes. In other words, the agency starts with no money each year and describes and justifies all expenditures that are claimed for the ensuring year, whether they have existed before or not.

FINANCE:

- Finance plays a critical role for society at large, serving individuals, families, businesses, governments and civic institutions. The financial sector performs indispensable functions such as enabling saving and investment, providing protection from risks and supporting the creation of

new jobs and enterprises. It is critical that the sector operates to provide these functions for society in a stable, sustainable way.

- Experiences of recent years have revealed a range of vulnerabilities of the financial system. include: the implicit subsidies for firms considered “too big to fail” that can allow financial institutions to enjoy privileged access to low-cost funding but protect creditors in the event of failure; the complex and often opaque web of interconnections that exists among large financial institutions and industry participants; poorly designed incentive systems; excessive leverage; insufficient liquidity; inadequate or unenforced fiduciary standards; and illegal or unethical activities from some market participants.
- These issues have been extremely costly to society and resulted in a significant loss of public trust and confidence in the financial system. An enormous, multi-year effort by policy-makers and financial institutions is underway to make the financial system more resilient and enable it to sustainably contribute to economic growth and prosperity.
- The regulatory community has strengthened oversight and prudential requirements as part of a global effort to overhaul and improve financial regulation. The industry has also taken a range of steps to change the way it does business.
- These combined efforts have resulted in a significant reduction in leverage, an increase in reserves and improved capital adequacy. Changes have been made to the level and structure of compensation, including implementation of longer deferral periods and introduction of bonus-malus schemes and clawbacks, which are unique to financial services.
- Improvements have also been made to business practices such as training, whistle blowing, sales and product approvals, with increased penalties for breaching standards.

Fundraising

- fund-raising (also known as "*development*" r "*advancement*") is the process of seeking and gathering voluntary financial contributions by engaging individuals, businesses, charitable foundations, or governmental agencies.

Although fundraising typically refers to efforts to gather money for non-profit organizations, it is sometimes used to refer to the identification and solicitation of investors or other sources of capital for for-profit enterprises.

- Traditionally, fundraising consisted mostly of asking for donations on the street or at people's doors, and this is experiencing very strong growth^[1] in the form of face-to-face fundraising, but new forms of fundraising, such as online fundraising, have emerged in recent years, though these are often based on older methods such as grassroots fundraising.
- Social welfare covers a vast array of charities which aim to improve the quality of life of individuals who are suffering or in need of support.
- Many of these organisations rely on national or local government funding and are very vulnerable to changing priorities and funding patterns. However, with effective planning and investment, social welfare charities can increase their revenue income, build up their reserves and maintain a level of security that will ensure the future of their services.
- As well as conducting revenue fundraising, social welfare charities sometimes also carry out major capital appeals for new buildings or equipment.

Social welfare fundraising typically covers the following areas:

- Community fundraising
- Individual giving
- Legacy fundraising
- Corporate fundraising
- Major donor fundraising
- Trust fundraising
- Major capital campaigns across multiple sectors
- Statutory funding bids and commissioning
- National lottery fundraising
- New media fundraising
- Social Enterprise

Wootton George Consulting has many years' experience of working with a wide range of social welfare organisations with their fundraising at a local, regional and national level. The typical services that we have delivered include:

- Fundraising audits or reviews (to identify the best opportunities and know where to invest)

- Fundraising strategy development (to set out how best to exploit the opportunities)
- Campaign planning support (e.g. to design a legacy campaign)
- Social Enterprise Planning (to explore opportunities to generate new income through selling services)
- Prospect research (e.g. screening of a database to identify potential major donors, or in-depth profiling of individual prospects)
- Development of specific areas of fundraising (e.g. help to establish a trust fundraising or corporate programme)
- Website and new media fundraising development
- Direct marketing consultancy (e.g. to develop an individual donor fundraising programme)
- Provision of hands-on support via our Fundraising Placements service
- Social welfare fundraising has its own challenges with which we are very familiar. However, we know that it is usually possible with some planning and investment to increase support, as our clients will testify.

Social accounting

(It also known as social accounting and auditing, social accountability, social and environmental accounting, corporate social reporting, corporate social responsibility reporting, non-financial reporting or accounting) is the process of communicating the social and environmental effects of organizations' economic actions to particular interest groups within society and to society at large.

Social Accounting is different from public interest accounting as well as from critical accounting.

Social accounting is commonly used in the context of business, or corporate social responsibility (CSR), although any organisation, including NGOs, charities, and government agencies may engage in social accounting. Social Accounting can also be used in conjunction with community-based monitoring (CBM).

Social accounting emphasises the notion of corporate accountability. D. Crowther defines social accounting in this sense as "an approach to reporting a firm's activities which stresses the need for the identification of socially relevant behaviour, the determination of those to whom the company is accountable for its social performance and the development of appropriate measures and reporting techniques."

It is an important step in helping companies independently develop CSR programs which are shown to be much more effective than government mandated CSR.

Social accounting is often used as an umbrella term to describe a broad field of research and practice. The use of more narrow terms to express a specific interest is thus not uncommon.

Environmental accounting may e.g. specifically refer to the research or practice of accounting for an organisation's impact on the natural environment. Sustainability accounting is often used to express the measuring and the quantitative analysis of social and economic sustainability.

National accounting is a narrower usage in concentrating on the nation as the aggregable unit of analysis and economics as a method of analysis. The International Standards Organization (ISO) provides a standard, ISO 26000, that is a resource for social accounting. It addresses the seven core areas to be assessed for social responsibility accounting.

SOCIAL AUDIT:

What Is a Social Audit?

A social audit is a formal review of a company's endeavors, procedures, and code of conduct regarding social responsibility and the company's impact on society. A social audit is an assessment of how well the company is achieving its goals or benchmarks for social responsibility.

Understanding a Social Audit:

Ideally, companies aim to strike a balance between profitability and social responsibility. A social audit is an internal examination of how a particular business is affecting society. The audit helps companies to determine if they're meeting their objectives, which may include measurable goals and benchmarks. A social audit serves as a way for a business to see if the actions being taken are being positively or negatively received and relates that information to the company's overall public image.

In the era of corporate social responsibility, corporations are often expected to deliver value to consumers and shareholders as well as meet environmental and social standards. Social audits can help companies create, improve, and maintain a positive public relations image. For many companies, a good public perception helps foster a positive image of the company and ultimately reduce negative impacts on earnings from bad press.

Items Examined in a Social Audit

The scope of a social audit can vary and be wide-ranging. The assessment can include social and public responsibility but also employee treatment. Some of the guidelines and topics that comprise a social audit include the following:

- Environmental impact resulting from the company's operations
- Transparency in reporting any issues regarding the effect on the public or environment.
- Accounting and financial transparency
- Community development and financial contributions
- Charitable giving
- Volunteer activity of employees
- Energy use or impact on footprint
- Work environment including safety, free of harassment, and equal opportunity
- Worker pay and benefits
- Nondiscriminatory practices
- Diversity

There is no standard for the items included in a social audit. Social audits are optional, which means that companies can choose whether to release the results publicly or only use them internally.

The flexibility surrounding social audits allow companies the ability to expand or contract the scope based on their goals. While one company might wish to understand the impact it has on a particular town or city, other companies might choose to expand the range of the audit to include an entire state, country, or throughout the globe.

By continuously striving to meet and exceed their social responsibility benchmarks, companies can improve their public perception over time; social audits help companies achieve a balance between profits and ethics

- A social audit is a formal review of a company's endeavors, procedures, and code of conduct regarding social responsibility and the company's impact on society.
- A social audit is an assessment of how well the company is achieving its goals or benchmarks for social responsibility.
- Ideally, companies aim to strike a balance between profitability and social responsibility.

PURCHASE AND STOCK KEEPING:

Social Purchase or Procurement shows how the Victorian Government will achieve benefits through its procurement. The benefits will help our community, the economy and the environment.

Social procurement is a strategic approach to meeting social and economic objectives through procurement Social procurement involves using procurement processes and purchasing power to generate positive social and economic outcomes in addition to the delivery of efficient goods, services and works.

Typical Social Procurement Objectives

- Creating more local employment opportunities – Directly linked to training and employment ready programs
- Providing employment and employment pathway opportunities to disadvantaged communities – Indigenous, long-term unemployed, disability, youth etc.
- Diversifying the supply market – Creating opportunities for SMEs – Strengthening opportunities and the capacity of social benefit suppliers – e.g. social enterprises and indigenous suppliers.
- Maximising local and regional benefits from regional investment – Strengthening and creating opportunities for local business
- Addressing place-based disadvantage.

RECORDS MAINTANENCE:

- Maintenance records of work equipment are a key part of health and safety management, requiring efficient storage and management. Paperwork is often kept for extended periods of time for health and safety or compliance purposes.
- If not managed properly, this can cause issues with health and safety, lack of office space, non compliance and production levels.

Asset management and maintenance can be improved through efficient, digital document & records management, keeping a record of information for each asset together with indexed data for information such as:-

- Asset number
- Maintenance dates and times
- Equipment maintenance detail
- New parts added
- Manufacturer's recommendations for maintenance
- Amount of use
- Equipment environment conditions
- User experience and knowledge
- Risk assessment information

COORDINATION:

- coordination is the act of arranging, putting things in order, or making things run smoothly together. Fencing might seem like a breeze, but it actually takes the graceful *coordination* of your hands, eyes, feet and mind.
- Some people like to put a dash in *co-ordination*. But whatever way you spell it, *coordination* has to do with coordinating things — whether it's pulling all the elements together for a fabulous party or just getting your hands and eyes to work together during batting practice. If you're looking for more coordination in your life, try organizing your calendar, doing some yoga, or getting a personal assistant.



Features of coordination:

Coordination is the integration, unification, synchronization of the efforts of the departments to provide unity of action for pursuing common goals. A force that binds all the other functions of management.

The management of an organization endeavours to achieve optimum coordination through its basic functions of planning, organizing, staffing, directing, and controlling.

Therefore, coordination is not a separate function of management because management is successful only if it can achieve harmony between different employees and departments. Here are some important features of coordination:

- It is relevant for group efforts and not for individual efforts. Coordination involves an orderly pattern of group efforts. In the case of individual efforts, since the performance of the individual does not affect the functioning of others, the need for coordination does not arise.
- It is a continuous and dynamic process. Continuous because it is achieved through the performance of different functions. Also, it is dynamic since functions can change according to the stage of work.
- Most organizations have some sort of coordination in place. However, the management can always make special efforts to improve it.
- Coordination emphasizes the unity of efforts. This involves fixing the time and manner in which the various functions are performed in the organization. This allows individuals to integrate with the overall process.
- A higher degree of coordination happens when the degree of integration in the performance of various functions increases.

- It is the responsibility of every manager in the organization. In fact, this is integral to the role of a manager because he synchronizes the efforts of his subordinates with others.

Public relation :

- “Public Relations” is a management function that creates, develops, and carries out policies and programmes to influence public opinion or public reaction about an idea, a product, or an organization. The field of public relations has become an important part of the economic, social, and political pattern of life in many nations.
- Public relations activities in the modern world help individuals and organizations to build prestige, to promote products and to win elections or legislative battles. This unit will concentrate on the concept of Public Relations, and its objectives and functions. Our purpose is to make you familiar with the growth and development of PR.
- Public Relations is, simply stated, the art and science of building relationships between an organization and its key audiences or the publics. The concept of public relations is an emerging notion, especially in mass communication discipline. It is basically a management function.
- PR tries to build an image of an organization and tries to develop a good and sustainable relationship between the organization and its publics. It should be based on truth, knowledge and information.
- Public Relations activities are a major part of the political process in many nations. Politicians seeking office, government agencies seeking acceptance and cooperation, officials seeking support for their policies, and foreign governments seeking aid and allies abroad all make extensive use of the services provided by public relations specialists.

The following are the main objectives of PR :

- Maintain the prestige or favorable image.
- Promote the product and service.
- Maintain the good will among the employees, dealers, distributors, suppliers, stockholders, community and the govt.
- Prevention and solution of the labour problem.
- Overcoming miss-conceptions and prejudice.
- Ability to attract the personnel.
- Educate the public to the use of the product and service.

- Investigate the attitude of various groups towards the policies.
- Formulation and guidance of the policies.

The basic functions of PR can be mentioned as follows

1. To inform the publics about their specific activities.
2. To interact with various government and non government departments for smooth running of the organization.
3. To build healthy image in the minds of the masses.
4. To manage a crisis situation.
5. To maintain good media relations
6. To use various PR tools to achieve the goal.

Monitoring ,Evaluation and Research:

Monitoring & Evaluation

- Monitoring is the periodic oversight of the implementation of an activity which seeks to establish the extent to which input deliveries, work schedules, other required actions and targeted outputs are proceeding according to plan, so that timely action can be taken to correct deficiencies detected.
- “Monitoring” is also useful for the systematic checking on a condition or set of conditions, such as following the situation of women and children.
- Evaluation is a process which attempts to determine as systematically and objectively as possible the relevance, effectiveness, efficiency and impact of activities in the light of specified objectives.
- It is a learning and action-oriented management tool and organizational process for improving current activities and future planning, programming and decision-making.

Importance of Monitoring and Evaluation

- To evaluate means “to ascertain the value or worth of,” according to its Latin root. Knowing what difference programs are making motivates workers and their supporters to renewed effort. Although evaluations

may be retrospective, they are essentially forward looking with regard to their purpose.

- Evaluation applies the lessons of experience to decisions about current and future programs. Good evaluation presents alternatives for decision-makers to consider. Evaluation can be an excellent learning tool as well as a means to improve program performance and demonstrate accountability.
- Too often evaluation is perceived as threatening; it should be constructive. For example, an evaluation can be tapped for developing human resources and improving management and planning capabilities.

Evaluation results can be used in advocacy and fundraising efforts to obtain greater support from governments, private organizations, and the general public.

The relationship between monitoring and evaluation

Both monitoring and evaluation are management tools. In the case of monitoring, information for tracking progress according to previously agreed on plans and schedules is routinely gathered.

- Discrepancies between actual and planned implementation are identified and corrective actions taken.
- When findings are used to monitor the development results (effects, impacts) it is sometimes referred to as ongoing evaluation.
- Evaluation is more episodic than monitoring. It is facilitated by monitoring but utilizes additional sources of information. Many such sources are identified during project reviews when there is a need to understand why inputs did not lead to planned outputs. Evaluation focuses on specific questions related to effectiveness and impact in order to influence future programs or services.
- Impact assessment is often difficult because causality is difficult to determine, in addition to being costly and time-consuming. However, managers need to know the effects of project activities on the intended beneficiaries during implementation.

- Community monitoring programs can record impacts locally and use results to modify project activities. Impacts may be assessed informally, through conversations with beneficiaries, women's groups, village elders. This allows managers to adjust strategies, if necessary, during implementation, rather than continue less than effective activities.

The objectives of monitoring and evaluation are:

- (a) To improve management of programs, projects and supporting activities and to ensure optimum use of funds and other resources;
- (b) To learn from experience so as to improve the relevance, methods and outcomes of cooperative programs;
- (c) To strengthen the capacity of co-operating government agencies, non-governmental organizations (NGOs) and local communities to monitor and evaluate;
- (d) To meet the requirements of donors to see whether their resources are being used effectively, efficiently and for agreed upon objectives; and
- (e) To provide information to enhance advocacy for policies, programs and resources, that improves the condition of women and children.

Purpose of Monitoring and Evaluation:

- Achieving the first purpose – Social worker requires better monitoring and evaluation throughout the programming cycle and prompt supply of information to decision-makers.
- The second purpose – to learn from experience, develop and refine intervention policies – will be achieved only if procedures are set up to disseminate findings to decision-makers and to use them for corrective action.
- The third – strengthening national capacity – requires working with responsible officials and program staff, and often involves supporting institutional strengthening. Meeting donor requirements,
- The fourth purpose, relates to fundraising and often depends on occasional external evaluations carried out by teams of specialists. Finally, advocacy for improved policies and programs and mobilization of greater personal.

Research in social welfare administration:

- Social work research plays a very important role in social welfare administration. It provides scope for action research, evaluate current programmes and provides social work indicators and statistical indices for developing strategies and programmes. It also provides necessary data bases for e-governance in Social Work Administration. Social welfare planning is an important component of social welfare administration.
- Identification of social work needs and resources, evaluation of programmes and services of social work agencies are some of the areas in which social work researches are undertaken. Social work research may be conducted to know the problems faced by professional social workers in social work agencies and communities in its concern with social work functions. Thus, social work research embraces the entire gamut of social work profession; concepts, theories, methods, programmes, services and the problems faced by social workers in their practice.

The areas of social work research may be broadly categorized as follows:

- 1) Studies to establish, identify and measure the need for service.
- 2) To measure the services offered as they relate to needs.
- 3) To test, gauge and evaluate results of social work intervention.
- 4) To list the efficacy of specific techniques of offering services.
- 5) Studies in methodology of social work.

Social work is a diverse profession, possible broad research areas could be:

- i) Community Development
- ii) Community Health (Including Mental Health) Social Work Intervention with Communities and Institutions
- iii) Child Welfare
- iv) Women Welfare
- v) Youth Welfare
- vi) Aged Welfare
- vii) Welfare of SC & ST Groups

- viii) Poverty Alleviation
- ix) Physical and Mental Disabilities
- x) Juvenile Delinquency
- xi) Crime and Correction etc.
- xii) Management of Social Welfare Department and Organisation
- xiii) Disaster Management
- xiv) Industrial Social Work
- xv) Issues concerning Advocacy and Networking .

The list is not exhaustive, it's only an exemplary list which enlists broad areas which is very frequently studied by social workers. Again, within one or more problem areas research might focus on individuals, families, groups, community organisations or broad social systems. It might deal with characteristics of a larger population, and the services available to them.

Annul Report:

Annual reports are formal financial statements that are published yearly and sent to company stockholders and various other interested parties. The reports assess the year's operations and discuss the companies' view of the upcoming year and the companies' place and prospects. Both for-profit and not-for-profit organizations produce annual reports.

Annual reports have been a Securities and Exchange Commission (SEC) requirement for businesses owned by the public since 1934.

Companies meet this requirement in many ways. At its most basic, an annual report includes:

- General description of the industry or industries in which the company is involved.
- Audited statements of income, financial position, cash flow, and notes to the statements providing details for various line items.
- A management's discussion and analysis (MD&A) of the business's financial condition and the results that the company has posted over the previous two years.
- A brief description of the company's business in the most recent year.
- Information related to the company's various business segments.
- Listing of the company's directors and executive officers, as well as their principal occupations, and, if a director, the principal business of the company that employs him or her.

- Market price of the company's stock and dividends paid.

Some companies provide only this minimum amount of information. Annual reports of this type usually are only a few pages in length and produced in an inexpensive fashion.

The final product often closely resembles a photocopied document. For these companies, the primary purpose of an annual report is simply to meet legal requirements.

The annual report can help increase employee understanding of the different parts of the company. Many manufacturing locations are in remote areas, and an employee's understanding of the company often does not go beyond the facility where he or she works.

An annual report can be a source for learning about each of a company's product lines, its operating locations, and who is leading the various operations. The annual report can show employees how they fit into the "big picture."

UNIT-2

SOCIAL WELFARE PROGRAMES AND AGENCIES

EVALUATION OF SOCIAL WELFARE IN INDIA:

There were no proper legislative procedures before the independence, but after independence, there has been good progress in the enactment of social legislation. In our constitution, there are ranges of provisions to which the state is steadfast under the fundamental rights or directive principles and is passing legislation to put into operation them, which are mentioned above:

For example, these legislations have been initiated in the following fields of social welfare:

Child welfare:

- A significant expression of national concern for children is to be found in the constitutional and legislative provisions, which govern the rights of children and obligations of government, society and family towards children. Article 24 lays down that no child below 14 shall be employed to work in any factory or mine or engaged in any other hazardous employment. Article 39 of the Directive principles of state policy require the state to ensure that children are not forced by economic necessity to enter vocations unsuitable to their age and strength. Article 45 requires one state to endeavour to provide, within a period of 10 year from the commencement of constitution, free and compulsory education for all children until they complete age of 14 years.
- While the constitutional provisions contain a broadly idealistic expression of a concern for children, legislative provisions are expected to take it towards a machinery to facilitate its application in practice. The salient provision of the civil laws relative to children prescribe the minimum age of marriage for boys and girls appointment of guardian for a child's person or property and provide for the adoption of a Hindu child by a Hindu /childless/adult (the Hindu and Maintenance Act, 1958).

In the First five year plan, the government came forward to assist voluntary organisation and technical assistance through the Central Social Welfare Board.

- The second five year plan attempted to coordinate welfare extension projects, with similar activities initiated by community development Blocks. Services for juvenile delinquents and for physically and mentally handicapped children received special attention.
 - The crucial aspect of the Third plan was the importance³ given to the training of child welfare workers, the creation of new cadre of Balsevikas and the establishment of a number of Balsevikas training canters.
- The Family and child welfare program was expanded during the fourth plan and a step towards the development of a package of basic minimum services, Which characterized later approaches.
- The eight plan attempted to give a new orientation to social welfare by shifting the earlier emphasis on curative and rehabilitative services to the adoption of a preventive and development approach. It was observed that multiplicity of services had led to the shrinking of benefits to ultimate recipient. Consequently, a scheme of integrated child Development services was considered.

Child welfare services at a glance:

The services for the children in the context of present welfare programs in the country, may , however ,be classified into institutional and non-institutional services applicable to both normal and special children. All illustrative list of such services is given below:

1.Institutional services:

- Founding homes
- Homes for destitute children
- Short stay homes for children of needy families
- Foster homes
- Homes and placement services for children of unmarried mothers
- Homes and residential schools, with our without sheltered workshops for delinquent children
- Homes or night shelters for the care of vagrant children
- Residential treatment centres' -for emotionally disturbed children

2. Non-institutional services

a. Normal children

- Creches , Pre-primary schools.

- Day-centers
- Balwadis
- Recreation and hobby clubs library facilities
- Holiday homes
- School health service
- School social work service, child-guidance clinic etc.

b. Children in need of special care

- Schools for the mentally retarded child
- Nurseries and schools for the handicapped children -the blind, the deaf etc.,
- Audiology centers and hearing - aid classes
- Allowances to children of destitute women maintained in their own homes
- Adoption services for destitute children and
- Infant health centres and children's hospitals etc.

Youth welfare:

There has been considerable thinking over the problems of youth in the country after independence. Besides formal education in schools, youth movements should have two objectives:

- Several programs have been taken up, which contribute towards self expression, personality development, character formation and citizenship.
- These activities that lead to organized action in the service of the community and the Nation.
- The government of India has announced a comprehensive national youth policy at the end of 1998. It has adopted integrated strategy for harmonious development of youth for meeting the national aspirations and made efforts to create in them an awareness of their potential and involve voluntary organization effectively in youth work and to give recognition to outstanding performance of young persons in different endeavours.
- There are two facts to a youth policy- **a policy for youth and policy of youth- a policy of the rest of the society** towards creating the infrastructure required to enable its youth to grow up as healthy, entitled and responsible citizens and a policy of youth in its endeavour to create a new society based on its new values and aspirations. Young people thus become not only object of societies care and attention but also path finders to a new social and political order based on their own vision of what is right and just. Once young people are viewed in this fashion, the

present paternalistic approach is bound to yield place to a partnership approach.

- Apart from the above measures, the government of India, before and after independence had taken up separate programs for separate problems of the youth such as, the suppression of immoral Traffic . Acts were in force in various states before independence which made provision for rescuing minor girls from brothels and from moral danger . There are also special acts to prevent minor girls from exploitation such as U.P Naik girls protection act, 1934, Bombay Devadasi protection Act, 1929 and madras Devadasi act, 1947. There was also Borstal schools Act in various states to accord special treatment to adolescents offenders.

WOMEN WELFARE:

After independence all- round efforts have been made to promote the welfare of women. Article 15 of the constitution confers equal rights on both sexes though the state could make any special provision for women.

The position and functions of women differ to a great extent in different communities and therefore, the programs for their welfare are to be worked out differently to fulfil the needs of each section.

Governments pay due attention to various legislation with a view to amending or strengthening the existing laws to suit the women. The Equal Remuneration act 1976 was passed which provides for:

- The payment of equal remuneration to men and women workers
- Prevention of discrimination on the ground of sex against women in the matter of employment and for the matters connected there with or incidental thereto.

The Hindu marriage Act 1955 and the special Marriage act 1955 had been amended to provide for the right of a girl to repudiate before attaining majority her marriage as a child whether the marriage has been consummated or not. The dowry prohibition Act, 1961 was made more stringent. The child marriage restraint amendment Act raises the age of the marriage for girls from 15 to 18 years . The factories (Amendment Act provides for establishment of a crèche where 30 women are employed. The maturity benefits Act was amended to cover women who do not fall within the purview of the employees state insurance Act.

The Government of India is committed to bringing about basic change in the status of women through education. The major schemes / programs for empowerment of women are:

- Mahila samkhyas: This scheme recognizes the centrality of education of empowering women to achieve equality.
- Non formal Education centres are provided to girl students.
- Boarding and Hostel facilities, are provided to girl students.
- The UGC has been encouraging students to take up research projects in women studies. It also provides assistance inter alia for removal of social disparities and regional imbalances in higher education facilities.

Along with general health facilities , which are needed for both men and women , special health facilities are needed for expectant women. The government of India introduced various schemes/ programmes for improvement of medical services.

- The reproductive and child health (RCH) program, a comprehensive package of services for family planning maternal and child health and management of reproductive tract infection, including sexually transmitted diseases is being implemented.
- The child survival and safe motherhood (CSSM) program has brought about great improvements in the field of immunization.
- Any test to determine the sex of an unborn child has become illegal since the pre- natal diagnostic techniques (regulation and prevention of Misuse) came into effect.

To train women for some gainful employment and to give them social education , certain programs have been started which may be discussed under three heads

- Training programs for women
- Economic programs to provide them full-time or part time employment in cottage industries
- Socio economic programs to make them better citizens and provide them better employment.
- The support of training cum employment program for women (STEP) is a new omnibus scheme to strengthen and improve the skills for employment opportunities for women below poverty line, in traditional sectors , where women are preponderantly engaged.
- The Scheme training cum employment production centers- the NOARD assisted programs for women extend financial assistance to train women in

traditional or non traditional trades to equip them for employment on sustainable basis.

- The schemes of condensed courses of education and vocational training [program aqre launched in rural , hilly band tribes areas.
- Under the socio economic program (sep) voluntary organizations are given financial assistance to take up a widely variety of income generating activities.
- In order to raise the general awareness of rural and poor women , the awareness Generation program (AGP) was introduced.
- The supreme court in a case had directed the government to make an in depth study of problems of prostitution, child prostitutes and to evolve suitable schemes for their rehabilitation.
- The central and state governments have initiated many women centered welfare activities/ schemes.

LABOUR WELFARE:

The beginnings of labour welfare legislation and programs go back to the period after the First world war , but it was after independence that the country entered a new phase of intensive labour legislation and welfare programs.

The preamble to the constitution affirms the resolve of the people of India to constitute India into sovereign, secular and democratic republic and to secure all its citizens : justice social, economic and political: liberty of thought , expression belief , faith and worship, equality of status and opportunity , and promote among them all fraternity bassuring the dignity of the individual and the unity of the nation.

Article 23 of the Indian constitution prohibits human trafficking , beggary and other similar forms of forced labour. Any contravention of this provision is an offence punishable in accordance with law.

Article 24 of the constitution prohibits employment of children in factories, etc. Below the age of fourteen years.

Part-IV of the constitution lays down certain directive principles of the state policy .these principles are not acceptable but they are fundamental in the governance of the country . It is the duty of the state to apply these principles in making laws.

Articles 39,41,42, and 43 of part -IV of the constitution refer to the labour policy . Articles 39 lays down the state shall in particular , direct its policy towards securing : that the citizens, 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; 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 a vocation unsuited to their age and strength: the childhood and youth are protected against exploitation and against moral and material abandonment.

Article 41 provides , "the state shall, with in the limits of economic capacity and development Make effective provision for securing the right to work to education and to public assistance in certain cases of unemployment ,old age sickness and disablement and other cases of undeserved want".

Articles 42 says that the state shall make provision for securing just and humane conditions of work and for maternity relief.

Articles 43 specifies , "The state shall endeavour 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 fully enjoyment of leisure and social and cultural opportunities , and , in, particular the state shall endeavour to promote cottage industries on an individual or cooperative basis in rural areas".

HOUSING WELFARE:

- To provide houses to workers and low income group people through various acts the central government is giving loans and subsidies to state government individuals and employers to lay down obligations on the

employers to provide houses to their workers at low rent. Certain legislation is under the active consideration of the government. Under the coal mine labour welfare fund Act , 1947 and the Mica mine labour welfare fund act 1946 houses are being constructed for the workers in those mines.

- Apart from the above mentioned programs there have been several other welfare programs were initiated by the social policy of government of India , such a welfare of the aged , welfare of the scheduled castes and scheduled tribes, welfare of other backward classes ,welfare of the Ex service man, welfare of the poor, etc.

VOLUNTRY SOCIAL WORK:

MEANING:

voluntary social work as a contribution of individuals in the work of care and social development, both the opinion or work or funding or other forms. One of the characteristics of social work that is based on the cooperation of individuals with each other in order to meet the needs of their community, and this leads to the essential point that social work was based on a understanding of the needs of the community.

In fact, voluntary work means devoting part of one's time and abilities to doing something on someone else's behalf without receiving anything material in exchange.

Apart from this, there are other types of voluntary work that, though aiming to improve the situation of people, do not imply having to devote one's time and abilities to attending them directly.

The main objectives of voluntary social work in some of its specific areas:

The unemployed: Generally grouped in cooperatives. Here, voluntary social workers collaborate in two main ways: in administrative work and helping the members of the cooperatives themselves with management.

Drug addicts: apart from what is mentioned below in relation to the care given to the sick, in the area of drug addiction, voluntary service is essential to help people understand that there are better ways to lead a satisfying life.

The disabled: (in a physical, sensorial, psychological or organic way): Basically being alongside disabled people and helping them to be responsible for their own social integration to the greatest extent possible. Providing ways and means so that they can have more opportunities and new possibilities.

The elderly: helping them to avoid getting stuck in a rut and to stimulate brain activity by offering them human company and support. In associations of elderly people, doing administrative work or helping members with bureaucracy. For people who are able to get about, opening the doors of voluntary service so that they may actively participate.

Mistreated children (whether due to direct cruelty or because of the circumstances a child may have had to live in): voluntary work is often a source of hope, bringing them a more positive and, most of all, more dignified view of the world in which they live.

Prisoners: in this case volunteers help in transforming the time in prison into a useful experience.

The sick: in health centres, at their homes or in associations, the volunteer helps in complementary tasks and paper-work, encourages patients to live and get better.

The homeless: here voluntary service offers human support together with group action, which facilitate rehabilitation and social integration. And in each case and each situation, by discovering needs and offering his or her own possibilities.

- Voluntary social workers always seek to make things better for the person to whom they dedicate their contribution. Voluntary social work has a clear complementary function to the efforts carried out by paid employees who, given their profession, dedicate their working lives to improve the lives of those in need. A volunteer must never replace professionals who are contracted to attend physically handicapped people or those with serious difficulties. Instead, and out of a sense of vocation, the volunteer should complement their work.

- Each person who volunteers to offer time and skills to voluntary social work contributes the possibilities resulting from his or her own age, knowledge, skills, availability, commitment and the spirit of service which has been developed in the course of time; and this is what has to be put at the service of the person or collective with real needs.
- Volunteers, in any case, should offer what the other person needs, not what they think they have an abundance of. For example, a person with a great knowledge of music who wants to volunteer for social work, once in the presence of the person requiring the service, doesn't necessarily have to teach that person music but has to discover the needs of the other, try to involve them in order to attain what they lack and help them to achieve it.
- Being a voluntary worker implies helping, accompanying, comforting, listening, orienting... with a spirit of personal pledge, with commitment and responsibility.
 - Within voluntary social work, there is a place for everyone: men, women, adults, elderly and young people, businessmen and labourers, rich and poor... all of them should be able to find time to offer to those requiring special attention. Young people, who can find the time for the things they are interested in, should add a part of their own life to their activity in order to help those who can not cope.
 - Adults, the single or those with grown-up children, should find the way and the moment to devote sometime to others and take part in organised social work.
- Elderly people who have accumulated a remarkable wealth of knowledge and experience should put them both at the service of whoever needs them. By doing so they will not only contribute to the improvement of the other's situation but also they will enrich their own lives by observing the usefulness of their contribution.
- While it is true that 'the future is for the young', we can also say without any fear of being wrong that 'the future is for the elderly', because never before have elderly people had such a long future, especially if we take into account the following points:
 1. -Increasing life expectancy.
 2. -Because of early retirement, the number of 'younger' elderly people is constantly increasing because they are retired but they are younger.
 3. -Medical progress and attention to health means that many over 60s find themselves not only in full possession of their faculties but even at the best moment of their lives.

To sum up, voluntary social work is about being conscientious and responsible. Knowing that Humanity is like a big family and that all of us -all of us!- are partly to blame for the disorder of this unfair world we have created and enjoy.

However, voluntary social work is not about working on one's own, helping those around us in whatever they need, though it can also be done, but rather it involves taking part in a non profit making organisation with similar goals to the ones we want to achieve.

Making a decisive and committed step to offer one's services to a social activity organisation is the right way to take a real part in Voluntary Social Work; and this is what we invite you all to do.

SOCIAL AGENCIES

MEANING:

Social agencies provide health, welfare and rehabilitation services. The aim is to improve quality of life.

SOCIAL AGENCY:

- "A social agency can be a private or government run organisation."
- A social agency, defined "formally structured unit, sanctioned by society, whose goals and activities focus on meeting human needs."
- On the other hand, human service organizations are known to be the secondary settings for social welfare practice who employ social workers to help meet human needs. Although social agencies and human service organizations share common features, they also have characteristics that differentiate them from others.
- Social agencies and human service organizations are divided into three different sectors: government, voluntary and commercial and this is where the term "a mixed economy of welfare" comes in.

Types and models of NGO 'S:

NGO types can be understood by their orientation and level of operation.

NGO types by orientation:

Charitable Orientation often involves a top-down paternalistic effort with little participation by the "beneficiaries". It includes NGOs with activities

directed toward meeting the needs of the poor -distribution of food, clothing or medicine; provision of housing, transport, schools etc. Such NGOs may also undertake relief activities during a natural or man-made disaster.

Service Orientation includes NGOs with activities such as the provision of health, family planning or education services in which the programme is designed by the NGO and people are expected to participate in its implementation and in receiving the service.

Participatory Orientation is characterized by self-help projects where local people are involved particularly in the implementation of a project by contributing cash, tools, land, materials, labour etc. In the classical community development project, participation begins with the need definition and continues into the planning and implementation stages. Cooperatives often have a participatory orientation.

Empowering Orientation is where the aim is to help poor people develop a clearer understanding of the social, political and economic factors affecting their lives, and to strengthen their awareness of their own potential power to control their lives. Sometimes, these groups develop spontaneously around a problem or an issue, at other times outside workers from NGOs play a facilitating role in their development. In any case, there is maximum involvement of the people with NGOs acting as facilitators.

NGO Types by level of operation:

Community-based Organizations (CBOs) arise out of people's own initiatives. These can include sports clubs, women's organizations, neighbourhood organizations, religious or educational organizations. There are a large variety of these, some supported by NGOs, national or international NGOs, or bilateral or international agencies, and others independent of outside help. Some are devoted to rising the consciousness of the urban poor or helping them to understand their rights in gaining access to needed services while others are involved in providing such services.

Citywide Organizations include organizations such as the Rotary or lion's Club, chambers of commerce and industry, coalitions of business, ethnic or educational groups and associations of community organizations. Some exist for other purposes, and become involved in helping the poor as one of many

activities, while others are created for the specific purpose of helping the poor.

National NGOs include organizations such as the Red Cross, YMCAs/YWCAs, professional organizations etc. Some of these have state and cuty branches and assist local NGOs.

International NGOs range from secular agencies such as Redda BArna and Save the Children organizations, OXFAM, CARE, Ford and Rockefeller Foundations to religiously motivated groups. Their activities vary from mainly funding local NGOs, institutions and projects, to implementing the projects themselves.

Role of NGO's in national development:

NGOs have immense role in bringing about social change and development and it is being experienced from different parts of the country. Development, as we have read earlier, is a multi- faceted process, which essentially involves the aggressive participation of the people that would not be possible unless they are educated, awakened and motivated. NGOs are taking up this job sportingly and successfully.

The areas in which we witness active and appreciative role of NGOs are as follows:

- The NGOs are active to promote education, particularly among that section of population, which has remained un-benefited or less benefited by the measures adopted by the government. The education of girls, and other deprived people, particularly the SCs and STs, has been their target objective.
- Women are the other vulnerable section of society. Gender discrimination is a ubiquitous cultural reality. Girls are discriminated in the upbringing pattern in the family. Larger numbers of the undernourished are from amongst the girls. Retention of girls in schools is much less as compared to boys. Women are forced to work as housewife and denied participation in gainful economic activities outside homes. About three-fourths of the work done by women is un-monetized.
- Since the second half of the preceding century started the change in the status of women with their active participation in political, social and

economic activities, which gained acceleration since the last quarter of the preceding century. More and more women started moving out of the four walls of their houses and involving themselves actively in the social sphere outside their homes.

- Important in this process has been the role of academicians and NGOs. The book *Women's Role in Economic Development* by Ester Boserup (1970) is the pioneering work in this direction. After a gap of few years, by 1978, a large number of works were published, particularly on the status of women in the Third World – where their position has been more vulnerable.
- The role of women voluntary organizations towards this cause has been marvelous. Sewa, Sathin, Eklavya, Disha, Environmental Action Group and Agrani Foundation etc. are some of the thousands of NGOs known for their role in development by creating awareness among people and interventions, if required.
- The approach to development has been almost uniform world over at least in terms of the use of technology, magnitude of production, pattern of consumption and achievement of wealth. Both state and people were unaware or lackadaisical about the backwash of the nature of development pursued.
- The threat to the human life developed due to environmental pollution and imbalance and the depletion of natural resources as a consequence of the nature of development. Here, the role of NGOs is really noticeable and praiseworthy. Thousands of voluntary organizations are at work to awaken people and governments against environmental degradation and depletion of resources.
- It is not that the development process has unleashed only environmental threats to the human existence but also many people are displaced due to developmental projects and are quite often not properly compensated and rehabilitated.
- NGOs can contribute in several ways to ensure that India sees poverty eradication, sustainable growth, and empowerment of the downtrodden.

1. Fighting for sustainable development:

NGOs have been constantly campaigning for sustainable development. They provide data-driven support to government bodies, and also empower local communities to move towards a sustainable form of living. The idea is to help the present-day communities to grow and advance without affecting the opportunities of coming generations to attain development. When you **donate to NGOs**, you empower them to take up the cause of the most marginalised sections of the Indian society. Civil society harnesses the funding received to drive social campaigns to pressure corporations and governments to work with sustainability.

2. Poverty Alleviation

While the country has witnessed tremendous economic advancement during the last two and a half decades, access to clean water, sanitation, housing, quality education, healthcare and nutrition are essential to enable India's 260 million to leave behind a life of poverty. NGOs run massive awareness, sensitisation and development programs to end the factors that trigger poverty. Beyond that, they execute on-ground initiatives to empower communities. For example, Save the Children works for providing education to the most underprivileged children in India with an aim to help them march ahead in life. Similarly, there are projects on health and nutrition for poor children so that they can lead a happy and healthy childhood.

3. Children empowerment

Children are the future of any country. Happy and prosperous children of today grown on to become mature, responsible and qualified adults of tomorrow and can contribute much better to the nation-building process. Save the Children runs campaigns and projects on a pan-India level to keep the poorest and the most deprived children safe, healthy and make provisions for them to get quality and holistic education.

Organisations like Save the Children are also doing some cutting edge work at a grassroot level in slums, in tribal areas and in remote villages when they go amidst the most marginalised communities in India to help children. It is imperative that our society gives children their due, that it acknowledges and accepts their rights and gives them a fulfilling childhood. This will go a long way in achieving true development.

Conclusion

NGOs can play a vital role in shaping the society for generations to come. They can be the force which directs the political discourse towards attaining equitability and sustainable growth. During the last two decades. With their rich expertise in bringing about a change in the lives of backward communities and an experience in campaigning for their (backward communities') cause, NGOs can help bring about a holistic change in the socio economic landscape of India.

Different Programmes of Government of India are given below:

Valmiki Ambedkar Awas Yojana (VAMBAY):

The VAMBAY launched in December 2001 facilitates the construction and upgradation of dwelling units for the slum dwellers and provides a healthy and enabling urban environment through community toilets under Nirmal Bharat Abhiyan, a component of the scheme. The Central Government provides a subsidy of 50 per cent, the balance 50 per cent being arranged by the State Government.

Swarna Jayanti Shahari Rozgar Yojana (SJSRY):

The Urban Self Employment Programme and the Urban Wage Employment Programme are the two special components of the SJSRY, which, in December 1997, substituted for various extant programmes implemented for urban poverty alleviation. SJSRY is funded on 75:25 basis between the Centre and the States.

Antyodaya Anna Yojana (AAY):

AAY launched in December 2000 provides food grains at a highly subsidized rate of Rs.2.00 per kg for wheat and Rs.3.00 per kg for rice to the poor families under the Targeted Public Distribution System (TPDS). The scale of issue, which was initially 25 kg per family per month, was increased to 35 kg per family per month from April 1, 2002. The scheme initially for one crore families was expanded in June 2003 by adding another 50 lakh BPL Families.

Pradhan Mantri Gram Sadak Yojana (PMGSY):

The PMGSY, launched in December 2000 as a 100 per cent centrally Sponsored Scheme, aims at providing rural connectivity to unconnected habitations with population of 500 persons or more in the rural areas by the end of the Tenth Plan period. Augmenting and modernising rural roads has been included

as an item of the NCMP. The programme is funded mainly from the accruals of diesel cess in the Central Road Fund. In addition, support of the multi-lateral funding agencies and the domestic financial institutions are being obtained to meet the financial requirements of the programme.

Prime Minister's Rozgar Yojana (PMRY):

PMRY started in 1993 with the objective of making available self-employment opportunities to the educated unemployed youth by assisting them in setting up any economically viable activity. While the REGP is implemented in the rural areas and small towns (population up to 20,000) for setting up village industries without any cap on income, educational qualification or age of the beneficiary, PMRY is meant for educated unemployed youth with family income of up to Rs.40, 000 per annum, in both urban and rural areas, for engaging in any economically viable activity.

Pradhan Mantri Gramodaya Yojana (PMGY):

PMGY launched in 2000-01 envisages allocation of Additional Central Assistance (ACA) to the States and UTs for selected basic services such as primary health, primary education, rural shelter, rural drinking water, nutrition and rural electrification.

Indira Awaas Yojana (IAY):

The Indira Awaas Yojana (IAY) operationalised from 1999-2000 is the major scheme for construction of houses for the poor, free of cost. The Ministry of Rural Development (MORD) provides equity support to the Housing and Urban Development Corporation (HUDCO) for this purpose.

Sampoorna Grameen Rozgar Yojana (SGRY):

SGRY, launched in 2001, aims at providing additional wage employment in all rural areas and thereby food security and improve nutritional levels. The SGRY is open to all rural poor who are in need of wage employment and desire to do manual and unskilled work around the village/habitat. The programme is implemented through the Panchayati Raj Institutions (PRIs).

Swaranjayanti Gram Swarozgar Yojana (SGSY):

SGSY, launched in April 1999, aims at bringing the assisted poor families (Swarozgaris) above the poverty line by organizing them into Self Help Groups (SHGs) through a mix of Bank credit and Government subsidy.

Jawahar Rozgar Yojana (JRY):

JRY was launched as Centrally Sponsored Scheme on 1st April, 1989 by merging National Rural Employment Programme (NREP) and Rural Landless Employment Guarantee Programme (RLEGP). Its main objective was generation of additional gainful employment for the unemployed and under-employed people in rural areas through the creation of rural economic infrastructure, community and social assets with the aim of improving the quality of life of the rural poor.

Integrated Rural Development Programme:

The Integrated Rural Development Programme (IRDP) was started in 1980-81 in all blocks of the country and continued as a major self-employment scheme till April 1, 1999. Then, it was restructured as the Swarnjayanti Gram Swarozgar Yojana (SGSY) which aimed at self-employment of the rural poor. The objective will be achieved through acquisition of productive assets or appropriate skills that would generate an additional income on a sustained basis to enable them to cross poverty line.

Pradhan Mantri Gram Sadak Yojana:

The primary objective of the PMGSY is to provide Connectivity, by way of an All-weather Road (with necessary culverts and cross-drainage structures, which is operable throughout the year), to the eligible unconnected Habitations in the rural areas, in such a way that all Unconnected Habitations with a population of 1000 persons and above are covered in three years (2000-2003) and all Unconnected Habitations with a population of 500 persons and above by the end of the Tenth Plan Period (2007). In respect of the Hill States (North-East, Sikkim, Himachal Pradesh, Jammu & Kashmir, Uttaranchal) and the Desert Areas (as identified in the Desert Development Programme) as well as the Tribal (Schedule V) areas, the objective would be to connect Habitations with a population of 250 persons and above.

Rajiv Gandhi Grameen Vidutikaran Yojana:

Under RGGVY, electricity distribution infrastructure is envisaged to establish Rural Electricity Distribution Backbone (REDB) with at least a 33/11KV sub-station in a block, Village Electrification Infrastructure (VEI) with at least a Distribution Transformer in a village or hamlet, and standalone grids with generation where grid supply is not feasible.

Subsidy towards capital expenditure to the tune of 90% is being provided, through Rural Electrification Corporation Limited (REC), which is a nodal agency for implementation of the scheme. Electrification of un-electrified Below Poverty Line (BPL) households is being financed with 100% capital subsidy @ Rs.2200/- per connection in all rural habitations.

Rashtriya Swastha Bima Yojana:

RSBY has been launched by Ministry of Labour and Employment, Government of India to provide health insurance coverage for Below Poverty Line (BPL) families.

The objective of RSBY is to provide protection to BPL households from financial liabilities arising out of health shocks that involve hospitalization. Beneficiaries under RSBY are entitled to hospitalization coverage up to Rs. 30,000/- for most of the diseases that require hospitalization. Government has even fixed the package rates for the hospitals for a large number of interventions. Pre-existing conditions are covered from day one and there is no age limit.

Coverage extends to five members of the family which includes the head of household, spouse and up to three dependents. Beneficiaries need to pay only Rs. 30/- as registration fee while Central and State Government pays the premium to the insurer selected by the State Government on the basis of a competitive bidding.

The Indian Constitution establishes a welfare state. This is clear from the salient features in the Preamble and the Directive Principles of State Policy (DPSP). In this spirit, India is making a determined attempt to fulfill its ideal of a welfare state not only in principle but also through economic planning, thus securing to the Indian citizens justice social, economic and political.

In this spirit, striving towards the similar objectives, this portal provides information on entitlements, schemes, programmes and institution details related to women, children, SC, ST, OBC, Minorities, Senior Citizens, unorganised sector, differently-abled and others.

AGENCY REGISTRATION:

NGO Registration in India

- Non-governmental organizations often referred to as NGOs, are typically non-profit organizations that are independent of government. However, they are often funded by governments and international government organizations.
- The principal objective should be to support the underprivileged. Apart from this, NGO aims at creating awareness of different things that are less talked about in society and are often ignored.

- NGOs are active in educational, public policy, social, humanitarian, health care, human rights, environmental, and other areas to effect changes based on their objectives.

What's the purpose of NGO Registration?

It truly doesn't matter what kind of NGO you are running or going to commence. The sector you work might differ, but you must have the ultimate goal and inherent desire of helping and supporting others, be it in education, art, skill development, etc.

Once you're determined to start an NGO, you should have a clearly defined goal and a transparent vision for which it is established and will be operated. Plus, you must also mention the beneficiary which can be either public in general or a set of people.

Different laws applicable for NGO registration in India

NGO registration in India can be done under three regulating acts as follows:

- Indian Trusts Act, 1882 for trust registration;
- Societies Registration Act, 1860 for society registration; and
- Companies Act, 2013 for Section 8 Company Registration.

Methods of NGO registration:

As we discussed above, there are three laws that regulate the NGO registration process. Therefore, there are basically three types of **NGO registration**:

1. Trust Registration
2. Society Registration
3. Section 8 Company Registration

Trust Registration

NGO registration obtained under the Trusts Act 1882 is known as trust registration. Mainly, the public charitable trusts or private trusts are designed to aid members of an uncertain and varying class. While determining the trust as private or public, the key question arises whether the class to be benefited constitutes a substantial segment of the public.

The trusts may register for the following purposes:

- Education;
- Relief of poverty or distress;
- Medical relief, etc.

Checklist for Trust registration

- A minimum of two trustees is required to register a public charitable trust.
- Every state has a different Trusts Acts in force, which governs the trusts in the state.
- The prime tool of any charitable trust is the trust deed, wherein the aims, objects, and the mode of management of the trust should be enshrined.

Advantages of Trust Registration

Various benefits offered under Public Charitable Trust Registration are:

- In most of the states, there's no law that governs Public Charitable Trusts in India. However, many states do have Public Trusts Act such as Madhya Pradesh, Maharashtra, Gujarat, and Rajasthan.
- An NGO registered under the Trusts Act can use the word "Govt. Regd." or 'Regd'.
- Land from the government.
- Several tax benefits such as Income Tax, etc.
- 80G certificate benefit under the Income Tax Act.
- White capital for Building construction.
- Benefits in Entertainment Tax and Service Tax.

Society Registration

A society is a group of individuals that come together for any scientific, literary or charitable purposes or for purposes as mentioned in section 20 of the Society Registration Act, 1860. An NGO registered under the Society Act, 1860 is known as Society Registration.

Checklist for Society registration

- For registering society in India, there's a requirement of at least seven or more members.
- In the case, companies or societies registered outside India are interested in commencing a society in India then they would have to subscribe to the Memorandum of society in India.
- In India, society registration is not obligatory.

- However, NGO registered as society gets legal protection and become eligible for the several advantages offered by the government.

Benefits under Society Registration

NGOs registering under **Society Registration Act, 1860** can avail the following benefits:

- **Separate legal identity**

One of the major advantages that come with society registration is that the NGO is a separate legal entity in the eyes of law. Due to this distinction, the members of such NGOs are responsible only for the action undertaken by them and not by other members.

- **Limited Liability**

Society NGO is a separate legal entity from its members. Thus the liability of the members of is limited to their share only. That means in no circumstances the personal assets of the members cannot be utilized for the payment of the liabilities of the firm.

- **Exemption from income tax**

Income Tax exemption is what everybody desperately seeks for. And, society registration is a kind of NGO registration where the firm is saved from paying income taxes.

- **Legal protection**

Once you have registered your society under the Society Registration Act, 1860, you will be provided with the legal protection. It implies that no other company or people can use your personal assets, your company name, etc. Anybody found liable for any infringement would be subject to punishment.

Section 8 company registration

- Section 8 company registration is a form of NGO registration obtained under Section 8 of Indian Companies Act, 2013, and established for encouraging and promoting art, science, commerce, charity, religion or any other beneficial object. Furthermore, the profits, if any, or other income is applied for encouraging the objects of the companies and no dividend is paid to its members.

- One can register his or her company under section 8 as a private limited, public limited, one person company or limited liability partnership.
- Section 8 companies are, in fact, incorporated to perform the principal objective of welfare of the society in any of the field described above.

Checklist for Section 8 Company Registration

- The most important tool for a section 8 company is a Memorandum of Association (MoA) and Articles of Association (AoA).
- The company must be registered either as a private limited or public limited or limited liability partnership.
- There should a minimum of two directors and two members for the company incorporation.

Benefits of Section 8 company registration

NGOs registering themselves under Section 8 company registration can avail various advantages from it as follows:

- **No minimum capital requirement**

Unlike other entities such as public limited company, section 8 companies have no prescribed limit for any minimum capital requirement. However, the capital structure of the firm can be altered at any stage which may be required for the growth of the company.

- **Separate legal entity**

Like Private Limited and other limited companies, a Section 8 company, too, holds its own identity and possesses its own separate legal entity from its members. Moreover, a Section 8 Company has a perpetual existence.

- **Tax exemption**

Well, it's one of the greatest advantages that NGOs registering under Section 8 Companies are provided with, especially those contributing to section 8 companies. There are several tax exemptions under this kind of NGO registration. Even the contributors can claim the tax exemption against the donation made to this form of NGO.

- **No stamp duty payable**

Such NGOs are also exempted from the payment of stamp duty applicable for registration as applicable for registration similar to the one applicable in case of private limited or public limited company.

- **No title required**

Unlike in the case of the private limited and public limited company, where names and title are must, a section 8 company doesn't require to use a suffix next to its name.

- **Better credibility as compared to others:**

Yes, you heard it correct. The section 8 company is more credible than any other NGO structure, be it Trust NGO or Society NGO. Since the central government is liable for the issuance of a license, the company has more stringent regulations like no change in MOA and AOA is possible at any stage or situation in a Section 8 Company. Because of the strict compliances under section 8 company, its functioning is found to be more reliable when compared to other legal structures.

- **Ease of ownership or title transfer**

As per section 8 of the Income Tax Act, 1961, people can easily transfer the title or ownership of both movable and immovable interest without any hindrance or restrictions of any kind.

Apart from the above-described benefits, there are many other advantages of section 8 company registration such as exemptions from income tax act, conducting general meetings under a short notice period which is within 14 days instead of 21 days, etc.

Conclusion

From the above discussion, it's concluded that NGO registration, irrespective of its various forms, is done to aid the underprivileged, or encourage and promote science, commerce, arts, literature and more. The profits earned are supposed to be utilized for the growth and well-being of certain societies and welfare.

Rules, regulation and registration procedures for agency registration :

NGO is the short form of the commonly used word Non Governmental Organization which originated from UNO and adopted by several countries throughout the world. In India a NGO can be in various forms but mainly three forms of NGO are prevalent which enjoy more acceptance and credibility in the Indian system.

1. Society as a NGO under The Societies Registration Act, 1860
2. Registered Trust
3. Non Profit Company under Section 25 of The Companies Act, 1956

1. GUIDELINES NGO REGISTRATION INDIA AS A SOCIETY:

A Society under The Societies Registration Act, 1860 can be registered by a group of seven desirous persons who can form the bye laws and the rules governing the society and submit the same for registration before the Registrar of Society according to the local rules and the Registrar after due verification of all compliances issues a Certification of Registration of the Society. The affairs of the society can be regulated in accordance with the bye laws and the common laws.

The steps as guidelines NGO Registration India involved with the formation of a Society are described hereunder:

- STEP-I: Forming a group of minimum seven people as desirous persons agree to form the said society.
- STEP-II: Clearance of the name of the society from the Registrar concerned where the office of the society is proposed to be located. In case of all India Society the name is cleared by the Ministry.
- STEP-III: Drafting of the deed of society as per the Society Registration Act 1860 and all other standing orders issued from time to time which contains the rules and regulations for running the society and the bye laws. (The format is available on our website www.legalhelplineindia.com in the legal format section) .
- STEP-IV: Obtaining a NOC from the owner of the premises where the office of the society is proposed to be located.
- STEP-V: Filing the proof of residence and identification of the desirous persons.
- STEP-VI: Submitting the society documents alongwith all the relevant documents and the drafted deed before the registrar for registration.
- STEP-VII: Issuance of the Registration Certificate by the Registrar of Society.
- STEP-VIII: Obtaining a PAN card for the society from the Income Tax Department.
- STEP-IX: Opening a bank account for the society for the regulation of funds of the society.
- STEP-X: Getting the exemption under Section 80 (G) of the Income Tax Act for exempting the donations from taxation.
- STEP-XI: Getting clearances from RBI for receipt of foreign funds in the society.

- STEP-XII: Filing of ITR for the society after the end of the financial year.

Important tips of Guidelines NGO Registration in India as a Society:

- Request letter to the Registrar of Society on the letter head of the proposed society.
- Two sets of neatly typed Memorandum of Association of the Society including the list of the Governing body and all the desirous persons.
- Two sets of neatly typed Rules and Regulations framed for the operation and functioning of the Society.
- Affidavit on the Stamp Paper of Rs-10/- duly sworn by the President/Secretary of the Society as per the format issued from the office of the Registrar.
Copy of the proof of residence of the desirous persons with their photographs.
Proof of the legal ownership of the office of the Society and non objection affidavit by the owner of the premises regarding the location of the office of the Society.
- All pages to be signed by the President, Vice President, General Secretary of the Society.
- In case of management of or reference to a particular existing places of worship like Mandir ,Gurudwara, Masjid, Church or Boudh Vihar etc. is involved, then sufficient documentary proof is required that the society is legally competent for the same.

Guidelines NGO Registration in India for the name of Society:

- The name of the society proposed should not attract the provisions of The Names and Emblems (Prevention of Improper Use) Act 1950 i.e. the name proposed should not imply any connection with Government of India, or Government of State or any connection with legal authority.
- The name proposed for the registration of the society should not be identical to name of any other society which has already been registered or resembles such name likely to deceive the public or the members of the society.
- There is prohibition of use of any name, emblems, official seals specified under the Names and Emblems Act without permission of the appropriate authority.

- There is prohibition of the use of the name of the national heroes or other names mentioned in the Names and Emblem Act, 1950.
- The registrar of Societies can be approached with alternative names to ascertain whether the same are not undesirable and are not being used by any other existing societies.
- The name of the Society should not suggest obscenity or be against decency and decorum. It should not be undesirable in the opinion of the Registrar.

2. GUIDELINES FOR NGO REGISTRATION IN INDIA AS A TRUST:

Any legal entity can establish a Trust in India through a registered Trust Deed which becomes a legal entity. All activities of a NGO can be done through the aims and objectives of the said trust. The registration of Trust in India involves the following simple steps:

- STEP-I : Selecting the name of the trust.
- STEP-II: Drafting the Trust Deed which should contain all the important aims and objectives of the trust.
- STEP-III: One settlor or trustee can also run the said trust however a board of trustees can be also named and several persons can be involved in the running of the trust.
- STEP-IV: Getting the PAN card for the trust after its registration.
- STEP-V: Opening a bank account for the trust after its registration.
- STEP-VI: Getting the exemption under Section 80 (G) of the Income Tax Act for exempting the donations from taxation.
- STEP-VII: Getting clearances from RBI for entitling the trust for receipt of foreign funds.
- STEP-VIII: Filing of ITR of the trust.

3. GUIDELINES FOR NGO REGISTRATION IN INDIA AS A COMPANY:

Section 25 (1) (a) and (b) contemplate that a Company can be established for the purposes of promoting art, culture, science, religion, charity, or any other useful object provided the profits, if any, or other income is applied for promoting only the objects of the company and no dividend is paid to its members.

- STEP-I: Application along with a fees of Rs 500/- submitted for clearance of name of the proposed Company. The office of the Registrar of Companies accordingly approve the name if found under the rules.

- STEP-II: Three sets of printed Memorandum and Articles of Association of the proposed Company duly signed by the promoters is submitted along with a declaration by a CA, Advocate that the same are in accordance with the provisions of Act and all the requirements of law have been complied with in this regard.
- STEP-III: Three sets of the details of the promoters giving their names, addresses and occupations with all details of the proposed Directors if they are already Director in any other company.
- STEP-IV: A statement showing the details of the assets and liabilities of the association, as on the date of the application or within seven days of that date.
- STEP-V: An estimate of the future annual income of the proposed Company, specifying the source of its income and the objects of the expenditure.
- STEP-VI: A statement giving the brief description of the work already done by the association and of the work proposed to be done by it after the registration in pursuance of Section 25.
- STEP-VII: A statement specifying the grounds on which the application is being made in brief.
- STEP-VIII: A declaration by each of the persons making the application that he/she is of sound mind, not an undischarged insolvent, not convicted by a court for any offence and does not stand disqualified under section 203 of the Companies Act 1956, for appointment as a director.
- STEP-IX: The applicant is required to furnish to the Registrar of Companies (of the state in which the registered office of the proposed company is to be, or is situate) a copy of the application and each of the other documents that had been filed before the Regional Director of the company law board.
- STEP-X : Publication of a notice in a Newspaper, within a week from the date of making the application to the regional director of the company law board, in the prescribed manner at least once in a newspaper in a principal language of the district in which the registered office of the proposed company is to be situated or is situated and circulating in that district, and at least once in an English newspaper circulating in that district.
- STEP-XI: The regional director may, after considering the objections, if any, received within 30 days from the date of publication of the notice in the newspapers, and after consulting any authority, department or ministry, as he may, in his discretion, decide, determine whether the licence should or should not be granted.

- **STEP-XII:** The Registrar may issue the certificate of incorporation of the Company which makes the legal existence of the Company and all the formalities relating to the issuance of PAN, Bank Account etc are taken thereafter

So many people want to quit their high profile jobs and turn to social work! If you are one of them, you should know that setting up a not-for-profit non-governmental organization (NGO) is simple and not so difficult task. One can even do it on his or her own or take professional help from a Lawyer, chartered accountant or anyone familiar with the steps involved.

NGOs are organizations that usually work towards the promotion of certain causes or the welfare of a target population. Since they function in the non-profit realm, their objectives and modus operandi are often a bit different compared to for-profit organizations. In order to achieve their objectives, NGOs need to follow a realistic approach right from the stage of conceptualization. Besides, there are rules and regulations laid down by the Government of India and the provincial state governments. Here is a brief step-by-step guide for starting your own NGO in India.

Registration of societies:

1. Societies formed by memorandum of association and registration

Any seven or more persons associated for any literary, scientific, or charitable purpose, or for any such purpose as is described in section 20 of this Act, may, by subscribing their names to a memorandum of association, and filing the same with Registrar of Joint-stock Companies form themselves into a society under this Act.

2. Memorandum of association

The memorandum of association shall contain the following things, that is to say,-

the name of the society; the object of the society; the names, addresses, and occupations of the governors, council, directors, committee, or other governing body to whom, by the rules of the society, the management of its affairs is entrusted. A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association.

3. Registration and Fees:

Upon such memorandum and certified copy being filed, the Registrar shall certify under his hand that the society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty rupees, or such smaller fees as the State Government may from time to time, direct; and all fees so paid shall be accounted for to the State Government.

4. Annual list of managing body to be filed

Once in every year, on or before the fourteenth day succeeding the day on which, according to the rules of the society, the annual general meeting of the societies is held, or, if it rules do not provide for an annual general meeting, in the months of January, list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses and occupations of the governors, council, director, committee, or other governing body then entrusted with the management of the affairs of the society.

5. Property of society how vested

The property, movable and immovable belonging to a society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such society, and in all proceedings civil and criminal, may be described as the property of the governing body of such society for their proper title.

6. Suits by and against societies :

Every society registered under this Act may sue or be sued in the name of President, Chairman, or Principal Secretary, or trustees, as shall be determined by the rules and regulations of the society and, in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion:

PROVIDED that it shall be competent for any person having a claim, or demand against the society, to sue the President or Chairman, or Principal Secretary or the trustees thereof, if on application the governing body some other officer or person be not nominated to be the defendant.

7. Suits not to abate

No suit or proceeding in any Civil Court shall abate or discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have

sued or been sued, but the same suit proceedings shall be continued in the name of or against the successor of such person.

8. Enforcement of judgment against society

If a judgment shall be recovered against the person or officer named on behalf of the society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or officer, but against the property of the society.

The application for execution shall set forth the judgement, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the society only, and shall require to have the judgement enforced against the property of the society.

9. Recovery of penalty accruing under bye-law

Whenever by any bye-law duly made in accordance with the rules and regulations of the society, or, if the rules do not provide for the making of bye-laws, by any bye-laws made at a general meeting of the members of the society convened for the purpose (for the making of which the concurrent votes of three-fifths of the members present at such meeting shall be necessary), any pecuniary penalty is imposed for the breach of any rule or bye-law of the society, such penalty, when accrued, may be recovered in any court having jurisdiction where the defendant shall reside, or the society shall be situate, as the governing body thereof shall deem expedient.

10. Members liable to be sued as strangers

Any member who may be in arrear of a subscription which according to the rules of the society he is bound to pay, or who shall possess himself of or detain any property of the society in a manner or for a time contrary to such rules, or shall injure or destroy any property of the society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of the property in the manner hereinbefore provided.

11. Members guilty of offences punishable as strangers

Any member of the society who shall steal, purloin, or embezzle any money or other property, or wilfully, and maliciously destroy or injure any property of such

society, or shall forge and deed, bond, security for money, receipt, or other instrument, whereby the funds of the society may be exposed to loss, shall be subject to the same prosecution, and, if convicted, shall be liable to be punished in like manner, as any person not a member would be subject and liable to in respect of the like offence.

12. Societies enabled to alter, extend or abridge their purposes

Whenever it shall appear to the governing body of any society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such society either wholly or partially with any other society, such governing body may submit the proposition to the members of the society in a written or printed report, and may convene a special meeting for the consideration thereof according to the regulations of the society; but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every member of the society ten days previous to the special meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the members delivered in person or by proxy, and confirmed by the votes of three-fifths of the members present at a second special meeting convened by the governing body at an interval of one months after the former meeting.

13. Provision for dissolution of societies and adjustment of their affairs

Any number not less than three-fifths of the members of any society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the society, its claims and liabilities according to the rules of the said society applicable thereto, if any, and if not, then as the governing body shall find expedient, provided that, in the event of any dispute arising among the said governing body or the members of the society, the adjustment of its affairs shall be referred to the principal court of original civil jurisdiction of the district in which the chief building of the society is situate; and the court shall make such order in the matter as it shall deem requisite.

Assent required: Provided that no societies shall be dissolved unless three-fifths of the members shall have expressed a wish for dissolution by their votes delivered in person, or by proxy, at a general meeting convened for the purpose:

GOVERNMENT CONSENT:

Provided that whenever any Government is a member of, or a contributor to, or otherwise interested in any society registered under this Act, such society shall not be dissolved without the consent of the Government of the State or registration.

14. Upon a dissolution no member to receive profit

If upon the dissolution of any society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the said society or any of them, but shall be given to some other society, to be determined by the votes of not less than three-fifths of the members present personally or by proxy at the time of the dissolution, or in default thereof, by such court as aforesaid:

Clause not to apply to Joint-stock Companies : Provided, however, that this clause shall not apply to any society which has been founded or established by the contributions of share-holders in the nature of a Joint-stock Company.

15. Member defined

For the purposes of this Act a member of a society shall be a person who, having been admitted therein according to the rules and regulations thereof, shall have paid a subscription, or shall have signed the roll or list of members thereof, and shall not have resigned in accordance with such rules and regulations;

Disqualified members : But in all proceedings under this Act no person shall be entitled to vote or be counted as a member whose subscription at the time shall have been in arrears for a period exceeding three months.

16. Governing body defined

The governing body of the society shall be the governors, council, directors, committee, trustees, or other body to whom by the rules and regulations of the society the management of its affairs is entrusted.

17. Registration of societies formed before Act

Any company or society established for a literary, scientific or charitable purpose, and registered under Act 43 of 1850⁷, or any such society established and constituted previously to the passing of this Act but not registered under the said Act 43 of 1850 may at any time hereafter be registered as a society under this Act.

Assent required : Subject to the proviso that no such company or society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the members present personally, or by proxy, at some general meeting convened for that purpose by the governing body.

In the case of a company or society registered under this Act 43 of 1850, the directors shall be deemed to be such governing body. In the case of a society not so registered, if no such body shall have been constituted on the establishment of the society, it shall be competent for the members thereof, upon due notice, to create for itself a governing body to act for the society thenceforth.

18. Such societies to file memorandum, etc. with Registrar of Joint-stock Companies

In order to any such society as is mentioned in the last proceeding section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint-stock Companies a memorandum showing the name of the society, the objects of the society, and the names, addresses and occupations of the governing body, together with a copy of the rules and regulations of the society certified as provided in section 2, and a copy of the report of the proceedings of the general meeting at which the registration was resolved on.

19. Inspection of documents

Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be prima facie evidence of the matters therein contained in all legal proceedings whatever.

20. To what societies Act applies

The following societies may be registered under this Act:-

Charitable societies, the military orphan funds or societies established at the several presidencies of India, societies established for the promotion of science,

literature, or the fine arts for instruction, the diffusion of useful knowledge, ¹[the diffusion of political education], the foundation or maintenance of libraries or reading-rooms for general use among the members or open to the public or public museums and galleries of paintings and other works of art, collections of natural history, mechanical and philosophical inventions, instruments, or designs.

Registration of Trusts:

Definition of Trust:

Creation of a trust, particularly relating to an immoveable property is also a specie of transfer of property. Trust is defined in section 3 of the Trust Act, 1882 as " an obligation annexed to the ownership of property and arising out of a confidence reposed in and accepted by the owner, or declared and accepted by him, for the benefit of another or of another and the owner. In simple words it is a transfer of property by the owner to another for the benefit of a third person along with or without himself or a declaration by the owner, to hold the property not for himself and another.

Requirements of a Trust

A trust is not a contract of agency to hold the property, as in that case there would be no transfer of the property. In trust there is a transfer from the owner to the trustee subject to certain terms and conditions. Bailment is also a kind of trust, but in bailment also there is no transfer of any interest in the property, but only a transfer of possession without ownership. Thereof, a trust is essentially a transfer of property by one to the other to be held by the other for the benefit of some person or for carrying out some object. It is no also a sale because a sale cannot be conditional and in sale there is consideration which is absent in a trust. The purpose of a trust must be lawful, that is,

- It should not be forbidden by law.
- It should not be of such nature that, if permitted it could defeat the provisions of any law.
- It should not be fraudulent.
- It should not involve or imply injury to the person or property of another or
- It should not be such as would be regarded by a court as immoral or opposed to the public policy.

Where a trust is created for two purposes one of which is lawful and the other is not and the two purposes cannot be separated, the whole trust is void.

Creation of Trust

- A trust of immovable property can be created by two ways. One by a non-testamentary document and another by a testamentary document such as a will. In other words, a trust regarding a immovable property cannot be created orally but it must be by a document duly registered. A trust of a moveable property can be created either by a document or delivering the property to the trustee with necessary oral directions. If the directions are given in writing it would amount to a trust by a non-testamentary document which may or may not be registered.
- A person who creates a trust is called the settlor, the person to whom the the property is transferred on trust is called a trustee and the person for whose benefit the property is transferred is called the beneficiary or "cestuique trust" .

Deed of Trust

A trust relating relating to an immovable property is required to be created by a document and such document must state and contain five essential things with reasonable certainty namely :

- the intention on the part of the author of the trust or settlor to create a trust.
- the purpose of the trust.
- the beneficiary.
- the trust property, and
- transfer of the property to the trustee.

Declaration of Trust

A trust can also be created by the author himself declaring that he would hold the property, not as owner, but as a trustee for the benefit of some person or persons including himself and in that case the transfer of property is not necessary as one need not transfer his property but in such a case the declaration of trust is by the owner and he alone should be the trustee. Such a declaration would, however, require registration under the Registration Act.

Testamentary Trust

A trust can also be created by a testamentary document that is by Will and the same conditions as mentioned in Section 6 of the Trust Act are required to be fulfilled. such a Will also does not require registration

A trust is also created :

- by application of employed trust or
- as a constructive trust or
- as derivative trust.
- But they are created by fiction by of law and cannot be subject matter of convincing.

Who can Create a Trust

A Trust can be created by any person competent to contract or even by a manner with the authority of a competent court and respect of any property which is transferable and over which the author of the trust has dispossessing power.

Trust, Private and Public

- A Trust may be Private and Public.
- When the purpose of the trust is to benefit an individual or a group of individuals or his or their descendants for any legal person and who is capable of holding property, it is a private trust.
- When the purpose of the trust is to the benefit the public or any section of the public, it is public trust.

Who can be a trustee

A trustee can be any person that is, an individual or a corporate body or a corporate sole, capable of holding property and competent to contract. and he must accept the trust.

TAX EXEMPTIONS FOR NGOS

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12A – registration

For the NGO to be exempted from paying taxes on donations taken, it must be ensured that the said NGO is registered under Section 12A of the Income Tax Act (1961). Any NGO or charitable fund established before 1st April 2021 should be registered as a legit NGO under the Income Tax Act. A commissioner or a

principal commissioner must be notified by an application for registration of an eligible (as mentioned in Section 12A clauses) NGO or charitable public institution. The NGO authority should also send its legal documents regarding its authenticity and objectives for the verification of its existence. After carefully scrutinizing all the given documents regarding the NGO's legal existence, the commissioner can decide on either rejecting the application or accepting it. The income of an NGO with a 12A certificate is exempt from taxes.

80G – certification

80G is a certification that the Income Tax Department offers to NGOs which allows the donor to get tax benefits on their donations. Tax relief is not only beneficial for the donor but also for the concerned NGO, as it acts as a catalyst for donations. In order to apply for an 80G certificate, the NGO has to submit form 10G along with a report of their activities in the last three years. It should be noted that to apply for 80G certification, the organisation also essentially has to get a 12A certificate as well. A 10G application form can be downloaded online and then the assessee will need to either add a digital signature or an electronic digital code to complete the submission. In addition to these, the NGO also will have to submit a comprehensive audit report for the last three years to get the verification process done. Completion of this step ensures **NGO tax exemptions** to the donors.

Documents Required for Registration Under Section 80G and 12A

Documents for 80G Registration: To obtain an 80G Certificate, you need to provide the following documents:

- PAN card of NGO
- A detailed list of donors along with their PAN and complete address
- MoA and Registration Certificate in case of Societies & Section 8 Companies and a Trust Deed is required in case of a Trust
- Certificate of Incorporation
- NOC (No Objection Certificate) from the property owner if the office is located on a rented property
- Documents related to IT Returns and Book of Accounts of the last 3 years
- Form 10G
- A complete list of welfare activities
- Trust Deed, in case the NGO is a Trust
- Copy of the latest utility bills such as Water or Electricity Bills or House Tax Receipt

- A detailed list of Board of Trustees

Documents required to obtain the 12A Certificate:

- Form 10A
- PAN card of the organisation
- Documents for the creation of the Trust or NGO (Trust Deed of a Trust, Registration Certificate & Memorandum of Association (MoA) of a Society)
- Financial statements for the consecutive three years
- In the case of Section 8 Company, submit a Certificate of Incorporation and copies of MoA & AoA of the company.

IT returns of NGO

NGOs trust or other public non profit institutions have to file their income tax using ITR 7 form. These days it is required for all trusts and NGOs to file their income tax return online as it is fast, secure, and easy to use. The NGOs can either opt for a digital signature or a digital code. But NGOs responsible to get their accounts audited under section 44AB, need to furnish a copy of the return with a digital signature only.

As long as the income of a charitable trust, before claiming exemption under sections 11 to 12, exceeds the maximum amount chargeable to tax in any previous year i.e. Rs 250,000 for previous year 2022, its accounts are required to be audited. Then the due date for filing a return is 31st October of the assessment year. The due date will be 31st July of the assessment year if it does not wish to take exemption under sections 11 and 12.

Final Words

NGOs are typically such organisations that do not focus their operations on revenue returns and profits. The objective of these organisations is the welfare of the people involved and the upholding of the cause they cater to. Having said that, it is important to realise that these organisations don't run by their own rules. Rather they follow the rules and obligations set up by the law, following which the income and donations earned by these NGOs have been comprehensively included in the purview of the Income Tax Act. And thus, it is crucial to be aware of the treatment of particulars like the income of the NGOs and **NGO tax exemptions**.

As defined in Section 2(1) (h) of FCRA, 2010, "foreign contribution" means the donation, delivery or transfer made by any foreign source —

- Any article, not being an article given to a person* as a gift for his personal use, if the market value, in India, of such article, on the date of such gift is

not more than such sum** as may be specified from time to time by the Central Government by rules made by it in this behalf.

- Any currency, whether Indian or foreign.
- Any security as defined in clause (h) of section 2 of the Securities Contracts(Regulation) Act, 1956, and includes any foreign security as defined in clause (o) of Section 2 of the Foreign Exchange Management Act, 1999.

In other words: A donation, delivery or transfer of any article, currency or foreign security referred to in this clause by any person who has received it from any foreign source, either directly or through one or more persons, shall also be deemed to be foreign contribution with the meaning of this clause.

FCRA

Foreign Source

Foreign source, as defined in Section 2(1) (j) of FCRA, 2010 includes:

- The Government of any foreign country or territory and any agency of such Government.
- Any international agency, not the United Nations or any of its specialized agencies, the World Bank, International Monetary Fund or such other agency as the Central Government, may, by notification, specify on this behalf.
- A foreign company.
- A corporation, not a foreign company, is incorporated in a foreign country or territory.
- A multi-national corporation is referred to in sub-clause (iv) of clause (g).
- A company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:
 - (A) the Government of a foreign country or territory.
 - (B) the citizens of a foreign country or territory.
 - (C) corporations incorporated in a foreign country or territory.
 - (D) trusts, societies or other associations of individuals (whether included or not) formed or registered in a foreign country or territory.
 - (E) Foreign company.
- A trade union in any foreign country or territory, whether or not registered in such foreign country or territory.

- A foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory.
- A society, club or other association or individuals formed or registered outside India;
- A citizen of a foreign country.

Registration and Prior Permission

Now the questions are started How does a person obtain permission to accept foreign contributions? So there are two modes of obtaining permission to receive foreign assistance, according to FCRA, 2010:

- Registration
- Prior Permission

FCRA for NGO: A Ngo can receive funds from abroad if it has an FCRA certificate. To get an FCRA certificate, the [NGO](#) should be three years old.

Eligibility Criteria

This section will provide detailed information about FCRA Registration Eligibility criteria for FCRA registration or Prior Permission. In the present scenario, the world is more focused on social and environmental causes; apart from their common profit-making objective, businesses themselvesThe activities that promote social, economic, cultural, etc. In the present scenario, logical growth and prosperity. So check the details information one by one.

Eligibility criteria for grant of registration:

- For the grant of registration under FCRA, 2010, the association should be registered under an existing statute, just like the Societies Registration Act, 1860 or the Indian Trusts Act, 1882 or section 25 of the Companies Act, 1956 (Now Section 8 of the Companies Act, 2013) etc.
- Normally be breathing for a minimum of three years and has undertaken reasonable activity in its chosen field for the advantage of the [society](#) that the foreign contribution is proposed to be utilized. The applicant NGO/association are liberal in selecting its expenditure items (excluding the executive cost as defined in Rule 5 of FCRR, 2011) to become eligible for the minimum threshold of Rs. 15.00 lac spent during the last three years.
- Suppose the association wants to include its capital investment in assets like land, building, other permanent structures, vehicles, equipment etc. In that case, the Chief Functionary shall give an undertaking that these assets shall

be utilized just for the FCRA activities and that they won't be diverted for the other purpose till FCRA registration of the [NGO](#) holds.

GOVERNMENT SCHEMES FOR NGOS

Assistance to Disabled Persons for Purchase / Fitting of Aids / Appliances

Objective

- The main objective of the Scheme is to assist the needy disabled persons in procuring durable, sophisticated and scientifically manufactured, modern, standard aids and appliances that can promote their physical, social and psychological rehabilitation, by reducing the effects of disabilities and enhance their economic potential. The aids and appliances supplied under the Scheme must be ISI.

Financial assistance

- The quantum of assistance and income limit under the ADIP scheme is as follows:
- The scheme is implemented through implementing agencies such as the NGOs, [National Institutes](#) under this Ministry and ALIMCO (a PSU).

Eligibility of Implementing Agency

- The following agencies would be eligible to implement the Scheme on behalf of Ministry of Social Justice and Empowerment, subject to fulfillment of laid down terms and conditions:
- Societies, registered under the Societies Registration Act, 1860 and their branches, if any, separately.
- Registered charitable trusts
- District Rural Development Agencies, Indian Red Cross Societies and other [Autonomous Bodies](#) headed by District Collector/Chief Executive Officer/District Development Officer of Zilla Parishad.
- National/Apex Institutes including ALIMCO functioning under administrative control of the Ministry of Social Justice and Empowerment/[Ministry of Health and Family Welfare](#).
- State Handicapped Development Corporations.
- Local Bodies- Zilla Parishad, Municipalities, District Autonomous Development Councils and Panchayats.

- Nehru Yuvak Kendras.
- Grant-in-aid under the Scheme will not be given for commercial supply of aids/appliances.
- The NGOs should preferably possess professional/technical expertise in the form of professionally qualified staff (from recognized courses) for the identification, prescription of the required artificial aids/appliance, and fitment and post-fitment care of the beneficiaries as well as the aid/appliance.
- The NGO should also preferably possess infrastructure in the form of machinery/equipment for the fabrication, fitment and maintenance of artificial aid/appliance to be given to a disabled person under [ADIP Scheme](#).
- Implementing Organisations should network and establish linkages with medical colleges/district hospitals/rural hospitals/PHCs/fitment centers of ALIMCO/DRCs/ any other professionally competent agency to acquire/avail the requisite infrastructure for fitment and maintenance of aids/appliances distributed under ADIP Scheme available with these bodies. The Implementing Agencies shall also avail of the professional/technical expertise of above-mentioned agencies for fitment and post-fitment care of the beneficiaries as well as aids/appliances. National Institutes, fitment centers of ALIMCO and DDRCs functioning under the administrative control of Ministry of Social Justice and Empowerment shall also assist DRDAs and other autonomous organizations to develop requisite manpower and infrastructure over a period of time to provide satisfactory service to the beneficiaries under the Scheme. Such organizations while applying for the grant under the Scheme shall produce sufficient proof of linkages with the professional agencies preferably in the form of a Memorandum of Understanding.
- Assistance for Skill Development of OBCs/DNTs/EBCs

Objective

- The aim of this scheme is to involve the Voluntary Organization and National Backward Classes Finance and Development Corporation (NBCFDC) to improved educational and socio-economic conditions of the target group i.e. OBCs/DNTs/EBCs, with a view to upgrade their skill to enable them to start income generation activities on their own or get gainfully employed in some sector or the other.

Target Group and Eligibility Criteria

- The beneficiaries who parents/guardians income from all sources including the income of beneficiary does not exceed Rs.1.00 lakh per annum are eligible under the Scheme.

Scope

- Assistance under the scheme will be given to eligible voluntary organisations working for welfare of OBCs/DNTs/EBCs.

How to apply

- The eligible new NGOs seeking grants shall apply to National Backward Classes Finance Development and Corporation (NBCFDC) from the financial year 2017-18.
- Free Coaching for SC and OBC Students

Objective

- The objective of the Scheme is to provide coaching of good quality for economically disadvantaged Scheduled Castes (SCs) and Other Backward Classes (OBCs) candidates to enable them to appear in Competitive examination and succeed in obtaining an appropriate job in Public/Private sector.
- The courses for which the Coaching will be imparted shall be as follows:
- Group A and B examinations conducted by the Union Public Service Commission (UPSC), the Staff Selection Commission (SSC) and the various Railway Recruitment Boards (RRBs);
- Group A and B examinations conducted by the State Public Service Commissions;
- Officers' Grade examinations conducted by Banks, Insurance Companies and Public Sector Undertakings (PSUs)
- Premier Entrance Examinations for admission in (i) Engineering (eg. IIT-JEE),(ii) Medical, (iii) professional courses like Management (eg. CAT) and Law (eg. CLAT) and (iv) such other disciplines, Ministry may decide from time to time.
- Finishing courses/Job oriented courses for employment in the private sector like IT, Bio-technology etc. in need of soft skill and other professional courses specified by the Government from time to time.

Implementing Agencies

- The Scheme will be implemented through the reputed institutions/centres run by the Central Government/State Governments/UT Administrations/PSUs/autonomous bodies under Central/State Governments;
- Universities (both Central and State including the Deemed Universities in the private sector) and,
- Registered private institutions/NGOs.
- Deendayal Disabled Rehabilitation Scheme
- The umbrella Central Sector Scheme of this Ministry called the "Scheme to Promote Voluntary Action for Persons with Disabilities" was revised w.e.f. 01.04.2003 and was renamed as the "[Deendayal Disabled Rehabilitation Scheme](#) (DDRS)".

Objectives

- To create an enabling environment to ensure equal opportunities, equity, social justice and empowerment of persons with disabilities.
- To encourage voluntary action for ensuring effective implementation of the People with Disabilities (Equal Opportunities and Protection of Rights) Act of 1995.

Approach and Strategy

- The approach of this Scheme is to provide financial assistance to voluntary organizations to make available the whole range of services necessary for rehabilitation of persons with disabilities including early intervention, development of daily living skills, education, skill-development oriented towards employability, training and awareness generation. With a view to inclusion of persons with disabilities in the mainstream of society and actualizing their potential, the thrust would be on education and training programmes. In order to achieve the objectives of the scheme the key strategies will be as follows:
- To enhance educational opportunities at all levels and in all forms and enlarge the scope of vocational and professional opportunities, income generation and gainful occupations.
- To support all such measures as may be necessary for promoting formal as well as nonformal employment and placement opportunities.
- To implement outreach and comprehensive Community Based Rehabilitation programmes in urban and rural environments.

- To support manpower development activities to train required personnel at different levels for all programmes/ projects/activities for persons with disabilities.
- To support the development, publication and dissemination of information, documentation and training materials.
- To set up well equipped resource centres at different levels. To promote and support the development of self-help groups, parent organizations and independent living.
- To encourage coordination, cooperation and networking and multi-sectoral linkages.
- To support people with disabilities in projects which are environment friendly and ecopromotive.
- To support construction and maintenance of buildings, provision of furniture and fixtures and installation and maintenance of machinery and equipment.
- To establish and support facilities for sport, recreation, leisure-time activities, excursions, creative and performing arts, cultural and socially inclusive activities.
- To support and facilitate the availability of appropriate housing, homes and hostel facilities.
- To support the conduct of surveys and other forms of epidemiological studies.
- To promote research in various development areas, innovative strategies, assistive devices and enabling technologies and support production of such devices ensuring quality control.
- To support effort to ensure protection of human, civil and consumer rights of persons with disabilities.
- To support legal literacy, including legal counseling, legal aid and analysis and evaluation of existing laws.
- To support such other measures, which may meet the needs of the persons with disability and fulfill the obligations as prescribed in the People with Disabilities (Equal Opportunities and Protection of Rights) Act of 1995.

Grants-in-aid to NGOs

- To facilitate delivery of various services to persons with disabilities by voluntary organizations, the Ministry of Social Justice and Empowerment is administering DDRS scheme and providing grants-in-aid to NGOs for the following projects:-
- Vocational Training Centres

- Sheltered Workshops
- Special Schools for the Persons with Disabilities
- Project for Cerebral Palsied Children
- Project for Pre-School and Early Intervention and Training
- Home based Rehabilitation Program / Home Management Programme
- Project for Rehabilitation of Leprosy Cured Persons (LCPs)
- Project relating to Survey, Identification, Awareness and Sensitization
- Project for Community Based Rehabilitation
- Project for Human Resource Development
- Seminars / Workshops / Rural Camps
- Project for Legal Literacy, Including Legal Counselling, Legal Aid and Analysis and Evaluation of Existing Laws
- Environment Friendly and Eco-Promotive Projects for the Handicapped
- Grant for Purchase of Vehicle
- Construction of Building
- Grant for Computer
- Project for [Low Vision](#) Centres
- Half Way Home for Psycho-Social Rehabilitation of Treated and Controlled Mentally Ill Persons
- District Disability Rehabilitation Centres (DDRCs)
- The maximum level of support could be up to 90% of the eligible amount of grant for the project.
- Grant-in-Aid to Voluntary Organizations working for Scheduled Castes
- The main objective behind the scheme is to involve the voluntary sector and training institutions of repute to improve educational and socioeconomic conditions of the target group i.e. Scheduled Castes with a view to upgrade skill to enable them to start income generating activities on their own or get gainfully employed in some sector or the other.
- The scheme has been revised w.e.f. 2021-22 as SHRESHTA.

Scope

- The scheme SHRESHTA (Residential Education for Students in High Schools in Targeted Areas) aims at providing seats for the meritorious SC boys and girls in the best private residential schools in the country.

Financial Assistance

- The grants under of this Mode will be provided for tuition fee and residential charges as required by the school, subject to a ceiling of Rs. 75,000/- per annum per student of class 9 and 10 and Rs. 1,25,000/- per annum per student of class 11 and 12.
- Integrated Programme for Older Persons
- Under the umbrella scheme Atal Vayo Abhyuday Yojana, it seeks to improve the quality of life of the Senior Citizens by providing basic amenities like shelter, food, medical care and entertainment opportunities and by encouraging productive and active ageing through providing support for capacity building of State/ UT Governments/Non-Governmental Organizations (NGOs)/Panchayati Raj Institutions (PRIs) / local bodies and the community at large.

Scope

- Assistance under the scheme will be given to the Panchayati Raj Institutions / local bodies and eligible Non-Governmental Voluntary Organizations for the following purposes:
- Programmes catering to the basic needs of Older Persons particularly food, shelter and health care to the destitute elderly;
- Programmes to build and strengthen intergenerational relationships particularly between children / youth and Older Persons;
- Programmes for encouraging Active and Productive Ageing;
- Programmes for providing Institutional as well as Non Institutional Care / Services to Older Persons;
- Research, Advocacy and Awareness building programmes in the field of Ageing; and
- Any other programmes in the best interests of Older Persons.

Financial Assistance

- Up to 90% of the cost of the project indicated in the scheme will be provided by the Government of India and the remaining shall be borne by the Organization/ Institution concerned.
- Assistance to Voluntary Organizations Defence Services
- The scheme is in the field of drug demand reduction. The Scheme has two parts viz.
- Assistance for the Prevention of Alcoholism & Substance (Drugs) Abuse

- Financial Assistance in the Field of Social Defence

Scope and financial assistance

- **The Scheme of Assistance for the Prevention of Alcoholism and Substance (Drugs) Abuse** is being implemented for identification, counseling, treatment and rehabilitation of addicts through voluntary and other eligible organizations.
- Under this scheme, financial assistance up to 90% of the approved expenditure is given to the voluntary organizations and other eligible agencies for setting up/running Integrated Rehabilitation Centre for Addicts (IRCAs), Regional Resource and Training Centres (RRTCs), for holding Awareness-cum-de-addiction camps (ACDC) and Workplace Prevention Programmes etc. In the case of North-Eastern States, Sikkim and Jammu & Kashmir, the quantum of assistance is 95% of the total admissible expenditure. The balance has to be borne by the implementing agency.
- **The Scheme of 'General Grant-in-Aid Programme for Financial Assistance in the Field of Social Defence'** aims to support such initiatives of an innovative/pilot nature in the area of welfare and empowerment of the Ministry's target groups, as cannot be supported under its regular schemes. Financial assistance is given up to 90% of the approved expenditure to the voluntary and other eligible organizations. In case of an organization working in a relatively new area where both voluntary and Government effort is very limited but the need for the service is very great, the Government may bear up to 100% of the cost.

UNIT-3

SOCIAL POLICY

SOCIAL POLICY:

Definition:

According to Kulkarni, “Social policy is the strategy of action indicating the means and methods to be followed in successive phases to achieve the declared objectives.”

According to professor Titmus, “Social policy represents a summation of facts of Government deliberately designed to improve the welfare of the people”.

Meaning:

The name of 'social policy' is used to refer to the policies which governments use for welfare and social protection, to the ways in which welfare is developed in a society, and to the academic study of the subject. In the first sense, social policy is particularly concerned with social services and the welfare state. In the second, broader sense, it stands for a range of issues extending far beyond the actions of government - the means by which welfare is promoted, and the social and economic conditions which shape the development of welfare

- policy and administration of social services, including policies for health, housing, income maintenance, education and social work;
- needs and issues affecting the users of services, including poverty, old age, health, disability, and family policy; and the delivery of welfare.

Need of social policy:

- ❖ Social policy is concerned with the ways societies across the world meet human needs for security, education, work, health and wellbeing.
- ❖ Social policy addresses how states and societies respond to global challenges of social, demographic and economic change, and of poverty, migration and globalisation.
- ❖ Social policy analyses the different roles of: national governments, the family, civil society, the market, and international organisations in providing services and support across the life course from childhood to old age.

- ❖ These services and support include child and family support, schooling and education, housing and neighbourhood renewal, income maintenance and poverty reduction, unemployment support and training, pensions, health and social care.
- ❖ Social policy aims to identify and find ways of reducing inequalities in access to services and support between social groups defined by socio-economic status, race, ethnicity, migration status, gender, sexual orientation, disability and age, and between countries.

Evolution and constitutional Base:

70 years in Indian politics and policy

1947: India gains independence from British rule.

1947: India fights first war with Pakistan after Pakistani tribesmen supported by the army invade Jammu and Kashmir.

1948: Mahatma Gandhi is assassinated by Nathuram Godse.

1948: Indian troops enter the Nizam-ruled princely state of Hyderabad under Operation Polo and annex the state.

1949: The Indian Constituent Assembly adopts Article 370 of the Constitution, ensuring special status and internal autonomy for Jammu and Kashmir.

1951: Prime Minister Jawaharlal Nehru introduces India's first five-year plan, which defines the Nehruvian model of centralized economic planning and development. The Soviet-style five-year plan also creates a typically Indian model of mixed economy and big government.

1952: India holds its first general elections.

1954: Jammu and Kashmir's accession to India is ratified by the state's constituent assembly

1956: Second five-year plan presented, with a focus on rapid industrialization.

1957: Jammu and Kashmir approves its own constitution, modelled on the lines of India's.

1959: The Dalai Lama escapes to India. India's sheltering of the Tibetan spiritual leader is seen as a trigger for the 1962 war with China.

1960: Bombay state is split along linguistic lines, forming Maharashtra and Gujarat, after a series of violent protests.

1961: Indian Army liberates Goa from the Portuguese; it becomes a Union Territory.

1962: French-ruled Pondicherry (now Puducherry) becomes part of India as a Union Territory.

1962: China's People's Liberation Army invades India in Ladakh, and across the McMahon Line in the then North-East Frontier Agency (now Arunachal Pradesh), inflicting heavy damage on Indian forces.

1964: Jammu and Kashmir National Liberation Front floated to launch an armed struggle for an independent and unified Kashmir.

1965: India's second war with Pakistan over Kashmir .

1966: Punjab is divided into three states along linguistic lines—Haryana, Himachal Pradesh and Punjab

1967: Laying the foundation of the Green Revolution, farmers harvest the first crop of high-yielding wheat

1967: Armed peasant revolt in Naxalbari in the Darjeeling district of West Bengal gathers momentum.

1969: Indian Space Research Organisation (Isro) founded.

1969: Government nationalizes 14 major Indian scheduled commercial banks to serve the needs of development.

1970: Meghalaya is formed as an autonomous state within Assam in 1970. It becomes a separate state in 1972 with Shillong as its capital under the North Eastern Areas (Re-organisation) Act, 1971. The Act subsequently creates the states of Manipur, Tripura, Mizoram, Arunachal Pradesh and present-day Assam.

1971: India fights third war with Pakistan; East Pakistan breaks away from Pakistan and Bangladesh is born as an independent nation.

1972: India and Pakistan sign the Simla Pact, under which the two sides agree to sort out differences and disputes bilaterally.

1974: India conducts peaceful nuclear test at Pokhran, comes under international sanctions.

1975: The Congress government imposes Emergency.

1975: Socialist leader Jayaprakash Narayan leads the anti-Emergency movement.

1977: Emergency ends, first non-Congress government elected at the centre.

1980: The BJP is formed after internal differences in the Janata Party result in the collapse of the Janata government in 1979.

1980: Sixth five-year plan marks the beginning of economic reforms.

1983: N.T. Rama Rao-led Telugu Desam Party forms government in Andhra Pradesh for the first time.

1984: Operation Blue Star is launched to drive out the Sikh extremist religious leader Jarnail Singh Bhindranwale and his armed followers from the premises of the Golden Temple in Amritsar.

1984: Prime minister Indira Gandhi assassinated by two of her Sikh bodyguards.

1984: More than 3,500 people die and 500,000 are injured in the Bhopal Gas Tragedy following the leakage of toxic methyl isocyanate from Union Carbide India Ltd's pesticide plant in the city

1987: India-Sri Lanka pact signed to establish peace and normalcy in Sri Lanka after tensions between majority Sinhala and minority Tamils. India deploys troops in Sri Lanka to ensure peace.

1988: Prime minister Rajiv Gandhi visits China and meets Deng Xiaoping—the first visit to China by an Indian prime minister in 34 years; they agree to set up a joint working group to ensure peace in the border areas and make concrete recommendations for overall resolution of the boundary question within a definite time frame.

1989: Outbreak of militancy in Jammu and Kashmir.

1989: Exodus of Kashmiri Pandits from Jammu and Kashmir

1990: Cauvery tribunal formed to resolve 150-year-old river water dispute between Karnataka and Tamil Nadu.

1990: V.P. Singh government tables Mandal Commission recommendations for 27% reservation for OBC candidates in all levels of government services.

1991: Economic liberalization opens the economy to foreign and private investment.

1992: The Babri Masjid is demolished.

1993: Series of bomb blasts in Bombay (now Mumbai).

1998: India conducts five nuclear tests, joins club of countries possessing nuclear weapons. Pakistan tests six atomic weapons in response.

1999: Prime Minister Atal Bihari Vajpayee visits Lahore in the inaugural run of the Delhi-Lahore bus. The two countries sign Lahore pact committing both to bilateral dispute resolution.

1999: Delhi-bound Indian Airlines flight IC-814 hijacked from Kathmandu to Kandahar in Afghanistan by Harqat-ul-Ansar. After a week's negotiations with the Indian government, militants Maulana Masood Azhar, Syed Umar Sheikh and Mushtaq Latram Jerger released in exchange for the hostages.

1999: Indian army evicts Pakistani army regulars and militants from the heights of Kargil inside the Line of Control in Kashmir.

2000: The states of Uttarakhand, Chhattisgarh and Jharkhand are formed.

2001: Five terrorists of Lashkar-e-Taiba and Jaish-e-Mohammed storm Indian Parliament.

2002: Communal violence breaks out in Gujarat after a coach of Sabarmati Express is set on fire at Godhra railway station.

2005: Right to Information Act implemented.

2006: National Rural Employment Guarantee Act, 2005, implemented.

2008: Ten members of Lashkar-e-Taiba carry out a series of coordinated shooting and bombing attacks at different locations, including Taj hotel, in Mumbai.

2010: Unique Identification Authority of India issues the first Aadhaar card to Ranjana Sonawne, a resident of Tembhli village in Nandurbar district of Maharashtra.

2011: India Against Corruption movement launched against Congress-led United Progressive Alliance (UPA) government.

2011: World's longest running democratic Left rule comes to an end as Mamata Banerjee defeats communists in West Bengal, riding on the success of an anti-land acquisition movement.

2014: The BJP wins a parliamentary majority for the first time, under the leadership of Narendra Modi; BJP-led National Democratic Alliance forms government.

2014: India's 29th state, Telangana, is created. Telangana Rashtra Samithi (TRS) forms the first government in the state.

2014: The Pradhan Mantri Jan Dhan Yojana, the government's flagship financial inclusion programme, is launched.

2015: India and Bangladesh swap more than 160 enclaves.

2015: India invites US president Barack Obama to be the chief guest at Republic Day parade, the first time a US president is invited for the event

2016: Pradhan Mantri Ujjwala Yojana (PMUY) launched to provide LPG connections to women below the poverty line without upfront charges.

2016: The BJP makes inroads in the north-east, forms government in Assam.

2016: Government announces demonetisation of Rs500 and Rs1000 notes.

2017: The goods and services tax introduced from 1 July.

2017: The BJP creates history with landslide win in the Uttar Pradesh assembly election.

2017: General and railway budgets presented together for the first time.

CONSTITUTIONAL BASE:

The broad areas of social policy have been expressed in the constitution under the Directive Principles of State Policy. This part forth of the Constitution is usually cited as the main source of the Indian social policy. Specifically Article 38 and 46 are often considered as relevant source of social policy.

The Weaker Section and Social Policy

The most important single element of social policy relates to the specific

constitutional safeguards and provisions made for the protection and promotion of the interests of those segments of the population which are traditionally suffered from discrimination, isolation and alienation.

Evolution of Social Policy as a Field of Study:

The emergence of social policy as a field of study and an academic department in universities is essentially a British product. In Britain, social policy was originally taught in the department of Social Administration in the London School of Economics, at the London University and later it began to be taught in the other British universities. Social policy in India has come a long way during the last 67 years since the attainment of political independence. The Directive Principles of State Policy are cited as the fountain spring of all national policies; more particularly of the social policy of the country.

Policies that affect sustainability are of five types

- General economic and social policies intended to influence overall economic growth, trade, price levels, employment, investment and population, attained chiefly by utilizing monetary and fiscal instruments.
- Policies relating to agricultural and rural development. Policies of this type are usually intended to influence such factors as the agricultural resource base, agricultural production, consumption of agricultural products, agricultural price levels and variability, rural incomes and the quality of food. They are usually implemented via instruments such as taxes and subsidies, direct government production and provision of services, and direct control through regulation.
- Policies relating to markets, including the establishment of market institutions and rules, and circumscription of property rights.
- Policies aimed at establishing a democratic and participatory process designed to involve all interested groups in decision making and implementing SARD.
- Policies designed specifically to influence natural resource use and protect the environment. These policies utilize:
 - (i) command and control (effected, for example, by prohibiting or limiting certain resource uses or establishing limits on emissions, with penalties for non-compliance);
 - (ii) economic incentives such as taxes and subsidies; and
 - (iii) persuasive measures such as education and advertising.

The first four categories above are not primarily intended to achieve SARD, and are adopted to accomplish other goals. Yet all are essential for SARD. Therefore,

the challenge in policy making is to integrate sustainability and environmental considerations into mainstream policy making both within the agricultural sector and generally.

A **welfare state** is a concept of government where the state plays a key role in the protection and promotion of the economic and social well-being of its citizens. It is based on the principles of equality of opportunity, equitable distribution of wealth, and public responsibility for those unable to avail themselves of the minimal provisions for a good life. The general term may cover a variety of forms of economic and social organization.

There are two main interpretations of the idea of a welfare state:

- A model in which the state assumes primary responsibility for the welfare of its citizens. This responsibility in theory ought to be comprehensive, because all aspects of welfare are considered and universally applied to citizens as a "right".
- Welfare state can also mean the creation of a "social safety net" of minimum standards of varying forms of welfare.

In the strictest sense, a welfare state is a government that provides for the welfare, or the well-being, of its citizens completely. Such a government is involved in citizens lives at every level. It provides for physical, material, and social needs rather than the people providing for their own. The purpose of the welfare state is to create economic equality or to assure equitable standards of living for all.

The welfare state provides education, housing, sustenance, healthcare, pensions, unemployment insurance, sick leave or time off due to injury, supplemental income in some cases, and equal wages through price and wage controls. It also provides for public transportation, childcare, social amenities such as public parks and libraries, as well as many other goods and services. Some of these items are paid for via government insurance programs while others are paid for by taxes.

TWO FORMS OF THE WELFARE STATE

There are two ways of organizing a welfare state:

According to the first model the state is primarily concerned with directing the resources to "the people most in need". This requires a tight bureaucratic control over the people concerned, with a maximum of interference in their lives to establish who are "in need" and minimize cheating. The unintended result is that there is a sharp divide between the receivers and the producers of social welfare, between "us" and "them", the producers tending to dismiss the whole idea of social

welfare because they will not receive anything of it. This model is dominant in the US.

According to the second model the state distributes welfare with as little bureaucratic interference as possible, to all people who fulfill easily established criteria (e.g. having children, receiving medical treatment, etc). This requires high taxing, of which almost everything is channeled back to the taxpayers with minimum expenses for bureaucratic personnel. The intended – and also largely achieved – result is that there will be a broad support for the system since most people will receive at least something. This model was constructed by the Scandinavian ministers Karl Kristian Steincke and Gustav Möller in the 30s and is dominant in Scandinavia.

DIRECTIVE PRINCIPLE OF STATE POLICY AND WELFARE STATE

- The Directive Principles of State Policy is guidelines to the central and state governments of India, to be kept in mind while framing laws and policies. They are enumerated in part iv of the constitution of India. i.e. directive principles of state policy. They are the instruments of instructions in the governance of the country. The directive principles lay down certain economic & social policies to be pursued by the various governments in India. They are classified as social & economic charter, social security charter& community welfare charter.
- These provisions, contained in Part IV of the Constitution of India, are not enforceable by any court, but the principles laid down therein are considered fundamental in the governance of the country, making it the duty of the State to apply these principles in making laws to establish a just society in the country. The principles have been inspired by the Directive Principles given in the Constitution of Ireland and also by the principles of Gandhism; and relate to social justice, economic welfare, foreign policy, and legal and administrative matters.
- It is by enacting “directive principles of state policy” in part IV of the constitution that we endeavored to create a welfare state.
- In a sense the directive principles of state policy epitomize the ideals, the aspirations, the sentiments, the precepts, and the goals of our entire freedom movement. In another sense, they represent a compromise between the

ideals and reality. In the initial stages of the constitution making there was a strong current of opinion to make the directive principles as much justifiable as the fundamental rights. But it dawned on the constituent assembly that it would not be practicable to make the positive rights justifiable. Thus ultimately the non-justifiable directive principles were enacted in part IV of the constitution. T.T.Krishnamachari called the non-justifiable directive principle as “a veritable dustbin of sentiment sufficiently resilient to permit any individual of this house to ride his hobby-horse into it.

- Socialist ideals and percepts of national movement found expression in a number of articles. Article 39 embodies the percepts of national movement thus: ‘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. The socialist ideals of the national movement and the national goals are embodied in article 39 which runs:

The state shall, in particular, direct its policy towards securing:-

- i. That the citizens, men and women equally, have the right to an adequate means to livelihood;
- ii. That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;
- iii. That the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment.
- iv. That there is equal pay for equal work for both men and women;
- v. 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 by their age or strength; and
- vi. Those children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral abandonment.

ECONOMIC AND SOCIAL RIGHT:

The constituent assembly finding it difficult to place certain economic and social rights in the list of fundamental rights placed them in the category of directive principles. In this way the following rights found a place among the directive principles:

- i Right to adequate means of livelihood:

- ii. Right against economic exploitation:
- iii. Right of both sexes to equal pay for equal work:
- iv. Right to work;
- v. Right to leisure and rest:
- vi. Right to public assistance in case of unemployment, old age or sickness:
- vii. Right to education:
- viii. Right to just and humane conditions of work:
- ix. Right to maternity relief:
- x. Right to compulsory and free education of children:

THE MANEKA GANDHI CASE AND THEREAFTER:

- Simultaneously, the judiciary took upon itself the task of infusing into the constitutional provisions the spirit of social justice. This it did in a series of cases of which *Maneka Gandhi v. Union of India* was a landmark. The case involved the refusal by the government to grant a passport to the petitioner, which thus restrained her liberty to travel. In answering the question whether this denial could be sustained without a predecisional hearing, the court proceeded to explain the scope and content of the right to life and liberty. In a departure from the earlier view, the court asserted the doctrine of substantive due process as integral to the chapter on fundamental rights and emanating from a collective understanding of the scheme underlying articles 14 (the right to equality), 19 (the freedoms) and 21 (the right to life). The power the court has to strike down legislation was thus broadened to include critical examination of the substantive due process element in statutes.
- Once the court took a broader view of the scope and content of the fundamental right to life and liberty, there was no looking back. Article 21 was interpreted to include a bundle of other incidental and integral rights, many of them in the nature of ESC rights.
- **In *Francis Coralie Mullin* the court declared:**
“The right to life includes the right to live with human dignity and all that goes with it, namely, the bare necessities of life such as adequate nutrition,

clothing and shelter and facilities for reading, writing and expressing oneself in diverse forms, freely moving about and mixing and commingling with fellow human beings. The magnitude and components of this right would depend upon the extent of economic development of the country, but it must, in any view of the matter, include the bare necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human self.”

RIGHT TO WORK

Article 41 of the Constitution provides that “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 38 states that the state shall strive to promote the welfare of the people and article 43 states it shall endeavor to secure a living wage and a decent standard of life to all workers. One of the contexts in which the problem of enforceability of such a right was posed before the Supreme Court was of large-scale abolition of posts of village officers in the State of Tamil Nadu in India.

RIGHT TO SHELTER

Unlike certain other ESC rights, the right to shelter, which forms part of the right to an adequate standard of living under article 11 of the ICESCR, finds no corresponding expression in the DPSP. This right has been seen as forming part of article 21 itself. The court has gone as far as to say, “The right to life . . . would take within its sweep the right to food . . . and a reasonable accommodation to live in.”

However, given that these observations were not made in a petition by a homeless person seeking shelter, it is doubtful that this declaration would be in the nature of a positive right that could be said to be enforceable. On the other hand, in certain other contexts with regard to housing for the poor, the court has actually refused to recognize any such absolute right.

RIGHT TO HEALTH:

The right to health has been perhaps the least difficult area for the court in terms of justifiability, but not in terms of enforceability. Article 47 of DPSP provides for the duty of the state to improve public health. However, the court has always recognized the right to health as being an integral part of the right to life. The principle got tested in the case of an agricultural laborer whose condition, after a

fall from a running train, worsened considerably when as many as seven government hospitals in Calcutta refused to admit him as they did not have beds vacant. The Supreme Court did not stop at declaring the right to health to be a fundamental right and at enforcing that right of the laborer by asking the Government of West Bengal to pay him compensation for the loss suffered. It directed the government to formulate a blue print for primary health care with particular reference to treatment of patients during an emergency.

RIGHT TO EDUCATION:

Article 45 of the DPSP, which corresponds to article 13(1) of the ICESCR, states, “The State shall endeavour 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.” Thus, while the right of a child not to be employed in hazardous industries was, , recognized to be a fundamental right, the child’s right to education was put into the DPSP in part IV and deferred for a period of ten years.

PROTECTION TO MINORITIES AND WEAKER SECTION OF SOCIETY

- Needless to say protection to minorities and weaker section of society has been the main plank on which we have tried to usher in the economic revolution.
- Some of the rights of minorities have found a place of pride among the fundamental rights.
- Article 43 directs the state to secure to all workers, by legislation, economic organization, or in any other way, a living wage; conditions of work ensuring a decent standard of life, and the full enjoyment of leisure and social and cultural opportunities.
- Article 47 imposes as a primary duty to raise the level of nutrition and the standard of living of its people. On the basis of these articles some of the social and labour legislation has been enacted.
- Article 39A provides for equitable justice and free legal aid by suitable legislation.
- Article 43A stipulates the participation of workers in the management of industries.
- Article 46 specifically lays down that the state ‘shall promote with special care the educational and economic interest of the weaker sections of the

people, and, in particular, of the schedule castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitations.’

1.NATIONAL PERSPECTIVE PLAN FOR WOMEN 1988 – 2000 A.D.

To boost up the programmes for women’s development, a National Perspective Plan for Women (1988–2000 A.D.) was brought out by the Department of Women and Child Development, Ministry of Human Resource Development. The plan pays special attention to the rural women who suffer from double discrimination. The plan does not seek more investment or more resources but gives a new thrust and responsiveness to developmental programmes at all levels²³.

The National Perspective Plan’s main aim is to promote holistic perspective to the development of women. Some of the main recommendations of the National Perspective Plan are as follows:

1. While programme for women will continue to be implemented by different ministries, there is need for a strong inter ministerial coordination and monitoring body in the Department of Women and Child Development.
2. Education to girls should be given priority and awareness needs to be generated regarding the necessity of educating girls so as to prepare them to contribute effectively to the socio-economic development of the country.
3. There is strong need to eliminate all forms of discrimination in employment especially to eliminate wage differentials between men and women.
4. The Planning Commission and all ministries and government departments must have a women’s cell.
5. In order to change the attitudes towards women and girls and to raise the social consciousness of the country, a conscious strategic change is required in national media and communication effort.
6. Law drafting technologies and enforcement mechanism including police, judiciary and other components need to be reviewed, sensitised and strengthened so as to provide equality and justice.
7. Government should effectively secure participation of women in decision-making process at National, State and Local levels. This would imply use of special measures for recruitment of women candidates.
8. 30% reservation should be provided at Panchayat and at district level for women.
9. There is urgent need to improve the effectiveness of voluntary action²⁴.

THE NATIONAL POLICY FOR EMPOWERMENT OF WOMEN

- The Government of India has declared 2001 as Women's Empowerment year. The national policy of empowerment of women has set certain clear-cut goals and objectives. The policy aims at upliftment, development and empowerment in socio-economic and politico-cultural aspects, by creating in them awareness on various issues in relation to their empowerment.

The following are the specific objectives of National Policies particularly of rural folk on Empowerment of women in India.

- i. Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential.
- ii. The de-jure and de-facto enjoyments of all human rights and fundamental freedom by women on equal basis with men in all political, economic, social, cultural and civil spheres.
- iii. Equal access to participation and decision making of women in social political and economic life of the nation.
- iv. Equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public life etc.
- v. Strengthening legal systems aimed at elimination of all forms of discrimination against women.
- vi. Changing societal attitudes and community practices by active participation and involvement of both men and women.
- vii. Ministering a gender perspective in the development process.
- viii. Elimination of discrimination and all forms of violence against women and the girl child.
- ix. Building and strengthening partnerships with civil society, particularly women's organizations.

The National policy for empowerment of women envisaged introduction of a gender perspective in the budgeting process as an operational strategy.

A few laws and legislations are enforced strictly for effective and proper implementation of this policy .

SCHEMES FOR WOMEN AND CHILD DEVELOPMENT :

- The Ministry of women and child development, as the nodal agency for all matters pertaining to welfare, development and empowerment of women, has evolved schemes and programmes for their benefit. These schemes are

spread across a broader spectrum such as women's need for shelter, security, safety, legal aid, justice, information, maternal health, food, nutrition etc., as well as their need for economic sustenance through skill development, education and access to credit and marketing.

- The schemes of the Ministry like Swashakti, Swayamsidha, STEP and Swawlamban enable economic empowerment. Working Women Hostels and Creches provide support services. Swadhar and Short Stay Homes provide protection and rehabilitation to women in difficult circumstances. The Ministry also supports autonomous bodies like National Commission, Central Social Welfare Board and Rashtriya Mahila Kosh which work for the welfare and development of women. These schemes will run in the Tenth Plan. It is proposed to continue some in the Eleventh Plan and also to take up new schemes. The following are the details pertaining to the above schemes intended for the development and empowerment of women.

SCHEMES FOR ECONOMIC EMPOWERMENT

- **Swa-Shakti** The project jointly founded by IFAD, World Bank and the Government of India was launched in October, 1999 and culminated on 30th June, 2005. The objective of the program was to bring out socio-economic development and empowerment of women through promotion of women SHGs, micro credit and income generating activities. The project was conceived as a Pilot Project implemented in 335 blocks of 57 districts in 9 states. The project 302 established 17,647 SHGs covering about 2, 44,000 women. This was a Centrally Sponsored Project.
- **Swayamsiddha** This was an integrated scheme for women empowerment through formation of Self Help Groups (SHGs) launched in February, 2001. The long term objective of the programme was holistic empowerment of women through a sustained process of mobilization and convergence of all the on going sectoral programmes by improving access of women to micro-credit, economic resources, etc. This is a Centrally Sponsored Scheme.
- The Scheme had been able to provide a forum for women empowerment, collective reflection and united action. The scheme was culminated in March, 2007.

- The programme was implemented in 650 blocks of the country and 67971 women SHGs have been formed benefiting 9, 89,485 beneficiaries. The scheme came to an end in March 2007. It is proposed to take up Swayamsidha with a wider scope during the XI Plan. It is also proposed to implement a woman's empowerment and livelihood project in four districts of Uttar Pradesh and two districts of Bihar with assistance from IFAD.
- The schemes of Swayamsidha and Swashakti would be merged and implemented as Swayamsidha, Phase-II in the XI Plan. The MidTerm Appraisal Report of the Tenth Plan has also recommended merger of these two schemes as these have similar objectives. The next phase would be a country wide programme with larger coverage in States lagging behind on women development indices. Convergence is the basic concept in Swayamsiddha. The lessons learnt in Swayamsiddha and Swa-Shakti would be incorporated in the universalized Swayamsiddha giving an integrated set of training inputs relating to social and economic empowerment, including skill development and training in traditional and non-traditional sectors. The estimated requirement during the XI Plan period for both phase II of Swayamsidha as well as the IFAD Project is Rs. 3000 crore.

Swawlamban Programme:

Swawlamban Programme, previously known as NORAD/Women's Economic Programme, was launched in 1982-83 with assistance from the Norwegian Agency for Development Corporation (NORAD). NORAD assistance was availed till 1996 – 97 after which the programme is being run with Government of India funds. The objective of the programme is to provide training and skills to women to facilitate them to obtain employment or self employment on sustained basis. The target groups under the scheme are the poor and needy women, women from weaker sections of the society such as Scheduled Castes and Scheduled Tribes etc. In order to ensure more effective implementation and for better monitoring/evaluation of the scheme, it has been transferred to the State governments from 1st April 2006 with the approval of Planning Commission.

Support to Training and Employment Programme (STEP) :

This programme seeks to provide skills and new knowledge to poor and assetless women in the traditional sectors. Under this project, women beneficiaries are organized into viable and cohesive groups or cooperatives. A comprehensive package of services such as health care, elementary education, crèche facility,

market linkages, etc. are provided besides access to credit. Skill development is provided in ten traditional skills amongst women. This is a Central Scheme launched in 1987. The Ministry is at present getting the programme evaluated. Based on the results of the evaluation, the scheme is proposed to be revamped. Further, the possibilities of providing training and skills to women both in traditional and non-traditional sectors and integrating with Rashtriya Mahila Kosh for credit linkages are being considered. A sum of Rs. 240 crore is proposed for the scheme in the XI Plan.

SUPPORT SERVICES

Construction of Working Women Hostels Under the scheme, financial assistance is provided to NGOs, Co-operative Bodies and other agencies for construction/renting of building for Working Women Hostels with day care centre for children to provide them safe and affordable accommodation. This is a central scheme. The utilization of funds under the scheme has been unsatisfactory during the Tenth Plan period because NGOs are not able to avail funds due to strict norms of funding and lack of suitable proposals from the organizations.

Creches:

The Ministry runs a scheme of crèches that caters to the children of poor working women or ailing mothers. This provides a great help to women who are working as their children are being provided a safe environment when they are at work. The scheme is being covered in the Report of the Working Group on Child Development of this Ministry. Relief, Protection and Rehabilitation to Women in Difficult Circumstances .

Swadhar:

This scheme was launched in 2001-2002 for providing relief and rehabilitation to women in difficult circumstances. The main objectives of the scheme are as follows:

- To provide primary need of shelter, food, clothing and care to the marginalized women/girls living in difficult circumstances who are without any social and economic support. To provide emotional support and counselling to women.
- To rehabilitate destitute women socially and economically through— education, awareness, skill upgradation and personality development.

- To arrange for specific clinical, legal and other support for women/girls—in need of those interventions by linking and networking with other organizations in both Government and non-Government sectors on case to case basis.
- To provide Help line or other facilities.

Beneficiaries covered under the scheme are widows deserted by their families, women prisoners released from jail, women survivors of nature disaster, trafficked women, women victims of terrorist/extremist violence, mentally challenged and women with HIV/AIDS etc. At present 129 shelter homes are functioning in the country. The root cause of most of problems being faced by women is lack of economic independence among women. Providing training and skills in various vocations to women living in shelter homes will facilitate them to obtain employment on sustained basis. Though the scheme in the current form provides for vocational training, no separate funds are being provided for the purpose. Organisations are expected to seek convergence of the benefits of schemes like STEP, Swawlamban etc.

IMPLEMENTATION OF PROTECTION FROM DOMESTIC VIOLENCE ACT AND OTHER ACTS OF THE MINISTRY :

- The protection of Women from Domestic Violence Act came into force on 26th October 2006. In the XI Plan it is proposed to take up the following for effective implementation of the PWDVA:
- Set up the required infrastructure and requirements to make the Act effective.
- Provide training, sensitisation and capacity building of Protection Officers, Service Providers, members of the judiciary, police, medical professionals, counsellors, lawyers etc on the issue of domestic violence and the use of law (PWDVA and other criminal and civil laws) to redress the same.
- Monitoring the appointment of Protection Officers by regular feedback from the various states.

CHILD WELFARE

POLICES AND PROGRAMMES FOR CHILD

Child Welfare Schemes and Programmes in India During the British rule in India, Child Welfare Administration included only education, maternity and child welfare services. In the absence of proper institutional arrangements from the Government side, various voluntary agencies had shouldered almost all the responsibilities for ensuring welfare and development of children in the country.

Child Welfare Schemes in India comprises of the following:

(1) **Financial Assistance to Dependent Children:** This scheme was initiated to provide assistance to orphan and destitute children below the age of sixteen whose parents are unable to maintain them due to some chronic disease or permanent disability, but to no more than two children in a family, preference being given to the school going children.

(2) **Maintenance of Orphan and Destitute Girls:** The State Government is to provide free of cost maintenance to orphan girls between the ages of 6-16 years at Bal Bhawan Jalandhar.

(3) **Foster Care Services Scheme:** In 1961, Foster Care Services Scheme was started for providing destitute, orphan and unattached children proper physical, mental and emotional growth and a normal family setting thus eliminating the ill effects of impersonal treatment of institutionalization.

(4) **State After Care Home for Boys:** Among the States of the Indian Union, Ludhiana (started in 1967-68) for orphan and destitute boys between the age group of 16-21 years, discharged from correctional or non-correctional institutes to provide education and training in various crafts.

(5) **Implementation of the East Punjab Children Act, 1969:** The Act provides for the setting up of institutions for admission of the destitute, delinquent and school dropouts between the age of 8-16 years as well as those who, due to immaturity, commit some crimes, for preparing a congenial atmosphere for their physical and mental development. This is to enable them to develop into normal and law abiding citizens. Such children are, in the first instance, 8 Chowdhary, D. Paul, op.cit., p. 4. admitted in the Reception-cum-observation Homes, where the Superintendent prepares their case history and produces them before the children's Courts, which order either for their restoration to their parents or transfer to a certified school.

(6) **Special Nutrition Programme:** The programme provides protein diet to the children in the age group of 0-6 years and expectant and nursing mothers for a period of 33 days in a year.

(7) **Family and Child Welfare Project:** This project caters to the needs of children up to the age of 5 years and women living in rural areas. Children are provided preschool education and refreshment while in Balwaris; camps are arranged for girls and women in rural areas where they are taught home craft, mother craft, poultry and dairy keeping etc.

(8) **Integrated Development Services Scheme (IDSS):** This Scheme provides free package of services namely supplementary nutrition, immunization health and nutrition education, health check-up, non-formal preschool education and referral services to children below six years. It is a centrally sponsored scheme and was first introduced in Nurpur Bedi Block of the State in 1975-76. Since then it has been extended to other blocks and slum areas in Amritsar, Jalandhar, Ludhiana and Patiala. The scheme has brought substantial benefits to the children and mothers particularly those belonging to poor socio economic groups in reducing infant mortality, improving health and nutritional status of children and providing preschool education for children.

Women Welfare

- The Indian constitution confers on women rights and gives them equal opportunities-political, social and economic. But due to peculiar socio-economic conditions, and customs and traditions, the average Indian women so far has not been able to take full advantage of the rights guaranteed to her by the constitution.
- As a matter of fact, women constitute a vulnerable section of the population needing special attention and care.
- Their vulnerability has been a prime concern for the ultimate goal of women's welfare activities is the removal of social injustices and disabilities from which they still suffer and their total involvement in the national main stream of both institutional and non-institutional services are provided for their maintenance, education, training and rehabilitation.
- The welfare extension projects sponsored by the central social welfare board provide *inter alia* for maternity and child health services, *ante-natal* and *post-*

natal advisory services.

Another important welfare for women is the provision of hostels for working women in cities.

- Finally, the Report of the Committee on the status of women in India was submitted on January 1975. Besides, reviewing the existing legislative and administrative measures affecting women, the Equal Remuneration Act was passed in 1976 providing for the Prevention of Sex discrimination in employment and for the payment of wages/salary for work of equal value.
- A National Committee on Women has been constituted with the Prime Minister as President and the Minister of Education and Social Welfare as Vice-President to oversee and give guidance with regard to policies and programmes for women. With effect from 26th April, 1990, the erstwhile Ministry of social and women's Welfare become the Department of women and Child Development and was shifted to the Ministry of Welfare as a full-fledged department.
- The women's Development Bureau of this Department is responsible for the welfare and development of women in the country. Its activities include formulation of policies, plans and programmes, enacting, implementing social legislation relating to women and implementing certain welfare and development programmes for women.

Some of the important achievements in the field of women's development and welfare are listed below :-

(i) Legislative Measures :

- A number of laws are emended or enacted to ameliorate women's conditions such as immoral Traffic (Prevention) Act, 1956 (the original Suppression of women and girls Act, 1956 was amended in 1978 and again in 1986);
- Dowry Prohibition Act, 1961, as amended in 1984;
- Indecent Representation of women (Prohibition) Act, 1986 seeking to prevent indecent display of women through advertisements, books, posters etc.,;
- the commission of Sati (Prevention) Act, 1987; and amendments to various criminal laws to make penal provisions against the offence of rape and other such crimes against women more stringent and also to make a new provision in the Indian Penal Code to make cruelty against women by husband and other relations punishable.

OLD AGED PEOPLE POLICIES:

- Constitutional Provisions for Elderly Article 41 of the Directive Principles of State Policy in the Indian Constitution, specifies that the State shall, within the limits of economic capacity, provide for assistance to the elderly.
- In the Constitution, entry 24 in list III of schedule VII deals with the “Welfare of Labour, including conditions of work, provident funds, liability for workmen’s compensation, invalidity and old age pension and maternity benefits”. Item 9 of the State List and item 20, 23 and 24 of Concurrent List relates to old age pension, social security and social insurance, and economic and social planning. The right of parents, without any means, to be supported by their children having sufficient means has been recognized by Section 125 (1) (d) of the Code of Criminal Procedure, 1973, and Section 20(3) of the Hindu Adoption and Maintenance Act, 1956. Legal Measures Section 125 of the Criminal Procedure Code, 1973, specifies the rights of parents without any means for maintenance to be supported by their children having sufficient means.
- If any person refuses or neglects to maintain his/her parents, then a magistrate may order such a person to make a monthly allowance for the maintenance of his/ her mother or father at a monthly rate not exceeding Rs.500.
- The Hindu Adoption and Maintenance Act 1956 also enjoins children to look after their parents if parents are unable to maintain themselves out of their own earnings or other property. The Act is applicable to Hindus only.
- It defines maintenance as providing provision of food, clothing, residence, medical attendance and treatment. Here, the amount is left to the discretion of the court.
- According to codified Muslim law, children are required to maintain parents and paternal and maternal grandparents, if they are poor and cannot take care of themselves. Older Persons (Maintenance, Care and Protection) Bill 2005 The Central Government introduced a bill in Parliament for better care of rapidly growing elderly population in India.
- The bill titled “Older Persons (Maintenance, Care and Protection) Bill 2005” is intended to overcome the lacunae existing in the current legislation on maintenance and to make relief simpler, speedier and less expensive.
- It also aims to cover new areas of care and protection that have not so far been covered by any existing legislation. The bill has taken into account

three thrust areas for legislation, viz., Maintenance, Care and Protection.

Maintenance includes

- a) financial
- b) housing requirement
- c) protection of life and property
- d) recreational and spiritual needs

e) grievance redressals. Maintenance from the family will hitherto be a matter of right for the older persons.

The Government of India launched NSAP as a centrally sponsored scheme August 15, 1995. It included three schemes:

i) National Old Age Pension Scheme: Under the scheme, destitute aged 65 years and above were entitled to a monthly pension of Rs.75.

ii) National Family Benefit Scheme: The benefit under the scheme to below the poverty line household was lump sum amount of money on the death of primary breadwinner aged between 18 and 64 years. The ceiling of the benefit was Rs. 5000/- for death due to natural causes, and Rs. 10,000/- for accidental death.

iii) National Maternity Benefit Scheme: Under the scheme, lump sum cash assistance of Rs.300 per pregnancy was provided as maternity benefits to women of BPL households up to 2 live births. Old Age Pension Amount under NOAPS Under NOAPS, Rs.75 per month was being provided to each destitute who was of 65 years and above. The amount of pension was increased to Rs.200 per month w.e.f. 1-4-2006 and the states were requested to top up with another Rs.200 from their own resources so that a destitute pensioner could get at least Rs 400 per month.

The National Policy on Older Persons (NPOP) was announced in January, 1999, with the chief objective viz.

- to support individuals to make provision for their own as well as their spouse's old age;
- to support families to take care of their aged family members;
- to enable and hold up voluntary and non-governmental organizations in addition to the care provided by the family;
- to offer care and protection to the vulnerable aged people,
- to provide health care facility to the aged; to promote research and training facilities,

- to train geriatric care givers and organizers of services for the elderly; and to create awareness regarding aged persons and to develop themselves into fully independent citizens.

Concession in Rail Transport

The Ministry of Railways provides the following concessions and facilities for the senior citizens:-

- 30% discount in all Mails/Express including Rajdhani/ Shatabadi/Jan Shatabadi trains for the senior citizens
- Senior Citizen who is a heart patient is granted 75% concession in I, II and sleeper class fares
- Retired Persons including for their families from Indian Railways are entitled to free and concessional travel,
- At specific hours, certain compartments are reserved for elders in the suburban trains, as in Western Railways, 7 seats are reserved between 12 and 3 p.m Road Transport Two seats are reserved for senior citizens in front row of the buses of the State Road Transport Undertakings.
- Fare concessions are given to senior citizens by different State Governments. In Chandigarh, 50 % concession is given on the fares of state buses to senior citizens. In Delhi, Delhi Transport Corporation (DTC) has provision of reservation of seats for senior citizens and has also emphasized the same for private buses.
- The Corporation issues monthly passes on 50% concession in all the routes to the commuters for its City Buses. Kerala government provides free pass for traveling in state buses for those older persons who were freedom fighters.

Air Travel Indian Airlines Scheme:

A discount of 50 % is given on normal economic class fare for all domestic flights to Indian male senior citizens (subject to certain conditions) of 65 years and above and Indian female senior citizens of 63 years and above. Income tax rebates and other facilities Under the Employees Provident Funds and Miscellaneous Provisions Act, 1952, (subsequently amended in 1996) several schemes are in operation and are designed to provide a measure of economic security to a person or his family in the event of retirement, or death before retirement. Section 88B of the Income Tax Act, 1961, was inserted by the Finance Act, 1992.

The section provides for rebate of income tax in the case of individuals with 65 years and above. The aforesaid provision is as follows: “An assessee, being an individual resident in India, who is of the age of 65 years or more at any time during the previous year and whose gross total income does not exceed Rs.1,00,000 shall be entitled to a deduction from the amount of Income Tax on his total income with which he is chargeable for any assessment year of an amount equal to 40% of such Income Tax.” Earlier, a relief for the elderly people was granted in Compulsory Deposit Scheme (Income Tax Act, 1974). Under the Act, persons liable to make compulsory deposit did not include persons of more than 65 years of age.

Earlier the age limit was 70 years which was reduced to 65 years by an amendment made in 1983 in the Compulsory Deposit Scheme, Income Tax Payers Act, 1974. Special priority is given to the older people at the time of submission of income tax returns, payment of electricity or telephone bills and for getting telephone connection. Some banks in India are offering a higher rate of interest to the deposits made by the elderly.

HANDICAPPED WELFARE

“The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995” had come into enforcement on February 7, 1996. It is a significant step which ensures equal opportunities for the people with disabilities and their full participation in the nation building. The Act provides for both the preventive and promotional aspects of rehabilitation like education, employment and vocational training, reservation, research and manpower development, creation of barrier-free environment, rehabilitation of persons with disability, unemployment allowance for the disabled, special insurance scheme for the disabled employees and establishment of homes for persons with severe disability etc.

Main Provisions of the Act

- Prevention and Early Detection of Disabilities
- Education
- Employment
- Non-Discrimination
- Research and Manpower Development
- Affirmative Action
- Social Security

- Grievance Redressal

Prevention and early detection of disabilities

- Surveys, investigations and research shall be conducted to ascertain the cause of occurrence of disabilities.
- Various measures shall be taken to prevent disabilities. Staff at the Primary Health Centre shall be trained to assist in this work.
- All the Children shall be screened once in a year for identifying 'at-risk' cases.
- Awareness campaigns shall be launched and sponsored to disseminate information.
- Measures shall be taken for pre-natal, peri natal, and post-natal care of the mother and child.

Education

- Every Child with disability shall have the rights to free education till the age of 18 years in integrated schools or special schools.
- Appropriate transportation, removal of architectural barriers and restructuring of modifications in the examination system shall be ensured for the benefit of children with disabilities.
- Children with disabilities shall have the right to free books, scholarships, uniform and other learning material.
- Special Schools for children with disabilities shall be equipped with vocational training facilities.
- Non-formal education shall be promoted for children with disabilities.
- Teachers' Training Institutions shall be established to develop requisite manpower.
- Parents may move to an appropriate forum for the redressal of grievances regarding the placement of their children with disabilities.

Employment

3% of vacancies in government employment shall be reserved for people with disabilities, 1% each for the persons suffering from:

- Blindness or Low Vision
- Hearing Impairment
- Locomotor Disabilities & Cerebral Palsy
- Suitable Scheme shall be formulated for
- The training and welfare of persons with disabilities
- The relaxation of upper age limit

- Regulating the employment
- Health and Safety measures and creation of a non- handicapping, environment in places where persons with disabilities are employed.

Government Educational Institutes and other Educational Institutes receiving grant from Government shall reserve at least 3% seats for people with disabilities.

No employee can be sacked or demoted if they become disabled during service, although they can be moved to another post with the same pay and condition. No promotion can be denied because of impairment.

Affirmative Action

Aids and Appliances shall be made available to the people with disabilities.

Allotment of land shall be made at concessional rates to the people with disabilities for:

- House
- Business
- Special Recreational Centres
- Special Schools
- Research Schools
- Factories by Entrepreneurs with Disability,

Non-Discrimination

- Public building, rail compartments, buses, ships and air-crafts will be designed to give easy access to the disabled people.
- In all public places and in waiting rooms, the toilets shall be wheel chair accessible. Braille and sound symbols are also to be provided in all elevators (lifts).
- All the places of public utility shall be made barrier- free by providing the ramps.

Research and Manpower Development

- Research in the following areas shall be sponsored and promoted
- Prevention of Disability
- Rehabilitation including community based rehabilitation
- Development of Assistive Devices.
- Job Identification
- On site Modifications of Offices and Factories
- Financial assistance shall be made available to the universities, other institutions of higher learning, professional bodies and non-government

research- units or institutions, for undertaking research for special education, rehabilitation and manpower development.

Social Security

- Financial assistance to non-government organizations for the rehabilitation of persons with disabilities.
- Insurance coverage for the benefit of the government employees with disabilities.
- Unemployment allowance to the people with disabilities who are registered with the special employment exchange for more than a year and could not find any gainful occupation

Grievance Redressal

- In case of violation of the rights as prescribed in this act, people with disabilities may move an application to the
- Chief Commissioner for Persons with Disabilities in the Centre, or
- Commissioner for Persons with Disabilities in the State.

The Mental Health Act, 1987

Under the Mental Health Act, 1987 mentally ill persons are entitled to the following rights:

1. A right to be admitted, treated and cared in a psychiatric hospital or psychiatric nursing home or convalescent home established or maintained by the Government or any other person for the treatment and care of mentally ill persons (other than the general hospitals or nursing homes of the Government).
2. Even mentally ill prisoners and minors have a right of treatment in psychiatric hospitals or psychiatric nursing homes of the Government.
3. Minors under the age of 16 years, persons addicted to alcohol or other drugs which lead to behavioral changes, and those convicted of any offence are entitled to admission, treatment and care in separate psychiatric hospitals or nursing homes established or maintained by the Government.
4. Mentally ill persons have the right to get regulated, directed and co-ordinated mental health services from the Government. The Central Authority and the State Authorities set up under the Act have the responsibility of such regulation and issue of licenses for establishing and maintaining psychiatric hospitals and nursing homes.
5. Treatment at Government hospitals and nursing homes mentioned above can be obtained either as in patient or on an out-patients basis.

6. Mentally ill persons can seek voluntary admission in such hospitals or nursing homes and minors can seek admission through their guardians. Admission can be sought for by the relatives of the mentally ill person on behalf of the latter. Applications can also be made to the local magistrate for grants of such (reception) orders.
7. The police have an obligation to take into protective custody a wandering or neglected mentally ill person, and inform his relative, and also have to produce such a person before the local magistrate for issue of reception orders.
8. Mentally ill persons have the right to be discharged when cured and entitled to 'leave' the mental health facility in accordance with the provisions in the Act.
9. Where mentally ill persons own properties including land which they cannot themselves manage, the district court upon application has to protect and secure the management of such properties by entrusting the same to a 'Court of Wards', by appointing guardians of such mentally ill persons or appointment of managers of such property.
10. The costs of maintenance of mentally ill persons detained as in-patient in any government psychiatric hospital or nursing home shall be borne by the state government concerned unless such costs have been agreed to be borne by the relative or other person on behalf of the mentally ill person and no provision for such maintenance has been made by order of the District Court. Such costs can also be borne out of the estate of the mentally ill person.
11. Mentally ill persons undergoing treatment shall not be subjected to any indignity (whether physical or mental) or cruelty. Mentally ill persons cannot be used without their own valid consent for purposes of research, though they could receive their diagnosis and treatment.
12. Mentally ill persons who are entitled to any pay, pension, gratuity or any other form of allowance from the government (such as government servants who become mentally ill during their tenure) cannot be denied of such payments. The person who is in-charge of such mentally person or his dependents will receive such payments after the magistrate has certified the same.
13. A mentally ill person shall be entitled to the services of a legal practitioner by order of the magistrate or district court if he has no means to engage a legal practitioner or his circumstances so warrant in respect of proceedings under the Act.

The Rehabilitation Council of India Act, 1992

This Act provides guarantees so as to ensure the good quality of services rendered by various rehabilitation personnel. Following is the list of such guarantees:

1. To have the right to be served by trained and qualified rehabilitation professionals whose names are borne on the Register maintained by the Council
2. To have the guarantee of maintenance of minimum standards of education required for recognition of rehabilitation qualification by universities or institutions in India.
3. To have the guarantee of maintenance of standards of professional conduct and ethics by rehabilitation professionals in order to protect against the penalty of disciplinary action and removal from the Register of the Council
4. To have the guarantee of regulation of the profession of rehabilitation professionals by a statutory council under the control of the central government and within the bounds prescribed by the statute

The national trust for welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities act, 1999

1. The Central Government has the obligation to set up, in accordance with this Act and for the purpose of the benefit of the disabled, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability at New Delhi.
2. The National Trust created by the Central Government has to ensure that the objects for which it has been set up as enshrined in Section 10 of this Act have to be fulfilled.
3. It is an obligation on part of the Board of Trustees of the National Trust so as to make arrangements for an adequate standard of living of any beneficiary named in any request received by it, and to provide financial assistance to the registered organizations for carrying out any approved programme for the benefit of disabled.
4. Disabled persons have the right to be placed under guardianship appointed by the 'Local Level Committees' in accordance with the provisions of the Act. The guardians so appointed will have the obligation to be responsible for the disabled person and their property and required to be accountable for the same.
5. A disabled person has the right to have his guardian removed under certain conditions. These include an abuse or neglect of the disabled, or neglect or misappropriation of the property under care.

6. Whenever the Board of Trustees are unable to perform or have persistently made default in their performance of duties, a registered organization for the disabled can complain to the central government to have the Board of Trustees superseded and/or reconstituted.
7. The National Trust shall be bound by the provisions of this Act regarding its accountability, monitoring finance, accounts and audit.

UN Declaration on the Rights of Mentally Retarded Persons

This declaration on the rights of mentally retarded person's calls for national and international actions so as to ensure that it will be used as a common basis and frame of reference for the protection of their rights:

1. The mentally retarded person has, to the maximum degree of feasibility, the same rights as under human beings.
2. The mentally retarded person has a right to proper medical care, physical therapy and to such education, training, rehabilitation and guidance which will enable him to further develop his ability, and reach maximum potential in life.
3. The mentally retarded person has a right of economic security and of a decent standard of living. He/she has a right to perform productive work or to participate in any other meaningful occupation to the fullest possible extent of capabilities.
4. Whenever possible, the mentally retarded person should live with his own family or with his foster parents and participate in different forms of community life. The family with which he lives should receive assistance. If an institutional care becomes necessary then it should be provided in surroundings and circumstances as much closer as possible to that of a normal lifestyle.
5. The mentally retarded person has a right to a qualified guardian when this is required in order to protect his personal well-being or interests.
6. The mentally retarded person has a right to get protection from exploitation, abuse and a degrading treatment. If prosecuted for any offence; he shall have right to the due process of law, with full recognition being given to his degree of mental responsibility.
7. Whenever mentally retarded persons are unable (because of the severity of their handicap) to exercise their rights in a meaningful way or it should become necessary to restrict or deny some or all of their rights then the procedure(s) used for that restriction or denial of rights must contain proper legal safeguards against every form of abuse. This procedure for the

mentally retarded must be based on an evaluation of their social capability by qualified experts, and must be subject to periodic review and a right of appeal to the higher authorities.

National Policy For Persons with Disabilities, 2006

The Government of India formulated the National Policy for Persons with Disabilities in February 2006 which deals with Physical, Educational & Economic Rehabilitation of persons with disabilities. In addition the policy also focuses upon rehabilitation of women and children with disabilities, barrier free environment, social security, research etc.

The National Policy recognizes that Persons with Disabilities are valuable human resource for the country and seeks to create an environment that provides them equal opportunities, protection of their rights and full participation in society.

The focus of the policy is on the following

1. **Prevention of Disabilities** - Since disability, in a large number of cases, is preventable, the policy lays a strong emphasis on prevention of disabilities. It calls for programme for prevention of diseases, which result in disability and the creation of awareness regarding measures to be taken for prevention of disabilities during the period of pregnancy and thereafter to be intensified and their coverage expanded.
2. **Rehabilitation Measures** - Rehabilitation measures can be classified into three distinct groups:
 1. Physical rehabilitation, which includes early detection and intervention, counseling & medical interventions and provision of aids & appliances. It will also include the development of rehabilitation professionals.
 2. Educational rehabilitation including vocational education and
 3. Economic rehabilitation for a dignified life in society.
3. **Women with disabilities** - Women with disabilities require protection against exploitation and abuse. Special programmes will be developed for education, employment and providing of other rehabilitation services to women with disabilities keeping in view their special needs. Special educational and vocation training facilities will be setup. Programmes will be undertaken to rehabilitate abandoned disabled women/ girls by encouraging their adoption in families, support to house them and impart

them training for gainful employment skills. The Government will encourage the projects where representation of women with disabilities is ensured at least to the extent of twenty five percent of total beneficiaries.

4. **Children with Disabilities** - Children with disabilities are the most vulnerable group and need special attention. The Government would strive to: -

- Ensure right to care, protection and security for children with disabilities;
- Ensure the right to development with dignity and equality creating an enabling environment where children can exercise their rights, enjoy equal opportunities and full participation in accordance with various statutes.
- Ensure inclusion and effective access to education, health, vocational training along with specialized rehabilitation services to children with disabilities.
- Ensure the right to development as well as recognition of special needs and of care, and protection of children with severe disabilities.

5. **Barrier-free environment** - Barrier-free environment enables people with disabilities to move about safely and freely, and use the facilities within the built environment. The goal of barrier free design is to provide an environment that supports the independent functioning of individuals so that they can participate without assistance, in every day activities. Therefore, to the maximum extent possible, buildings / places / transportation systems for public use will be made barrier free.

6. **Issue of Disability Certificates** - The Government of India has notified guidelines for evaluation of the disabilities and procedure for certification. The Government will ensure that the persons with disabilities obtain the disability certificates without any difficulty in the shortest possible time by adoption of simple, transparent and client-friendly procedures.

7. **Social Security** - Disabled persons, their families and care givers incur substantial additional expenditure for facilitating activities of daily living, medical care, transportation, assistive devices, etc. Therefore, there is a need to provide them social security by various means. Central Government has been providing tax relief to persons with disabilities and their guardians. The State Governments / U.T. Administrations have been providing

unemployment allowance or disability pension. The State Governments will be encouraged to develop a comprehensive social security policy for persons with disabilities.

8. **Promotion of Non-Governmental Organizations (NGOs)** - The National Policy recognizes the NGO sector as a very important institutional mechanism to provide affordable services to complement the endeavors of the Government. The NGO sector is a vibrant and growing one. It has played a significant role in the provisions of services for persons with disabilities. Some of the NGOs are also undertaking human resource development and research activities. Government has also been actively involving them in policy formulation, planning, implementation, monitoring and has been seeking their advice on various issues relating to persons with disabilities. Interaction with NGOs will be enhanced on various disability issues regarding planning, policy formulation and implementation. Networking, exchange of information and sharing of good practices amongst NGOs will be encouraged and facilitated. Steps will be taken to encourage and accord preference to NGOs working in the underserved and inaccessible areas. Reputed NGOs shall also be encouraged to take up projects in such areas.
9. **Collection of regular information on Persons with Disabilities** - There is a need for regular collection, compilation and analysis of data relating to socio-economic conditions of persons with disabilities. The National Sample Survey Organization has been collecting information on Socio-economic conditions of persons with disabilities on regular basis once in ten years since 1981. The Census has also started collection of information on persons with disabilities from the Census-2001. The National Sample Survey Organization will have to collect the information on persons with disabilities at least once in five years. The differences in the definitions adopted by the two agencies will be reconciled.
10. **Research** - For improving the quality of life of persons with disabilities, research will be supported on their socio-economic and cultural context, cause of disabilities, early childhood education methodologies, development of user-friendly aids and appliances and all matters connected with disabilities which will significantly alter the quality of their life and civil society's ability to respond to their concerns. Wherever persons with

disabilities are subjected to research interventions, their or their family member or caregiver's consent is mandatory.

- 11. Sports, Recreation and Cultural life** - The contribution of sports for its therapeutic and community spirit is undeniable. Persons with disabilities have right to access sports, recreation and cultural facilities. The Government will take necessary steps to provide them opportunity for participation in various sports, recreation and cultural activities.

Responsibility for implementation

- The Ministry of Social Justice & Empowerment will be the nodal Ministry to coordinate all matters relating to the implementation of the Policy.
- An inter-ministerial body to coordinate matters relating to implementation of National Policy will be formed. All stakeholders including prominent NGOs, Disabled Peoples Organizations, advocacy groups and family associations of parents / guardians, experts and professionals will also be represented on this body. Similar arrangements will be encouraged at the State and Districts levels. Panchayati Raj Institutions and Urban Local Bodies will be associated in the functioning of the District Disability Rehabilitation Centres' District Level Committees to coordinate the matters relating to the implementation of the policy.
- The Ministries of Home Affairs, Health & Family Welfare, Rural Development, Urban Development, Youth Affairs & Sports, Railways, Science & Technology, Statistics & Programme Implementation, Labour, Panchayati Raj and Departments of Elementary Education & Literacy, Secondary & Higher Education, Road Transport & Highways, Public Enterprises, Revenue, Women & Child Development, Information Technology and Personnel & Training will setup necessary mechanism for implementation of the policy. A five-year perspective Plan and annual plans setting targets and financial allocations will be prepared by each Ministry / Department. The annual report of these Ministries / Departments will indicate progress achieved during the year.
- The Chief Commissioner for Disabilities at Central level and State Commissioners at the State level shall play key role in implementation of National Policy, apart from their statutory responsibilities.
- Panchayati Raj Institutions will play a crucial role in the implementation of the National Policy to address local level issues and draw up suitable programmes, which will be integrated with the district and State plans.

These institutions will include disability related components in their projects.

- Infrastructure created during the course of implementation will be required to be maintained and effectively used for a long period. The community should take a leading role in generating resources within themselves or through mobilization from private sector organizations to maintain the infrastructure and also to meet the running cost. This step will not only reduce the burden on state resources but will also create a greater sense of responsibility among the community and private entrepreneurs.
- Every five years a comprehensive review will be done on the implementation of the National Policy. A document indicating status of implementation and a roadmap for five years shall be prepared based on the deliberations in a national level convention. State Governments and Union Territory administrations will be urged to take steps for drawing up State Policy and develop action plan.

Scheduled Caste and scheduled tribe Welfare in India

Scheduled castes are those castes/races in the country that suffer from extreme social, educational and economic backwardness arising out of age-old practice of untouchability and certain others on account of lack of infrastructure facilities and geographical isolation, and who need special consideration for safeguarding their interests and for their accelerated socio-economic development. These communities were notified as Scheduled Castes as per provisions contained in Clause 1 of Article 341 of the Constitution.

Constitutional mechanism for upliftment of SC

The deep concern of the framers of the Constitution for the uplift of the Scheduled Castes and Scheduled Tribes and Other Backward Classes is reflected in the elaborate constitutional mechanism set-up for their uplift.

- Article 17 abolishes Untouchability.
- Article 46 requires the State 'to 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 to protect them from social injustice and all forms of exploitation.
- Article 335 provides that the claims of the members of the Scheduled Castes and the Scheduled Tribes shall be taken into consideration, consistently with the maintenance of efficiency of administration, in the making of

appointments to services and posts in connection with the affairs of the Union or of a State.

- Article 15(4) refers to the special provisions for their advancement.
- Article 16(4A) speaks of “reservation in matters of promotion to any class or classes of posts in the services under the State in favour of SCs/STs, which are not adequately represented in the services under the State’.
- Article 338 provides for a National Commission for the Scheduled Castes and Scheduled Tribes with duties to investigate and monitor all matters relating to safeguards provided for them, to inquire into specific complaints and to participate and advise on the planning process of their socio-economic development etc.
- Article 330 and Article 332 of the Constitution respectively provide for reservation of seats in favour of the Scheduled Castes and the Scheduled Tribes in the House of the People and in the legislative assemblies of the States. Under Part IX relating to the Panchayats and Part IXA of the Constitution relating to the Municipalities, reservation for Scheduled Castes and Scheduled Tribes in local bodies has been envisaged and provided.
- The Constitution of India has prescribed, protection and safeguards for the Scheduled Castes (SCs), Scheduled Tribes (STs) and other weaker sections; either specially or the way of insisting on their general rights as citizens; with the object of promoting their educational and economic interests and removing social disabilities. These social groups have also been provided institutionalized commitments through the statutory body, the National Commission of SCs. The Ministry of Social Justice & Empowerment is the nodal Ministry to oversee the interests of the Scheduled Castes.
- The Ministry of Social Justice and Empowerment is the nodal Ministry to oversee the interests of the Scheduled Castes. Though the primary responsibility for promotion of interests of the Scheduled Castes rests with all the Central Ministries in the area of their operations and the State Governments, the Ministry complements their efforts by way of interventions in critical sectors through specifically tailored schemes. The Scheduled Castes Development (SCD) Bureau of the Ministry aims to promote the welfare of Scheduled Castes through their educational, economic and social empowerment. Efforts made by State Governments and Central Ministries for protecting and promoting the interests of Scheduled

The Scholarships can broadly be classified into the following three types:

- **Pre-Matric Scholarships** : The objective of the pre-matric Scheme is to support the parents of SC children for educating their wards, so that the incidence of drop outs at this stage is minimized.
- **Pre-Matric Scholarship to SC Student** : The objective of the pre-matric Scheme is to support the parents of SC children for educating their wards, so that the incidence of drop outs at this stage is minimized.
- **Pre-Matric Scholarship to the Children of those engaged in occupations involving cleaning and prone to health hazards**: This is also a centrally sponsored scheme, which is implemented by the State Governments and Union Territory Administrations, which receive 100% central assistance from the Government of India for the total expenditure under the scheme, over and above their respective Committed Liability.
- **Post Matric Scholarship for Scheduled Caste Students (PMS-SC)**: The Scheme is the single largest intervention by Government of India for educational empowerment of scheduled caste students. This is a centrally sponsored scheme. 100% central assistance is released to State Governments/UTs for expenditure incurred by them under the scheme over and above their respective committed liability.
- **Scholarships for obtaining Higher Education and Coaching Scheme**: These include:
 - **Top Class Education for Scheduled Caste Students** : The objective of the Scheme is to promote qualitative education amongst students belonging to Scheduled Castes, by providing full financial support for pursuing studies beyond 12th class, in notified institutes of excellence like IITs, NITs, IIMs, reputed Medical/Law and other institutions. Scholarship is awarded to the eligible SC students on securing admission in any of the institutions notified by the Ministry.
 - **National Fellowship**: The Scheme provides financial assistance to SC students for pursuing research studies leading to M.Phil, Ph.D and equivalent research degrees.
 - **National Overseas Scholarship**: The Scheme provides assistance to students belonging to SCs, de-notified, nomadic, semi-nomadic tribes etc for pursuing higher studies of Master level courses and PhD programmes abroad.
 - **Free Coaching for SC and OBC Students**: The objective of the Scheme is to provide coaching of good quality for economically disadvantaged SC and OBC candidates to enable them to appear in competitive examinations and succeed in obtaining an appropriate job in Public/Private sector. The Scheme provides central assistance to

institutions/centres run by the Central/State Governments/UT Administrations, Central/ State Universities, PSUs, Registered Private Institutions, NGOs, etc. Coaching is provided for Group 'A' & 'B' examinations conducted by the UPSC, SSC, various Railway Recruitment Boards and State PSCs; Officers' Grade examinations conducted by Banks, Insurance Companies and PSUs; and Premier Entrance examinations for admission in Engineering, Medical and Professional courses like Management, Law etc.

Economic Empowerment:

- ***National Scheduled Castes Finance and Development Corporation (NSFDC)***: Set up under the Ministry, to finance income generating activities of Scheduled Caste beneficiaries living below double the poverty line limits (presently Rs 98,000/- per annum for rural areas and Rs 1,20,000/- per annum for urban areas). NSFDC assists the target group by way of refinancing loans, skill training, Entrepreneurship Development Programmes and providing marketing support through State Channelizing Agencies, RRBs, Public Sector Bank and Other Institutions
- ***National Safai Karamcharis Finance and Development Corporation (NSKFDC)***: It is another corporation under the Ministry which provides credit facilities to beneficiaries amongst Safai Karamcharis, manual scavengers and their dependants for income generating activities for socio-economic development through State Channelizing Agencies.
- ***Special Central Assistance (SCA) to Scheduled Castes Sub-Plan (SCSP)***: It is a policy initiative for development of Scheduled Castes in which 100 % assistance is given as an additive to SCSP of the States/ UTs on the basis of certain criteria such as SC population of the States/UTs, relative backwardness of States/UTs, percentage of SC families in the States/ UTs covered by composite economic development programmes in the State Plan to enable them to cross the poverty line, etc. It is an umbrella strategy to ensure flow of targeted financial and physical benefits from all the general sectors of development for the benefit of Scheduled Castes. Under this Scheme, the States /UTs are required to formulate and implement Special Component Plan (SCP) for Scheduled Castes as part of their annual plans by earmarking resources
- ***Scheme of Assistance to Scheduled Castes Development Corporations (SCDCs)***: Share Capital contribution is released to the State Scheduled

Castes Development Corporations (SCDCs) under a Centrally Sponsored Scheme in the ratio of 49:51 between Central Government and State Governments. There are in total 27 such State-level Corporations which are working for the economic development of Scheduled Castes, although some of these Corporations are also catering to the requirements of other weaker sections of the Society, e.g. Scheduled Tribes, OBCs, Minorities etc. The main functions of SCDCs include identification of eligible SC families and motivating them to undertake economic development schemes, sponsoring the schemes to financial institutions for credit support, providing financial assistance in the form of the margin money at a low rate of interest, providing subsidy out of the funds made available to the States under the Scheme of Special Central Assistance to Scheduled Castes Sub Plan of the States to reduce the repayment liability and providing necessary tie up with other poverty alleviation programmes. The SCDCs are playing an important role in providing credit and missing inputs by way of margin money loans and subsidy to the target group.

- The SCDCs finance the employment oriented schemes covering diverse areas of economic activities which inter-alia include (i) agriculture and allied activities including minor irrigation (ii) small scale industry (iii) transport and (iv) trade and service sector.
- **Venture Capital Fund for Scheduled Castes:** The objective of the fund is to promote entrepreneurship amongst the Scheduled Castes who are oriented towards innovation and growth technologies and to provide concessional finance to the scheduled caste entrepreneurs. The fund has been launched on 16.01.2015. During 2014-15, Rs.200 Crore were released initially for the Fund to IFCI Limited, which is a Nodal agency to implement it.
- **Credit Enhancement Guarantee Scheme for Scheduled Castes:** The objective of this Scheme is to provide credit guarantee facility to Young and start-up entrepreneurs, belonging to Scheduled Castes, who aspire to be part of neo middle class category, with an objective to encourage entrepreneurship in the lower strata of the Society resulting in job creation besides creating confidence in Scheduled Castes. The Scheme has been launched on 06.05.2015. Initially, Rs.200 Crore has been released under the Scheme to IFCI Limited, which is a Nodal agency to implement it.

Social Empowerment

- **The Protection of Civil Rights Act, 1955:** In pursuance of Article 17 of the Constitution of India, the Untouchability (Offences) Act, 1955 was enacted and notified on 08.05.1955. Subsequently, it was amended and renamed in the year 1976 as the "Protection of Civil Rights Act, 1955". Rules under this Act, viz "The Protection of Civil Rights Rules, 1977" were notified in 1977. The Act extends to the whole of India and provides punishment for the practice of untouchability. It is implemented by the respective State Governments and Union Territory Administrations. Assistance is provided to States/ UTs for implementation of Protection of Civil Rights Act, 1955.
- **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989:** Assistance is provided to States/ UTs for implementation of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Financial assistance is provided to the States/ UTs for implementation of these Acts, by way of relief to atrocity victims, incentive for inter-caste marriages, awareness generation, setting up of exclusive Special courts, etc. Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Act, 2015 (No. 1 of 2016) was notified in the Gazette of India (Extraordinary) on 01.01.2016. The Amended Act came into force w.e.f 26.01.2016.
- **Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995:** PoA Rules were amended in June 2014 for enhancing the relief amount to the victims of atrocities to become between Rs.75,000/- to Rs. 7,50,000/- depending upon the nature of an offence. Further Amendment done in the Principal Rules namely the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Rules, 1995 by the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Amendment Rules, 2016 have been notified in the Gazette of India Extraordinary on 14th April, 2016.
- **The 'Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013' (MS Act, 2013):** Eradication of dry latrines and manual scavenging and rehabilitation of manual scavengers in alternative occupation has been an area of high priority for the Government. Towards this end, a multi-pronged strategy was followed, consisting of the following legislative as well as programmatic interventions:
 1. Enactment of "Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993(1993 Act);"
 2. Integrated Low Cost Sanitation (ILCS) Scheme for conversion of dry latrines into sanitary latrines in urban areas; and

3. Launching of National Scheme for Liberation and Rehabilitation of Scavengers (NSLRS).
4. Self Employment Scheme for Rehabilitation of Manual Scavengers.

In spite of the above measures taken by the Government, manual scavenging continued to exist which became evident with the release of 2011 the Census data indicating existence of more than 26 lakh insanitary latrines in the country. Therefore, Government decided to enact another law to cover all types of insanitary latrines and situations which give occasion for manual scavenging. The 'Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013' (MS Act, 2013) was passed by the Parliament in September, 2013 and has come into force from 6th December, 2013.

This Act intends to, inter alia, achieve its objectives to:

1. Identify and eliminate the insanitary latrines.
2. Prohibit:- i) Employment as Manual Scavengers and ii) Hazardous manual cleaning of sewer and septic tanks
3. Identify and rehabilitate the manual scavengers.

Other Schemes:

- **Pradhan Mantri Adarsh Gram Yojana (PMAGY):** The Centrally Sponsored Pilot Scheme 'Pradhan Mantri Adarsh Gram Yojana' (PMAGY) is being implemented for integrated development of Scheduled Castes (SC) majority villages having SC Population concentration > 50%. Initially the scheme was launched in 1000 villages in 5 States viz. Assam, Bihar, Himachal Pradesh, Rajasthan and Tamil Nadu. The Scheme was further revised w.e.f. 22.01.2015 and extended to 1500 SC majority villages in Punjab, Madhya Pradesh, Andhra Pradesh, Karnataka, Uttar Pradesh, Telangana, Haryana, Chhattisgarh, Jharkhand, Uttarakhand, West Bengal and Odisha. **The principal objective of the Scheme is integrated development of SC Majority Villages:**

1. Primarily through convergent implementation of the relevant Central and State Schemes;
2. By providing these villages Central Assistance in form of gap-filling funds to the extent of Rs.20.00 lakh per village, to be increased by another 5 lakh if State make a matching contribution.

3. By providing gap-filling component to take up activities which do not get covered under the existing Central and State Government Schemes are to be taken up under the component of 'gap filling'.
- **Babu Jagjivan Ram Chhatrawas Yojna:** The primary objective of the Scheme is to attract implementing agencies for undertaking hostel construction programme with a view to provide hostel facilities to SC boys and girls studying in middle schools, higher secondary schools, colleges and universities. The Scheme provides central assistance to State Governments/ UT Administrations, Central & State Universities/ Institutions for fresh construction of hostel buildings and for expansion of the existing hostel facilities. The NGOs and Deemed Universities in private sector are eligible for central assistance only for expansion of their existing hostels facilities.
 - **Upgradation of Merit of SC Students:** The objective of the Scheme is to upgrade the merit of Scheduled Caste students studying in Class IX to XII by providing them with facilities for education in residential /non-residential schools. Central assistance is released to the State Governments/UT Administrations for arranging remedial and special coaching for Scheduled Caste students. While remedial coaching aims at removing deficiencies in school subjects, special coaching is provided with a view to prepare students for competitive examinations for entry into professional courses like Engineering and Medical.
 - **Dr. Ambedkar Foundation:** Dr. Ambedkar Foundation was set up on 24th March 1992, as a registered body, under the Registration of Societies Act, 1860, under the aegis of the Ministry of Welfare, Government of India. The primary object of setting up of the Foundation is to promote Dr. Ambedkar's ideology and philosophy and also to administer some of the schemes which emanated from the Centenary Celebration Committee's recommendations.
 - **Dr. Ambedkar International Centre at Janpath, New Delhi:** Setting up of 'Dr. Ambedkar National Public Library' now renamed as 'Dr. Ambedkar International Centre' at Janpath New Delhi was one of the important decisions taken by the Centenary Celebrations Committee (CCC) of Babasaheb Dr. B.R. Ambedkar headed by the then Hon'ble Prime Minister of India. As on date the entire land of Plot 'A' at Janpath, New Delhi measuring 3.25 acre is in possession of the M/o SJ&E for setting up of the 'Centre'. The responsibility of the construction of the 'Centre' has been

assigned to National Building Construction Corporation (NBCC) at a cost of Rs. 195.00 crore. The Hon'ble Prime Minister has laid the foundation of Dr. Ambedkar International Centre on 20th April, 2015 and has announced that the project will be completed within a period of twenty months. The National Building Construction Company (NBCC), the executing agency has already started the construction work at site and it is at an advance stage.

- ***Dr. Ambedkar National Memorial at 26, Alipur Road, Delhi:*** The Dr. Ambedkar Mahaparinirvan Sthal at 26, Alipur Road, Delhi, was dedicated to the Nation by the then Hon'ble Prime Minister of India on 02.12.2003 and he had also inaugurated the development work at the Memorial at 26, Alipur Road, Delhi. The responsibility of the construction of Dr. Ambedkar National Memorial has been assigned to the Central Public Works Department (CPWD) at an approx. cost of Rs. 99.00 Crore. The Hon'ble Prime Minister has laid the foundation of the Memorial on 21st March, 2016 and has announced that the project will be completed within a period of twenty months. The CPWD, the executing agency has already started the construction work at site.
- **Babu Jagjivan Ram National Foundation:** The Babu Jagjivan Ram National Foundation was established by the Government of India as an autonomous organization under the Ministry of Social Justice & Empowerment and registered under The Societies Registration Act, 1860 on 14th March 2008. The main aim of the Foundation is to propagate the ideals of the late Babu Jagjivan Ram, on social reform as well as his ideology, philosophy of life, mission and vision to create a casteless and classless society.

Forest Rights Act - 2006

- The Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, was passed on December 15, 2006, in the Lok Sabha and December 18, 2006, in the Rajya Sabha. It was signed by the President on December 29, 2006, but only notified into force on December 31, 2007 (one year later). The Rules to the Act - which provide for some of the operational details - were notified into force on January 1, 2008.
- Prior to being passed, the original Bill was subjected to a lengthy process of examination by a Joint Parliamentary Committee

- Protection of Civil Rights Act
- An Act to prescribe punishment for the [preaching and practice of - "Untouchability"] for the enforcement of any disability arising therefrom for matters connected therewith.

ST WELFARE POLICY:

Development of Forest Village

After the enactment of Forest (Conservation) Act, 1980, State Governments faced problems in taking up non-forestry developmental activities relating to infrastructure for improving socio-economic conditions of people living in the villages located in the forest areas. Consequent to the intervention of this Ministry, steps like stopping of illegal eviction of genuine tribal people living in the forests, allowing diversion of forest lands for providing the basic and essential developmental facilities to the tribal/forest villages etc. have been achieved.

This programme was launched during the 10th Plan as a onetime measure with for integrated development of 2690 forest villages originally identified with about 2.5 lakh tribal families with a view to:

- Raise the Human Development Index (HDI) of the inhabitants of the Forest Villages
- provide basic facilities and services like food, safe drinking water, health care, primary education, approach roads, other infrastructural facilities etc.
- During the 10th Five Year Plan, Rs. 450 crore was allocated to the Ministry of Tribal Affairs for the development of forest villages under Special Central Assistance to Tribal Sub Plan (SCA to TSP).

Presently there are 2,474 forest villages/ habitations (reduced from the original 2,690) spread over 12 States (reduced from the original 13 States). As per the latest information available in the Ministry of Environment and Forests on forest villages / habitations based on reports received from States, details are as under:-

The Ministry of Tribal Affairs has approved proposals covering 2423 forest villages in 12 States and also released Rs.65379.04 lakh (upto 2011-12). No funds were released in 2012-.

Activities

Under the programme, infrastructure work relating to basic services and facilities viz. approach roads, healthcare, primary education, minor irrigation, rainwater harvesting, drinking water, sanitation, community halls, etc. and activities related to livelihood are taken up for implementation

Implementing Agency:

- Forest Development Agency (FDA) - forest division level

- Joint Forest Management Committees (JFMCs) - village level, composed of all willing adult members of the village

Funding pattern

- The funding is done under the programme of 'Special Central Assistance to the Tribal Sub-Plan' Fund flows from Ministry of Tribal Affairs to Department of Tribal Welfare/ Tribal Development of the States and then to the implementing agencies.
- Since forest villages are most backward and are located in forest areas, they have not got benefits of development over the years. To enable these settlements/forest villages to get the fruits of development, to begin with 100% financial assistance is provided under this special Programme. As a first step, funding of proposals for each forest village has been generally given for Rs.15 lakh each. Additional funding of Rs 15 lakh per village has been initiated in the second phase during 2006-07.

Impact

- Teams comprising of Director/ Dy. Secretary/ Under Secretary level officers of the Ministry had been deputed to various States to get a first hand information on the progress of the activities undertaken in the forest villages for which funds were released by the Ministry. The reports received from the teams has been very encouraging and based on the same and other factors, extension of the programme was done so that sufficient developmental activities could take place in these villages, which were comparatively backward.

NGO/Public Cooperation

- The prime objective of public cooperation is to enhance the reach of welfare schemes of Government and fill the gaps in service deficient tribal areas in sectors such as education, health, sanitation, drinking water, agro-horticultural productivity, social security, etc., through the efforts of Voluntary Organizations (VOs) and Non – Governmental Organizations (NGOs), and to provide an environment for socio economic upliftment and overall development of the Scheduled Tribes (STs). Any other innovative activity having direct impact on the socio economic development or livelihood generation of STs may also be taken up through partnership with VOs/NGOs. While the ultimate objective is delivery of services to remote and unreached tribal areas, the standard of services provided is equally important. Each partner VO/NGO is, therefore, expected to strive towards delivery of quality services
- Financial assistance will be given for only the eligible ST candidates who undergo coaching.

The courses for which the coaching will be imparted shall be as follows:

- Civil Services Examination/State Civil Services Examination.
- Entrance Exams for Medical, Engineering, MBA and other professional courses.
- Other exams conducted by U.P.S.C. like CDS, NDA, etc./Staff Selection Commission Exams/Subordinated/Lower Subordinate Services Exam, Central Excise, etc.
- BSRBs/RRBs, General Insurance Corporation, etc.

For the purpose of implementation, the Ministry will publish an advertisement in the month of November during 2007-08 and in the month of April from 2008-09 onwards, in the leading national dailies to invite applications from the new coaching institutions.

Primitive Tribal Groups

Among scheduled tribes, there are certain tribal communities who have declining or stagnant population, low level of literacy, pre-agricultural level of technology and are economically backward. 75 such groups in 17 States and 1 Union Territory have been identified and categorized as Primitive Tribal Groups (PTGs). States/UT-wise list of PTGs is at Annexure. Most of these groups are small in number, have not attained any significant level of social and economic progress and generally inhabit remote localities having poor infrastructure and administrative support. Therefore, they become the most vulnerable sections among the scheduled tribes and priority is required to be accorded for their protection, checking the declining trend of their population and their development. Such an approach may also strengthen the few MADA and such micro-projects in operation in our country.

Objective

- Since PTGs constitute the most vulnerable section among tribals and inhabit isolated, remote and difficult areas in small and scattered hamlets/habitats, the scheme aims at planning their socio-economic development in a holistic manner by adopting habitat development approach and intervening in all spheres of their social and economic life, so that the quality of life of PTGs is improved and a visible impact is made.
- The scheme aims to bridge the gap in literacy levels between the general female population and tribal women, through facilitating 100% enrolment of tribal girls in the identified Districts or Blocks, more particularly in naxal affected areas and in areas inhabited by Primitive Tribal Groups (PTGs), and reducing drop-outs at the elementary level by creating the required ambience

for education. Improvement of the literacy rate of tribal girls is essential to enable them to participate effectively in and benefit from, socio-economic development.

Backward Classes

- The Central Government of India classifies some of its citizens based on their social and economic condition as Scheduled Caste (SC), Scheduled Tribe (ST), and Other Backward Class (OBC). The OBC list presented by the National Commission for Backward Classes is dynamic (castes and communities can be added or removed) and is subject to change from time to time depending on social, educational and economic factors. For example, the OBCs are entitled to 27 % reservations in public sector employment and higher education. In the Constitution, OBCs are described as 'socially and educationally backward classes', and the government is enjoined to ensure their social and educational development. The population of OBCs below poverty line was 22.6% in rural area and 15.4% in urban area whereas the population of SCs was 31.5% and 21.7% in rural and urban area respectively and the population of ST was 45.3% in rural area and 24.1% in urban area as per the poverty estimate released by the Planning Commission on the basis of Household Consumer Expenditure Survey undertaken by NSSO, Ministry of Statistics and Programme Implementation during 2011-12.
- The Backward Classes Division in the Ministry of Social Justice and Empowerment looks after the policy, planning and implementation of programmes related to social and economic empowerment of OBCs. It also looks after matters relating to two institutions set up for the welfare of OBCs: National Backward Classes Finance and Development Corporation (NBCFDC) and the National Commission for Backward Classes (NCBC).

Backward Classes Division:

- Under the Backward Classes Bureau, the Ministry is mandated to look after the welfare of Backward Classes, by implementing the schemes for Backward Classes. The Ministry also deals with the National Backward Classes Commission (NCBC) which was set up in 1993. The Commission tenders advice to the Ministry in respect of castes, sub-castes, synonyms and communities for inclusion in/from the central list of Other Backward Classes.
- Backward Classes means such backward classes of citizens other than the Scheduled Castes and Scheduled Tribes as may be specified by the Central

Government in the lists prepared by the Government of India from time to time for purposes of making provision for the reservation of appointments or posts in favour of backward classes of citizens which, in the opinion of that Government, are not adequately represented in the services under the Government of India and any local or other authority within the territory of India or under the control of the Government of India.

- The affairs of Backward Classes were looked after by the Backward Classes Cell (BCC) in the Ministry of Home Affairs prior to 1985. With the creation of a separate Ministry of Welfare in 1985 (renamed as Ministry of Social Justice and Empowerment on 25.5.1998), the matters relating to Scheduled Castes, Scheduled Tribes, Other Backward Classes (OBCs) and Minorities were transferred to the new Ministry. Consequent upon the creation of two separate ministries for Scheduled Tribes and Minorities, the subject matter pertaining to these two categories were transferred to the respective Ministries.

The Backward Classes Division in the Ministry looks after the policy, planning and implementation of programmes relating to social and economic empowerment of OBCs. It also looks after matters relating to two institutions set up for the welfare of OBCs namely,

- National Commission for Backward Classes (NCBC)
- National Backward Classes Finance and Development Corporation (NBCFDC)

While most DNTs are spread across the Scheduled Castes (SC), Scheduled Tribes (ST) and Other Backward Classes (OBC) categories, some DNTs are not covered in any of the SC, ST or OBC categories.

Who are DNTs

- The term 'De-notified Tribes' stands for all those communities which were once notified under the Criminal Tribes Acts, enforced by the British Raj between 1871 and 1947. These Acts were repealed by the Independent Indian Government in 1952, and these communities were "De-Notified". A few of these communities which were listed as de-notified were also nomadic.

- Terms such as nomads and semi-nomads are applied to 'social groups who undertook a fairly frequent, usually seasonal physical movement as part of

their livelihood strategy in the recent past. The term semi-nomad is mostly used to describe those sections of nomads whose duration, distance and frequency of movement is comparatively less than others. The distinction between nomads and semi-nomads do not involve distinguishable ethnic categories or social groups, it rather describes the degree of mobility practiced by them.

- Culture and Tradition of De-notified, Nomadic and Semi-Nomadic Tribes
- The De-notified and Nomadic communities have diverse ideological patterns, culture, political and social lifestyle, customs and traditions. The customs of Nomadic communities have a long tradition of continuity and many of their practices claim on ancient heritage. They have their own Gods and Goddesses. Moreover, their own festivals and celebrations are diversified.
- The social and cultural characteristics of nomadic communities are closely related with their economic activities. Most of the communities follow a traditional system of moving in groups of five to twenty with a senior member who is responsible for settling disputes, leading each group. Each of these sub groups travelled independently on different routes in order to earn their livelihood. In some communities there is a system of meeting of meeting on annual customary camping, where reunions, marriages and even cattle trading took place.
- As is the case with most of the communities in India, large majority of De-notified and nomadic communities are primarily patriarchal.
- A Development and Welfare Board for De-notified, Nomadic and Semi-Nomadic communities has also been constituted vide gazette Notification dated 21.02.2019 for Development and Welfare of De-notified, Nomadic and Semi-Nomadic communities.

Schemes for DNT

The Ministry of Social Justice and Empowerment is implementing the following schemes for the welfare of the DNTs.

- **Dr. Ambedkar Pre-Matric and Post-Matric Scholarship for DNTs** : This Centrally Sponsored Scheme was launched w.e.f. 2014-15 for the welfare of those DNT students who are not covered under

SC, ST or OBC. The income ceiling for eligibility is Rs. 2.00 lakh per annum. The scheme is implemented through State Governments/UT Administrations.

2. **Nanaji Deshmukh Scheme of Construction of Hostels for DNT Boys and Girls.** This Centrally Sponsored Scheme launched w.e.f. 2014-15 is implemented through State Governments/ UT Administrations/ Central Universities. The aim of the scheme is to provide hostel facilities to those DNT students; who are not covered under SC, ST or OBC; to enable them to pursue higher education.

Five-Year Plans of India List, Objectives, Achievements:

First-ever five-year plan in the Soviet Union (Russia) in 1928, implemented by Joseph Stalin. Several capitalist and communist nations adopted the concept and later devised their schemes. After the Second World War, many developing countries turned to economic planning. These plans, typically five years, would analyze the state of the economy and include investment and expenditure plans for almost every area, from transport and energy to agriculture and industry. The Indian economy was in shambles when it attained freedom. The Indian economy was hamstrung by British rule; therefore, the fathers of development created a 5-year plan to develop it. The Planning Commission of India drafts oversees and evaluates the five-year plan in India. The planning ideology sustained the Indian economy from 1947 to 2017. The Planning Commission (1951–2014) and the NITI Aayog created, carried out, and supervised this through the Five-Year Plans (2015-2017). The new government abolished the Planning Commission, headed by Narendra Modi and he replaced it with the NITI Aayog (an acronym for National Institution for Transforming India).

History of Five-Year Plans:

- In the 1940s and 1950s, the concept of planning as a method for restoring the economy rose to popularity.
- In 1944, a group of industrialists collaborated to create a proposal for establishing a planned economy in India. It is well-known as the Bombay Plan.
- After the country attained independence, planning for development was considered an important decision.
- In the Soviet Union, the Five-Year Plan was first implemented in 1928 by Joseph Stalin.

- After gaining its independence, India began a series of five-year plans to strengthen its economy.
-

Details of Various Five-Year Plans:

1. First Five-Year Plan (1951-1956):

- One of the most significant plans was the First Five Year Plans, which were essential to the beginning of Indian development following Independence.
- Jawaharlal Nehru, the country's first prime minister, gave the First Five-Year Plan to the Indian Parliament.
- The First Five-Year Plan was based mainly on the Harrod-Domar paradigm. The total plan budget of Rs. 2069 crore (\$2378 crore) was divided among seven significant categories, emphasizing agriculture, transportation, and communications.
- Five Indian Institutes of Technology (IITs) were established as important technological institutes after the plan period in 1956.
- 2.1% was the targeted growth rate, and 3.6% was the achieved growth rate.

2. Second Five-Year Plan (1956-1961):

- The second five-year plan is being led by Jawaharlal Nehru. It was based on the PC Mahalanobis Model.
- The nation's industrial growth was the main objective of this five-year plan.
- Numerous experts condemned it, and as a result, India experienced a payment problem in 1957.
- Even though 4.5% was the target growth rate, only 4.27% growth was achieved under this plan.

3. Third Five-Year Plan (1961-1966):

- This five-year plan was developed once more under Jawaharlal Nehru's direction. It was known as the Gadgil Yojana and was named after the Planning Commission's deputy chairman, DR. Gadgil.
- This five-year plan's main goal was to make the economy autonomous.
- The agricultural industry was prioritized for this, particularly wheat production.
- However, when this strategy was implemented, India experienced two significant wars: the Sino-Indian War (1962) and the India-Pakistan War

(1965). As a result, attention was turned to the defense sector, and the stabilization of prices as India experienced inflation.

- With a growth rate of 2.4% in the midst of all of this, the strategy was a failure. 5.6% was the intended growth rate.

Plan Holidays (1966-1969):

- The government was compelled to announce “plan holidays” due to the Third Plan’s abject failure (from 1966 to 1967, 1967–68, and 1968–69).
- Throughout this interim period, three annual plans were created.
- Again, there was a drought issue in 1966–1967. Agriculture, its related activities, and the industrial sector all received equal emphasis.
- To boost the nation’s exports, the Indian government announced a “Devaluation of the Rupee.” The war, a lack of resources, and an increase in inflation were the leading causes of planned vacations.

4. Fourth Five-Year Plan (1969-1974):

- The Fourth Five-Year Plan embraced the goal of reversing the prior trend of greater economic and wealth power concentration.
- It was based on the Gadgil formula, which emphasized growth while maintaining stability and moving toward independence.
- Indira Gandhi was in office as prime minister at the time.
- The Indira Gandhi administration nationalized 14 significant Indian banks, and the Green Revolution boosted India’s agriculture.
- In addition, the situation in East Pakistan (now Bangladesh) was getting worse as money set aside for industrial development was diverted to the Bangladesh Liberation War and the Indo-Pakistan War in 1971.
- When the idea of a buffer stock initially emerged, a reserve of 5 million tonnes of food grains was planned.
- The Drought Prone Area Program (DPAP) was introduced.
- The target growth rate was 5.6%. The achieved growth rate was 3.3%.

5. Fifth Five-Year Plan (1974-1978):

- The Fifth Five-Year Plan strongly emphasized justice, employment, and eradicating poverty (Garibi Hatao).
- The plan put a strong emphasis on independence in both defense and agricultural output.
- In 1975, the Electricity Supply Act became law.
- The concept was rejected in 1978 by the Morarji Desai cabinet.
- A 4.4% growth rate was the targeted one.

- 4.8% was the achieved growth rate.

6. Rolling Plan (1978-1980):

The Rolling plan was introduced in response to the rejection of the Fifth Five-Year Plan. Under the Rolling plan, three schemes were introduced for the current year's budget.

- This plan was for a specific number of years, 3, 4, or 5.
- Perspective planning for 10, 15, or 20 years.
- This plan has several advantages since the goals could be revised, and the funding and projects could be adjusted to the nation's economic needs.
- As a result, the targets must remain the same year after year because they can become challenging to attain when changed.
- Destabilization of the Indian economy would follow from this. A new five-year plan was introduced after the Indian National Congress rejected the previous one in 1980.

7. Sixth Five-Year Plan (1980-1985):

- Nehruvian socialism ended with the implementation of the Sixth Five-Year Plan, which also signaled the start of economic liberalization.
- To reduce population growth, family planning has also become more widespread.
- 5.2% was the targeted growth rate. 5.7% was the achieved growth rate.
- The only five-year plan that has been completed twice is the sixth one.

8. Seventh Five-Year Plan (1985-1990):

- This strategy was implemented from 1985 to 1990 under Rajiv Gandhi's direction.
- This strategy emphasized the development of a self-sufficient economy, opening up employment opportunities, and modernizing technology.
- For the first time, the private sector was given precedence over the state.
- The plan achieved a growth rate of 6.01%, and 5.0% was the targeted growth rate.

9. Annual Plans (1990-1992):

- After the seventh five-year plan, a highly charged political environment develops in the middle. The eighth five-year plan was, therefore, unable to be implemented.
- Two yearly plans were created for these years—1990–1991 and 1991–1992.

10. Eight Five-Year Plans (1992-1997):

- The modernization of industries was one of the Eighth Plan's key achievements.
- In the meanwhile, on January 1, 1995, India joined the World Trade Organization.
- Controlling population growth, reducing poverty, creating jobs, bolstering institutional building, managing tourism, developing human resources, involving NGOs, Panchayati Raj, Nagar Palikas, and local governments, and decentralization were the main goals.
- Energy was the top priority, accounting for 26.6% of the budget.
- 5.6% was the targeted growth rate. The achieved rate of growth was 6.8%.

11. Ninth Five-Year Plan (1997-2002):

- Following 50 years of Indian Independence, the Ninth Five-Year Plan was implemented.
- During the ninth five-year plan, India's Prime Minister was Atal Bihari Vajpayee.
- The general people and governmental organizations in the nation's rural and urban areas contributed to development during the Ninth Five-Year Plan.
- The relationship between the country's rapid economic growth and the quality of life for its citizens was a vital theme of the ninth five-year plan.
- The targeted growth rate was 7.1%. The achieved growth rate was 6.8%.

12. Tenth Five-Year Plan (2002-2007):

The Tenth Five-Year Plan's key goals are to:

- Achieve annual GDP growth of 8%.
- 5% drop in the poverty rate by 2007.
- Providing at least the addition to the labor force with well-paying, high-quality jobs.
- A reduction of at least 50% in the pay and literacy inequalities between men and women by 2007.
- A 20-point system was implemented.
- Target growth was 8.1%; actual growth was 7.7%.
- The Tenth Plan was expected to adopt a regional rather than a sectoral strategy to reduce regional inequities.

13. Eleventh Five-Year Plan (2007-2012):

- At this time of the plan, the prime minister was Manmohan Singh.
- By 2011–12, it hoped to increase the number of 18–23-year-olds enrolled in higher education.

- The confluence of formal, non-formal, remote, and IT education institutions was a key focus.
- Quick and inclusive expansion (poverty reduction).
- A focus on the social sector and service delivery.
- The empowerment that comes from education and skill building.
- Increased rate of gender equality.
- To achieve growth rates of 4%, 10%, and 9%, respectively, in agriculture, industry, and services.
- Lower the fertility rate overall to 2.1.

14. Twelfth Five-Year Plan (2012-2017):

- It is India's most recent five-year plan. The focus is on India's rapid and sustained economic development.
- Below is a list of the 12th five-year plan's objectives:
 1. The Government of India's Twelfth Five-Year Plan aims to attain an 8.2% growth rate.
 2. On December 27, 2012, the National Development Council (NDC) approved an 8% growth rate for the 12th five-year plan.
 3. The plan intended to improve the nation's infrastructure initiatives while preventing any congestion.
 4. The Plan aimed to generate 50 million new jobs in non-farm industries.
 5. Expand accessibility to higher education
 6. To supply all villages with electricity.
 7. Half of the non-rural area residents must obtain safe drinking water.
 8. It eliminates the gender and social admissions gap.
 9. Address the malnutrition problem affecting children ages 0 to 3
 10. To increase annual green cover by 1 million hectares.
 11. Enable 90% of households to access financial services.

Achievements of the Five-Year Plans

Significant achievements of the Five-Year Plans include:

1. **Increase in National Income:** India's national income grew by 0.5% annually before planning. India's average yearly growth rate has been around 5% during the planning period.
2. **The rise in per capita income during the planning period:** The annual per capita income growth rate was 2.9%.
3. **Institutional and technical advancements** in agricultural planning have significantly contributed to the growth of agriculture in our nation. The

average annual growth rate of agricultural output was 2.8% during the planning period.

4. **Industry expansion and diversification:** During the planned period, the growth rate of industrial production was roughly 7% annually. Industries producing capital and essential goods have expanded significantly. The nation is now independent in the consumer products sector. The industrial sector has evolved and been modernized.
5. **Economic and social infrastructure:** During the planning phase, financial and insurance infrastructure, as well as transportation and communication infrastructure, irrigation, and power infrastructure, has grown significantly. Facilities for health and education have seen a tremendous increase.
6. **Increased job prospects** have been the focus of targeted efforts throughout the plan period. The government set a goal of 58 million employees in the eleventh five-year plan.
7. **Foreign trade:** India's trading abroad has also expanded astronomically. The value of international commerce in 1948–1949 was Rs. 792 crores. It was Rs. 38,11,422 crores in 2011–2012. Therefore, we may conclude that during the plan period, our economy made significant improvement.

Failures of the Five-Year Plans

Almost every strategy had poverty alleviation as its primary goal. But upon closer inspection, we find that it has not been adequately treated. With spiraling unemployment, inflation rates were at an all-time high. The equitable sharing of social and economic gains was the planning's ethical objective. But the gap between classes continues to grow. Yet to be received were the desired findings to address inequities. People were becoming more vulnerable and excluded due to infrastructure issues.

What is NITI Aayog?

Since the Planning Commission was disbanded, no official plans for the economy have been developed anymore, but five-year defense plans are being created. 2017 through 2022 would have been the most recent. There isn't a thirteenth five-year plan, though.

A political think tank called the NITI Aayog was established to advise the government. Establishing a plan created from the standpoint of the Centre will not

be a part of the NITI Aayog. Instead, it attempts to involve all states in creating systematic policies unique to each state.

The NITI Aayog's mission is to improve the effectiveness and cooperation of our country's federal system by implementing the sustainable development goals (SDGs) that are developed in international fora.

The Prime Minister serves as the NITI Aayog's chairman. Amitabh Kant is now the planning commission's CEO. All state's chief ministers are members of the NITI Aayog's governing council.

Conclusion:

After India gained its independence in 1950, economic planning was implemented since it was seen as crucial to expanding and developing the nation's economy. The Planning Commission (1951–2014) and the NITI Aayog's Five-Year Plans, which were created, put into action, and monitored, served as the vehicles for carrying this out (2015-2017).

PLANNING MACHINERY IN INDIA AT NATIONAL, STATE AND LOCAL

INTRODUCTION

The Planning Machinery in India is a system established to facilitate the process of economic and social planning at the national, state, and local levels. The main objective of this machinery is to formulate and implement policies and programs that promote economic growth, social welfare, and sustainable development.

At the national level, the Planning Commission was the apex body responsible for formulating the country's Five-Year Plans from 1951 until 2014. It was replaced by the NITI Aayog (National Institution for Transforming India), which was established in 2015 to provide strategic direction and policy recommendations to the government.

At the state level, each state has a planning department responsible for formulating and implementing state-level plans and policies. The State Planning Boards are responsible for coordinating and monitoring the implementation of the state plans.

At the local level, the planning machinery consists of the District Planning Committees, which are responsible for preparing district plans and coordinating and monitoring the implementation of these plans. Additionally, there are Urban Local Bodies, such as Municipal Corporations, Municipal Councils, and Nagar Panchayats, which are responsible for planning and implementing development projects in urban areas.

Overall, the planning machinery in India plays a crucial role in the country's economic and social development by formulating policies and programs that promote growth and development at all levels of governance.

NATIONAL LEVEL

1. **National Development Council** : The National Development Council (NDC) is a body that was set up in 1952 to provide a platform for the central and state governments to discuss development issues and formulate policies and programs. It consists of the Prime Minister, all Union Cabinet Ministers, Chief Ministers of all states, and members of the Planning Commission. The NDC meets periodically to discuss issues related to planning and development and to review the progress of the Five-Year Plans. The NDC also approves the annual plans and budgets of the states.
2. **NITI Aayog** : The NITI Aayog (National Institution for Transforming India) was established in 2015 to replace the Planning Commission. The organization aims to provide a platform for cooperative federalism, where the central and state governments work together to achieve the objectives of sustainable development. The NITI Aayog consists of a Governing Council chaired by the Prime Minister, with Chief Ministers of all states and Lt. Governors of Union Territories as members. The organization has three main functions: providing strategic and technical advice to the central and state governments, formulating and implementing development policies, and monitoring and evaluating the implementation of development programs.
3. **Planning Commission** : The Planning Commission was a body that existed from 1951 until 2014 and was responsible for formulating the country's Five-Year Plans. It consisted of a Deputy Chairman and full-time and part-time members who were appointed by the government. The commission was responsible for identifying the country's developmental objectives, creating

long-term plans, and establishing priorities. It also monitored and evaluated the implementation of plans and policies and provided necessary advice and guidance to the government.

4. **National Planning Machinery** : The national planning machinery comprises various bodies and institutions, including the National Development Council, NITI Aayog, and the Planning Commission (which existed earlier). The main role of the national planning machinery is to identify the country's developmental objectives, create long-term plans, establish priorities, monitor and evaluate the implementation of plans and policies, and provide necessary advice and guidance to the government. These bodies consist of experts and officials from various fields who are appointed by the government and work towards promoting sustainable development in the country.

STATE LEVEL

1. **STATE PLANNING MACHINERY** : The state planning machinery is responsible for planning and implementing development plans and policies at the state level. It is headed by a state planning board or similar organization. The main function of the state planning machinery is to identify the state's developmental objectives, create medium and short-term plans, and establish priorities for development.
2. **STATE PLANNING BOARD** : The state planning board is the main body responsible for planning and implementing development plans and policies at the state level. It consists of experts and officials from various fields who are appointed by the state government. The state planning board is responsible for identifying the state's developmental objectives and creating medium and short-term plans to achieve them. It also coordinates with various departments and agencies to ensure the proper implementation of plans and policies.
3. **FUNCTIONS OF THE STATE PLANNING MACHINERY** : The state planning machinery performs a range of functions to ensure that development plans and policies are implemented effectively. These functions include:
 - **Identifying Development Objectives**: The state planning machinery identifies the state's developmental objectives and creates plans to achieve them.

- **Creating Plans and Priorities:** The machinery creates medium and short-term plans and establishes priorities for development.
- **Coordination with Departments and Agencies:** The machinery coordinates with various departments and agencies to ensure the proper implementation of plans and policies.
- **Monitoring and Evaluation:** The machinery monitors and evaluates the implementation of plans and policies and provides necessary advice and guidance to the government.
- **Resource Mobilization:** The machinery mobilizes resources for development plans and policies.
- **Research and Analysis:** The machinery conducts research and analysis to inform the planning process and ensure that development plans are based on sound evidence.

In summary, the state planning machinery is responsible for planning and implementing development plans and policies at the state level. It is headed by a state planning board or similar organization and consists of experts and officials from various fields who are appointed by the state government. The main functions of the state planning machinery include identifying the state's developmental objectives, creating plans and priorities, coordinating with departments and agencies, monitoring and evaluating the implementation of plans and policies, mobilizing resources, and conducting research and analysis.

LOCAL LEVEL

Local planning machinery refers to the planning and implementation of development plans and policies at the local level, which is led by local government bodies such as city councils or town boards. The local planning machinery has a significant impact on the daily lives of people living in the area. It involves citizen participation in the planning process, which ensures that the community's needs and aspirations are reflected in the plans and policies developed.

Local planning machinery's key functions include identifying the local area's developmental objectives, creating short-term plans, and establishing priorities for development. The machinery also coordinates with various departments and agencies at the local level to ensure that plans and policies are properly implemented. Additionally, the local planning machinery involves community members in identifying local needs, setting goals, and developing strategies for meeting these needs.

The local planning machinery plays an important role in promoting sustainable development and improving the quality of life of residents in the area. It facilitates the implementation of development plans and policies, provides local services such as infrastructure development, and coordinates with other levels of government to ensure that local plans are aligned with broader national and state-level goals.

In summary, the local planning machinery is responsible for planning and implementing development plans and policies at the local level. It involves citizen participation in the planning process, identifies local developmental objectives, creates short-term plans, establishes priorities for development, and coordinates with various departments and agencies at the local level to ensure the proper implementation of plans and policies.

CONCLUSION

In conclusion, planning machinery in India operates at the national, state, and local levels. At the national level, the National Development Council, NITI Aayog, and the Planning Commission are responsible for identifying the country's developmental objectives, creating long-term plans, and monitoring their implementation. At the state level, the state planning board is responsible for planning and implementing development plans and policies, identifying the state's developmental objectives, and coordinating with various departments and agencies. At the local level, the local planning machinery is headed by local government bodies, and it involves citizen participation in the planning process, identifying local needs, and developing strategies to meet them. Overall, the planning machinery plays a crucial role in shaping India's development and ensuring that plans and policies are implemented effectively.

UNIT -4

SOCIAL LEGISLATION

DEFINITION:

Dr. R.N. Saxena defines social legislation as ‘any act passed by the legislature or a decree issued by the government for the removal of certain social evils or for the improvement of social conditions or with the aim of bringing about social reform.

According to **Gray**, legislation is the formal utterances of the legislative organs of the society.

According to **Salmond**, legislation is that source of law which consists in the declaration of legal rules by a competent authority.

According to **Merriam Webster's Learner's Dictionary**, social legislation is the exercise of the power and function of making rules that have the force of authority by virtue of their promulgation by an official organ of the state

According to **Oliver Wendell**, “Legislation of today is to meet the social needs of yesterday.”

According to **Hogau and Inni**, social legislation is to provide for the orderly regulation of social relationship for the welfare and security of all individuals in the social unit.

Roles of social legislation:

Indian society underwent many changes after the British came to India. The British East India Company came to dominate India not through political strategy, intrigue and military forces but also through belief in the superiority of their text, literature and education system. In the 19th century, certain social practices like **female infanticide, child marriage, sati, polygamy and a rigid caste system** became more prevalent. These practices were against human dignity and values. When the British came to India, they brought new ideas such as **liberty, equality, freedom and human rights** appealed to some sections of our society and led to several reform movements in different parts of the country.

The deliberate British policy of non-interference in Indian social and cultural life underwent a significant change after 1813. This was due to the material change in England in the form of Industrial revolution.

The changes were as follows:

1. A number of missionary societies were formed and began to function.

2. The intent of the missionaries had been to locate and scrutinize the Hindu practices and to demolish their implicit social hegemony.

Social Policies and Legislation of British Government in India:

During the 19th and 20th centuries some laws were enacted with the sincere efforts of social reformers, humanists and some British administrators to improve the condition of women in Indian society. Some prevalent social stigmas for women of Indian society which were abolished by the British through legislation are discussed below:

Abolition of Sati System

The Bengal Sati Regulation which banned the Sati practice in all jurisdictions of British India was passed on December 4, 1829 by the then Governor-General Lord William Bentinck. The regulation described the practice of Sati as revolting to the feelings of human nature.

Child marriage

It was another social evil of 19th century India. Indian reformers like **Keshav Chandra Sen and BM Malabari** made effort to eradicate this practice from the Indian society. In 1891, through the enactment of the Age of Consent Act, this was raised to 12 years. In 1930, through the Sharda Act, the minimum age was raised to 14 years. After independence, the limit was raised to 18 years in 1978.

Female infanticide

It was another inhumane practice of 19th century India. Some of the major reasons responsible for this practice such as family pride, the fear of not finding a suitable match for the girl child and the hesitation to bend before the prospective in-laws. The practice of killing infant girls prevailed among some Rajput tribes in Banaras, Kutch, Gujarat, Jaipur, and Jodhpur.

Social Legislation as an Instrument of Social Change

There are two schools of thought.

1. Social scientists of one school believe that law in itself cannot lead to change, it can only follow change. Thus it cannot be an instrument of the basic transformation of values and attitudes.
2. As per other school of thought, social legislation is an important enabling mechanism of bringing social change.

It would not be incorrect to say that law alone, can not be truly effective unless, it is supplemented and supported by public opinion and administrative reforms.

Despite its limitations social legislation can be a powerful and effective tool in the hands of the professional social workers to fulfil their commitment to the weaker and the marginalised sections of the society.

ITS POTENTIAL FOR CHANGE.

- The British rule in India for the first time established the supreme authority of law in social matters, ensuring uniformity in law and social order which India did not have till then.
- In the last century, we have had a series of legislation intended for bringing about significant changes in the status of women, children, scheduled castes and other such vulnerable groups on the one hand, whereas there were legislation for bringing reform in social institutions like family, marriage etc. on the other.
- Since Independence a number of social legislations have been passed. We know many of the evil practices such as *sati pratha*, child marriage etc. may have still persisted, had they not been curtailed by timely suitable legislations. Social legislation, beset as it may be with drawbacks, has nevertheless helped us to shelve many of our outmoded traditional customs and practices.

CHANGE IN STATUS OF WOMEN

For instance law has been instrumental in bringing about a change in the status of women. Equality of sexes has been ensured by our constitution and law has endowed many rights on women at par with men.

1. A woman can acquire, hold and transfer absolute property in addition to Stridhana under the Hindu Succession Act 1956. The Act further gives the women the right of succession equal to that of male heirs.
2. The Dowry Prohibition Act of 1961 requires the dowry amount to be transferred to the bride within three months from the time of the solemnization of the marriage. This property is her absolute property.
3. The reforms in the marriage laws of Hindus have removed many disabilities traditionally imposed on women. It has abolished bigamy and divorce can now be legally claimed by a wife.
4. Child Marriage Restraint Act 1929 has restrained child marriage.
5. In matters of employment, a woman is entitled for equal pay as her male counterparts.
6. A daughter can be given and taken in adoption under the Hindu Adoption and Maintenance Act 1956

ABOLISHING THE CASTE SYSTEM

- Law also has been instrumental in bringing about structural transformation by abolishing the caste system.
- Both under the constitutional and statutory law birth into any caste is no longer a barrier to occupational choice.
- Abolition of untouchability by the Protection of Civil Rights has paved the way for social mobility.
- Many more such instances can be cited where the changes and reforms are brought through social legislations.

SOME LEGISLATIONS FOR SOCIAL CHANGE

1. SCHEDULED CASTES WELFARE

- The Protection of Civil Rights(PCR) Act, 1955
- The Protection of Civil Rights(PCR) Rules, 1977
- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995

2. WELFARE OF BACKWARD CLASSES

- The National Commission for Backward Classes Act, 1993(External website that opens in a new window)

3. EMPOWERMENT OF PERSONS WITH DISABILITIES

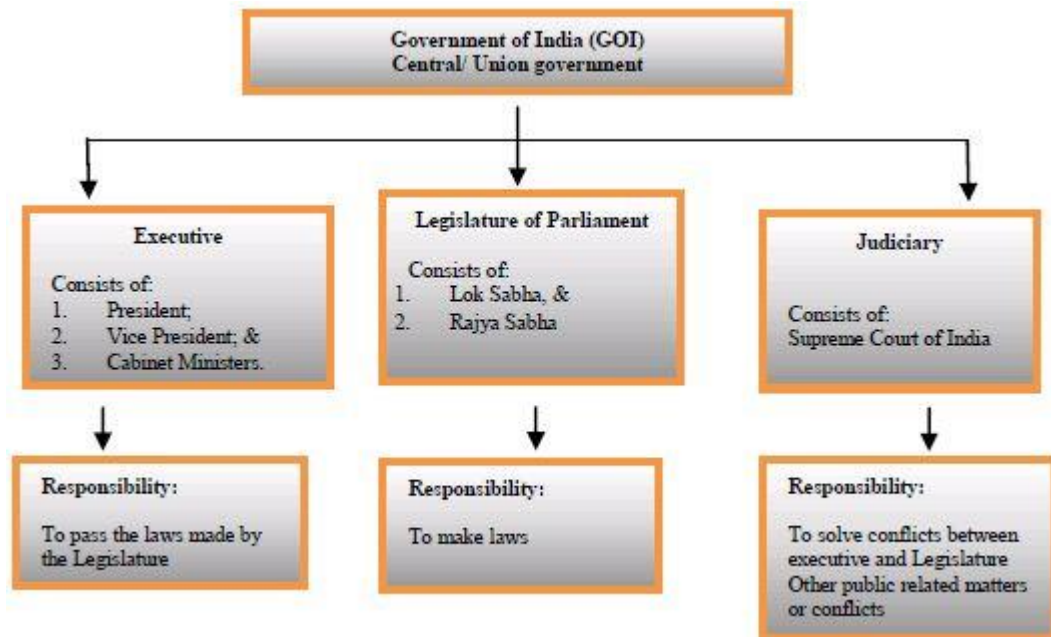
- Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995

Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Rules, 1996.(External website that opens in a new window)

CONCLUSION:

Thus, we can say that social legislation has helped in promoting opportunities for the exercise of freedom, dignity and justice to the less fortunate.

CONSTITUTIONAL BASIS FOR SOCIAL LEGISLATION:



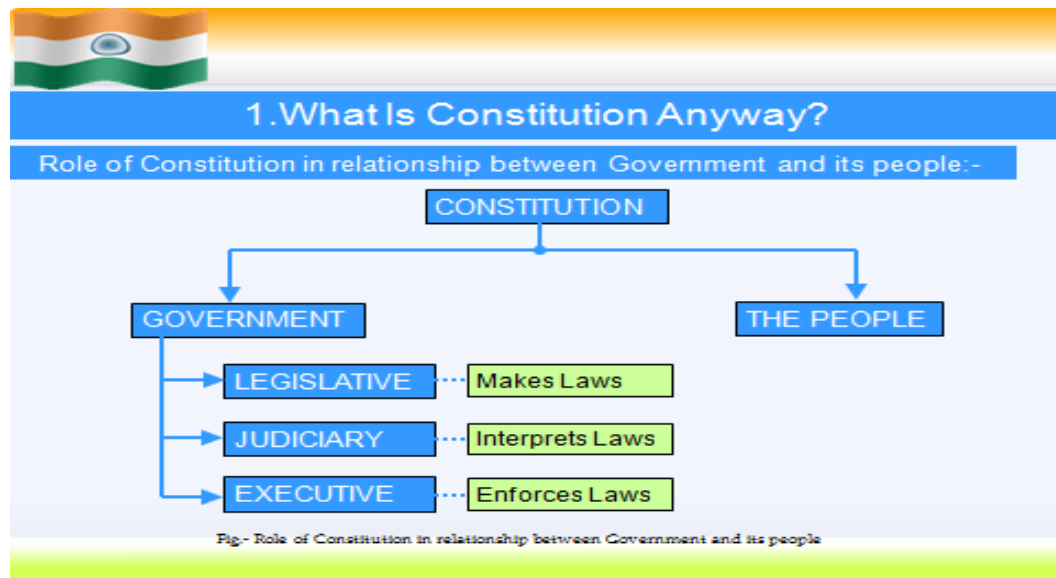
- Almost everything we do is governed by some set of rules. There are rules for games (like- soccer), for social clubs and for adults in the workplace. There are also rules imposed by morality and custom that play an important role in telling us what we should and should not do.
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- Some rules that are made by the legislatures (also known as Lok sabha/Rajya Sabha in India), for there own country, are called “Law”.
- We need Laws in Society so our society can regulate and work properly. They are designed to protect us and our property and to ensure that everyone in society behaves the way that the community expects them too.

I) Laws tell us In General-

The Constitution is the supreme law of the land. All other laws have to conform to the Constitution. The constitution contains laws concerning the government and its relations with the people what to expect as a consequence of our actions. Laws have been the glue that has kept society together. Without laws there would be complete anarchy.

A constitution is concerned with 2 main aspects:-

- a) The relation between the different levels of government and
- b) Between the government and the citizens.



NEED OF CONSTITUTION :

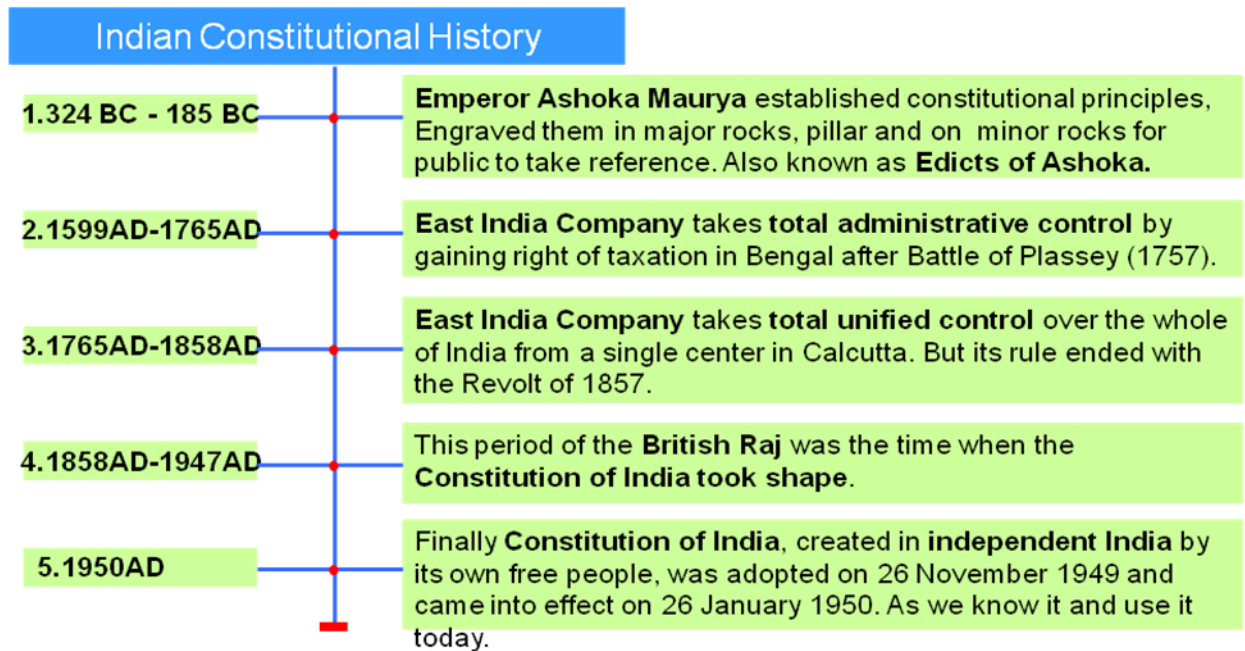
To perform following Functions we need Constitution-

- I. The first function of a constitution is to provide a set of basic rules that allow for minimal coordination amongst members of a society.
- II. The second function of a constitution is to specify who has the power to make decisions in a society. It decides how the government will be constituted.
- III. The third function of a constitution is to set some limits on what a government can impose on its citizens. These limits are fundamental in the sense that government may ever trespass them.
- IV. The fourth function of a constitution is to enable the government to fulfill the separations of a society and create conditions for a just society.

A LOOK AT ANCIENT INDIA:

India is a home of ancient “Indus valley civilization” which goes back to 3300–1300 BC (mature period 2600–1900 BC). India is a world famous for its ancient history and culture.

The time Before 500 AD is widely accepted as era of Ancient India. The earliest anatomically modern human remains found in South Asia date from approximately 30,000 years ago.



THE HISTORY OF CONSTITUTION OF INDIA:

1) **The Edicts of Ashoka (324 BC - 185 BC)** established constitutional principles for the 3rd century BC Maurya king's rule in Ancient India.

The Edicts of Ashoka are a collection of 33 inscriptions on the Pillars of Ashoka, as well as boulders and cave walls, made by the Emperor Ashoka of the Mauryan dynasty.

2) **East India Company (1599AD-1765AD)**- In 1600, the East India Company came to India as a trading company from Britain. In 1765, it became an administrative power after gaining the **Right of Taxation** in Bengal after defeating the Nawab of Bengal at the Battle of Plassey (1757).

3) **East India Company (1765AD-1858AD)**- During this period, the company established a **unified control over the whole of India** from a single center in Calcutta. Different Acts and Laws were forced by company during this period just so company could remain in power and authority. But the company came under increasing control by parliament of Britain and its rule ended with the Revolt of 1857.

4) **British Raj(1858AD-1947AD)**- This period of the British Raj was the time when the Constitution of India took shape. The main stages of its evolution were:

- I. **The Act for the Better Government of India (1858)**- This put India directly under the control of the British government. It set up the office of the Secretary of State, member of the British parliament, who would be in

charge of Indian government. In India, the Governor-General, working under the Secretary of State, led the administration.

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- II. **Indian Councils Act (1861)**- A separate legislative council was set up to assist the Governor-General in making laws. Indians could be appointed to the council, but only on the discretion of the Governor-General.
- III. **Indian Councils Act (1892)**- As a result of Indian demands, the sizes of the executive and legislative councils were increased. More Indians were appointed to these Councils, and the principle of election was introduced.
- IV. **Indian Councils Act (1909)**- This act increased the sizes of the councils again, and also gave the legislative council the power to discuss certain matters and to ask questions. More people were elected to the councils.
- V. **Government of India Act (1919)**- *This introduced 'diarchy' (partial responsible government) at the provincial level. Elected Indians were given charge of some areas of government (e.g., industry, education) at the provincial level.*
- VI. **Government of India Act (1935)**- This introduced 'provincial autonomy': responsible government at the provinces with elected Indians in charge of the administration, and responsible to the elected legislatures. A federal government was proposed, though it did not come into effect. At the centre, 'diarchy' was introduced.
- VII. **Indian Independence Act (1947)**- The British gave up control of the Government of India to two dominions - India and Pakistan. For the time being till the constitution was made, both of them would be governed in accordance with the Government of India act 1935.

VIII. In the light of these 'Objectives' the Assembly completed its task by November 26, 1949. The constitution was enforced with effect from January 26, 1950. From that day India became Republic of India.

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The Constituent Assembly of India was elected to write the Constitution of India. Following India's independence from Great Britain, its members served as the nation's first Parliament.

This body was **formed in 1946** for the purpose of making independent India's constitution. The assembly passed a resolution in 1947 January defining **the objectives of the constitution:-**

- 1) To set up a Union of India comprising British India and the princely states.
- 2) To set up a federal form of government with separate state and central governments.
- 3) To set up a democracy in which all power is derived from the people:
 - I) where all people are guaranteed justice, equality and freedom;
 - II) where minorities, depressed classes and the tribal's rights are protected;
- 4) To protect the integrity of India and her sovereign rights over land, sea and air.
- 5) To help India attain its rightful place in the world - and work for peace and welfare of all mankind.

Dr. Sachchidananda Sinha was the first president (temporary) of the Constituent Assembly when it met on December 9, 1946. Later, Dr. Rajendra Prasad became the President of the Constituent Assembly and Dr. Bhimrao Ambedkar became the Chairman of its drafting committee on December 11, 1946.

For the time being till the constitution was made, India would be governed in accordance with the Government of India act 1935.

The Assembly met in sessions open to the public, for 166 days, spread over a period of 2 years, 11 months and 18 days before adopting the Constitution.

It was finally passed and accepted on Nov 26, 1949. In all the 284 members of the Assembly signed the official copies (Original) of the Indian Constitution.

After many deliberations and some modifications over 111 plenary sessions in 114 days, the 308 members of the Assembly signed two copies (Final) of the document (one each in Hindi and English) on 24 January 1950

Same day the Assembly unanimously elected Dr, Rajendra Prasad as the President of India. which came into effect on Jan 26, 1950, known and celebrated as **the Republic Day of India**.

The first words of the Preamble - "**We, the people**" - signifies that power is ultimately vested in the hands of the People of India. So far the Preamble has been amended only once in 1976 by 42nd amendment (change) which inserted the words Socialism, Secularism and Integrity. **A brief description of these concepts are as follows** (in the order they come in Preamble)-

1. **Sovereign-** It means free to follow internal and external Policies.
2. **Secular-** It means no particular Religion is preferred.
3. **Socialist-** It means no concentration of Power and Money.
4. **Democratic-** It means rule by elected representative of the People of India.
5. **Republic-** It means no room for hereditary ruler or monarch.

WHAT IS THE CONSTITUTION OF INDIA:

Constitution of India is considered to be the supreme law of the country, as it puts forth the framework of fundamental political principles. It establishes the structure, procedures, powers and duties of the government and mentions the fundamental rights, directive principles and duties of citizens.

The Constitution declares India as a Sovereign, Socialist Democratic, and Republic with a parliamentary form of government.

The Indian Constitution shows Federal as well as Unitary System.

1. **Federal System-** powers are divided and/or shared between state and central governments
2. **Union System-** power concentration in central government with weak state Government

Federal Features-

1. Supremacy of the Constitution,
2. Division of power between the Union (central Governments) and State, and
3. The existence of an independent judiciary in the Indian Constitution.

Unitary Features-

1. Single Citizenship
2. Single Constitution
3. Power of union to override on the state matters
4. During emergency the system became virtually unitary
5. Changes in the names and boundaries of the states by the Parliament
6. Integrated Judiciary System
7. Centre appoints the Governors
8. Dependence of states on the centre for economic assistance and grants.

The Basic Principles of the Constitution of India

A careful study of the Constitution will show that there are at least eight basic principles which are embodied in it and which form the foundation of the political system in India. These are:

- (1) Popular sovereignty,
- (2) Socialism,
- (3) Secularism,
- (4) Fundamental rights,
- (5) Directive Principles of State Policy,
- (6) Judicial independence,
- (7) Federalism and
- (8) Cabinet government.

The basic structure of the Constitution is unchangeable and only such amendments to the Constitution are allowed which do not affect its basic structure or rob it of its essential character.

1. **By simple majority of the Parliament:** Amendments in this category can be made by a simple majority of members present and voting, before sending them for the President's assent.
 2. **By special majority of the Parliament:** Amendments can be made in this category by a two - third majority of the total number of members present and voting, which should not be less than half of the total membership of the house.
 3. **By special majority of the Parliament and ratification** of at least half of the state legislatures by special majority. After this, it is sent to the President for his assent.
- *The Indian Supreme Court and Election Commission are recognized as the bedrock of Indian democracy;* these two bodies stand up to the enormous powers that the constitution invests in the central government in general and to the unbridled powers of the Indian prime minister in particular.
 - The checks and balances that are provided by the constitution also smooth out the strained relations between the central government and the states by limiting the central government's ability to interfere in the states' affairs. Usually, either the state government or a political party may file an appeal or a writ petition in the Supreme Court against a policy or practice of the union or a state.
 - Although India's constitution follows the British parliamentary system, it is the constitution and not the parliament of India that reigns supreme. As in the United States, the Indian courts interpret the constitution and adjudicate the laws passed by the parliament.
 - Although the parliament has the authority to amend the constitution, India's courts have made sure that the parliament does not change its fundamental structure, which guarantees economic opportunities, social justice, and religious and political freedom to all its citizens. Although political corruption and coercion are rampant in India—as they are in other

developing countries—the courts are judiciary guarantors of India's freedom from oppression.

- The Constitution of India has some distinct and unique features as compared to other constitutions to the world. As Dr. B.R. Ambedkar, the Chairman of the Drafting Committee puts it, the framers had tried to accumulate and accommodate the best features of other constitutions, keeping in view the peculiar problems and needs of our country.

Main Characteristics of Constitution of India are:-

1. Longest written constitution.
2. Partly Rigid and Partly Flexible
3. A Democratic Republic
4. Parliamentary System of Government
5. A Federation
6. Fundamental Rights
7. Directive Principles of State Policy
8. Fundamental Duties
9. Secular State
10. An Independent Judiciary
11. Single Citizenship

CONCLUSION:

- A Constitution symbolizes independence of a country. Framework and structure for the governance of a free country are provided in the Constitution. The Constituent Assembly prepared the draft of the Constitution by keeping the 'Objectives Resolution' as the backdrop which reflected the aspirations of the people of India.

- The framing of the Constitution was completed on November 26, 1949 when the Constituent Assembly formally adopted the new Constitution. The Constitution came into force with effect from January 26, 1950.
- The Constitution begins with a Preamble which declares India to be a Sovereign, Socialist, Secular, Democratic, Republic. The Preamble also mentions the goals of securing justice, liberty and equality for all its citizens and promotion of national unity and integrity on the basis of fraternity among the people assuring dignity of the individual.
- It is time to undertake a study of Indian Federalism with a view to evaluate the trends, frictions and difficulties which have developed in the area of inter-governmental relations and to seek to evolve ways and means to meet the challenging task of making the Indian federation a more robust, strong and workable system so that the country may meet the tasks of self-improvement and development.
- The responsibility lies on not only the jurists and policy framers, but also the citizens of the country to work in a harmonious manner for the development of the country.

FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES OF STATE POLICY

During the period of 1947 to 1949, Constitution of India developed and prescribed the fundamental obligations of the State to its citizens and the duties and the rights of the citizens towards the State under the following sections which constitute the vital elements of the constitution.

The Fundamental Rights

These are the basic human rights of all citizens, defined in Part III of the Constitution. These are applicable irrespective of race, place of birth, religion, caste, creed, or gender. They are enforceable by the courts, subject to specific restrictions. Following are some of the important rights of the citizens of India in accordance with the Constitution.

- Right to Equality
- Right to freedom
- Right against exploitation
- Right to freedom of religion
- Cultural and Educational Rights

- Right to Constitutional Remedies

The Fundamental Duties

These are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India and concern the individuals and the nation. Included in Part IVA of the Constitution, like the Directive Principles, they are not enforceable by the law. According to the constitution, following are the duties to be followed by every citizen of India

- To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem.
- To cherish and follow the noble ideals which inspired our national struggle for freedom.
- To uphold 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 harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.
- To value and preserve the rich heritage of our composite culture.
- To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures.
- To develop the scientific temper, humanism and the spirit of inquiry and reform.
- To safeguard public property and to abjure violence.
- To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavor and achievement.
- Who is a parent or guardian, to provide opportunities for education to his child, or as the case may be, ward between the age of six to fourteen years.

According to the 86th constitutional amendment in 2002, it is the duty of the people of India to adapt to make India a safer place to live, to be clean and make the surrounding clean and not to hurt anybody physically and mentally.

The Fundamental Rights has been classified under the six categories- Right to Equality, Right to Freedom, Right against Exploitation, Right to Freedom of Religion, Cultural and Educational rights and Right to constitutional remedies.

Part III and article 12 to 35 of the constitution guarantees certain basic rights to the citizens of India known as the Fundamental Rights, which are justifiable.

1. Right to Equality (Art. 14-18)

Article 14 represents the idea of equality, which states that the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. The equality before law is guaranteed to all without regard to race, colour, or nationality.

(Article 15): Non-discrimination on grounds of religion, race, caste, sex, or place of birth

The Article 15 states that the state shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth, or any of them and would not be subject to any disability, liability, restriction, or condition. Nothing in this article shall prevent the state from making any special provisions for women and children. Nothing in this article or in sub-clause (G) of clause (1) of Article 19 shall prevent the state from making any special provision by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or Scheduled Tribes.

(Article 16): Equality of opportunity in public employment

Article 16 states that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state.

It empowers Parliament to make a law prescribing any requirement as to residence within that state or UT prior to employment or appointment in that state or UT. It empowers the state to make special provisions for the reservation of appointments or posts in favour of any backward classes of citizens.

(Article 17): Abolition of Untouchability

Article 17 abolishes Untouchability and forbids its practice in any form. Untouchability refers to a social practice which looks down upon certain oppressed classes solely on account of their birth and makes any discrimination against them on this ground.

(Article 18): Abolition of Titles

Article 18 abolishes all titles and prohibits the state to confer titles on anybody whether a citizen or a non-citizen. However, military and academic distinctions are exempted from the prohibition.

2. (Article 19): Right to Freedom

The Right to Freedom guarantees to the citizens of India six Fundamental Freedoms: 1) Freedom of Speech and Expression, 2) Freedom of Assembly, 3) Freedom to form associations, 4) Freedom of Movement, 5) Freedom to reside and to settle, and 6) Freedom of profession, occupation, trade, or business.

(Article 20): Protection in respect of Conviction for Offences

Article 20 provides protection against arbitrary and excessive punishment to any person who commits an offence. This article has taken care to safeguard the rights of persons accused of crimes. Moreover, this article cannot be suspended even during an emergency in operation under Article 359.

(Article 21): Protection of Life and Personal Liberty

Article 21 states no person shall be deprived of his life or personal liberty except according to procedure established by law. However, Article 21 puts a limit on the power of the State given under Article 246, read with the legislative lists. Thus, Article 21 does not recognise the Right to Life and Personal Liberty as an absolute right but limits the scope of the right itself.

(Article 22): Safeguards against Arbitrary Arrest and Detention
Firstly, Article 22 guarantees the right of every person who is arrested to be informed of the cause of his arrest; secondly, his right to consult, and to be defended by a lawyer of his choice. Thirdly, every person arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours and shall be kept in continued custody only with his authority.

3. (Articles 23-24): Right against Exploitation

Article 23 prohibits traffic in human beings, women, children, beggars or other forced labour militate against human dignity. Article 24 prohibits employing children below the age of 14 years in any hazardous profession. This right followed the human rights concepts and United Nations norms.

4. (Articles 25-28): Right to Freedom of Religion

Articles 25 and 26 embody the principles of religious tolerance and serve to emphasize the secular nature of Indian democracy, i.e. equal respect to all religions. Article 25 offers freedom of Conscience and Free Profession, Practice and Propagation of Religion whereas Article 26 helps to manage religious affairs, which is subject to public order, morality and health, every religious denomination or any section.

Article 27 provides freedom not to pay taxes for religious expenses on promotion or maintenance of any particular religion. Article 28 prohibits religious instructions in educational institutions wholly maintained by the state.

5. (Articles 29-30): Rights to minorities (cultural and educational rights)

Article 29 provides protection of interests of minorities. A minority community can effectively conserve its language, script, or culture by and through educational institution. Article 30 states rights of minorities whether based on religion or language to establish and administer educational institutions.

The 44th Amendment has abolished the Right to Property as a Fundamental Right guaranteed by Art. 19 (f) and Art. 31 of the Constitution. It is now only a Legal Right under article 300-A, gives protection against executive action but not against legislative action

6. (Articles 32-35): Right to Constitutional Remedies

Rights in order to be meaningful must be enforceable and backed by remedies in case of violation. This article guarantees the right to move Supreme Court by appropriate proceedings for the enforcement of Fundamental Rights and deals with Supreme Court's power to issue order or writs for the enforcement of Fundamental Rights. Article 33 empowers Parliament to modify the application of Fundamental Rights to the armed forces or forces charged with maintenance of public order.

On the other hand, Article 35 lays down that the power to make laws to give effect to certain specified Fundamental Rights shall vests only with the Parliament and not with State Legislatures.

Therefore, Fundamental Rights play a significant role because they are most essential for the attainment of full intellectual, moral, and spiritual status of an individual. Therefore, the objective behind the inclusion of Fundamental Rights in the Constitution was to establish a government of Law to preserve individual liberty, building an equitable society, and establish a welfare state.

FUNDAMENTAL RIGHTS :

The Fundamental Rights included in the Indian constitution are a way to ensure that the people get to lead a decent life in the country. These rights however have some peculiar features which are usually not found in the constitution of other countries.

Peculiar Features of the Fundamental Rights

Fundamental Rights are not absolute. They are subject to reasonable limitations. They strike stability between a person's freedom and social safety. But the

reasonable restrictions are subject to legal review. Here is a look at some such peculiar features of these rights:

- All Fundamental Rights can be suspended. Right to freedom is automatically suspended during Emergency in the interest of safety and integrity of the country.
- A number of Fundamental rights are for the Indian Citizens only, but few of the Fundamental Rights can be enjoyed by both citizens and non-citizens.
- Fundamental Rights can be amended but they cannot be abolished. The abrogation of Fundamental rights will breach the basic formation of the Constitution.
- Fundamental Rights are both positive and negative. The negative rights prevent the state from doing certain things. It prevents the state from making discrimination.
- Some Rights are available against the state. Some rights are available against individuals.
- The Fundamental Rights are justifiable. A citizen may approach the court of law when his fundamental rights are violated.
- Some Fundamental Rights may not be available to a person working in Defense services as they are restricted from some of the rights.
- The Fundamental Rights are political and social in nature. No economic rights have been guaranteed to the Citizens of India although without them the other rights are of slight or of no importance.
- Each Right is conditioned by certain duties.
- Fundamental rights have a comprehensive approach and they tend to safeguard our social, economic, cultural and religious interests.
- These are an integral part of the Constitution cannot be altered or taken away by ordinary legislation.
- Fundamental Rights are an indispensable part of our Constitution.
- Twenty-four articles are enjoined with these Fundamental Rights.
- Parliament can amend Fundamental Rights by a special procedure.
- Fundamental Rights aim at restoring collective interest along with individual interest.

Conclusion

There is no right which has no corresponding obligations. It is, however, worth remembering that the Constitution has very extensively elaborated rights and the courts of law have very little to twist these to suit their convenience or take shelter of duties.

Directive Principles of State Policy:

It's aim to create social and economic conditions under which the citizens can lead a good life. They also aim to establish social and economic democracy through a welfare state.

History

- The concept of Directive Principles of State Policy was borrowed from the Irish Constitution. The makers of the Constitution of India were influenced by the Irish nationalist movement, particularly the Irish Home Rule Movement.
- Hence, the Directive Principles of the Indian constitution have been greatly influenced by the Directive Principles of Social Policy. The idea of such policies "can be traced to the Declaration of the Rights of Man proclaimed by Revolutionary France and the Declaration of Independence by the American Colonies."
- The Indian constitution was also influenced by the United Nations Universal Declaration of Human Rights.
- Indians, who were seeking independence from British rule and their own government, were particularly influenced by the independence of Ireland from British rule and the development of the Irish constitution. Also, the Directive Principles of State Policy in the Irish Constitution were looked upon by the people of India as an inspiration for the independent India's government to comprehensively tackle complex social and economic challenges across a vast, diverse nation and population.
- In 1928, the Nehru Commission composing of representatives of Indian political parties proposed constitutional reforms for India that apart from calling for dominion status for India and elections under universal suffrage, would guarantee rights deemed fundamental, representation for religious and ethnic minorities, and limit the powers of the government.
- In 1931, the Indian National Congress (the largest Indian political party of the time) adopted resolutions committing itself to the defence of fundamental civil rights, as well as socio-economic rights such as the minimum wage and the abolition of untouchability and serfdom.

- Committing themselves to socialism in 1936, the Congress leaders took examples from the constitution of the erstwhile USSR, which inspired the fundamental duties of citizens as a means of collective patriotic responsibility for national interests and challenges.
- When India obtained independence on 15 August 1947, the task of developing a constitution for the nation was undertaken by the Constituent Assembly of India, composing of elected representatives under the presidency of Dr. Rajendra Prasad. While members of Congress composed of a large majority, Congress leaders appointed persons from diverse political backgrounds to responsibilities of developing the constitution and national laws.
- Notably, Bhimrao Ramji Ambedkar became the chairperson of the drafting committee, while Jawaharlal Nehru and Sardar Vallabhbhai Patel became chairperson of committees and sub-committees responsible for different subjects.
- A notable development during that period having significant effect on the Indian constitution took place on 10 December 1948 when the United Nations General Assembly adopted the Universal Declaration of Human Rights and called upon all member States to adopt these rights in their respective constitutions.
- Both the Fundamental Rights and the Directive Principles of State Policy were included in the I Draft Constitution (February 1948), the II Draft Constitution (17 October 1948) and the III and final Draft Constitution (26 November 1949), prepared by the Drafting Committee

Directive Principles Of State Policy

The Constitution lays down certain Directive Principles of State Policy which though not justiciable, are 'fundamental in governance of the country' and it is the duty of the State to apply these principles in making laws. These lay down that the State shall strive to promote welfare of people by securing and protecting as effectively as it may a social order in which justice - social, economic and political, shall inform all institutions of national life.

The Directive Principles of State Policy (DPSP) is a guideline in the Constitution of India to the State. They are enumerated in Part IV of the Constitution from Article 36 to Article 51.

Dr. B R Ambedkar described these principles as 'novel features' of the Constitution.

These principles lay down that the State shall strive to promote welfare of people by securing and protecting as effectively as it may a social order in which justice - social, economic and political, shall inform all institutions of national life.

Unlike Fundamental Rights, the Directive Principles of State Policy (DPSP) are non-justiciable in nature which means they are not enforceable by the courts for their violation. However, the Constitution itself declares that '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'. Hence, they impose a moral obligation on the state authorities for their application.

Features of Directive Principles of State Policy (DPSP)

1. It denotes the ideals that the State should keep in mind while formulating policies and enacting laws.
2. It resembles the 'Instrument of Instructions' enumerated in the Government of India Act of 1935. In the words of Dr B R Ambedkar, 'the Directive Principles are like the instrument of instructions, which were issued to the Governor-General and to the Governors of the colonies of India by the British Government under the Government of India Act of 1935. What is called Directive Principles is merely another name for the instrument of instructions. The only difference is that they are instructions to the legislature and the executive'.
3. It constitutes a very comprehensive economic, social and political programme for a modern democratic State which *aimed at realising the high ideals of justice, liberty, equality and fraternity as outlined in the Preamble to the Constitution*. They embody the concept of a 'welfare state' which was absent during the colonial era.

Classification of Directive Principles of State Policy (DPSP)

The Constitution of India does not formally classify the Directive Principles of State Policy but for better understanding and on the basis of content and direction- they can be classified into three categories: Socialistic Principles, Gandhian Principles, and Liberal-Intellectual Principles.

Socialistic Principles

These principles contemplate the ideology of socialism and lay down the framework of a democratic socialist state. The concept envisages providing social and economic justice, so that state should achieve the optimum norms of welfare state. They direct the state through- Article 38, Article 39, Article 39 A, Article 41, Article 42, Article 43, Article 43 A and Article 47.

Gandhian Principles

These principles reflect the programme of reconstruction enunciated by Gandhi during the national movement. In order to fulfil the dreams of Gandhi, some of his ideas were included in DPSP and they direct the state through- Article 40, Article 43, Article 43 B, Article 46, Article 47 and Article 48.

Liberal-Intellectual Principles

These principles inclined towards the ideology of liberalism and they direct the state through- Article 44, Article 45, Article 48, Article 48 A, Article 49, Article 50 and Article 51.

New Provisions of Directive Principles after Amendment

Four new Directive Principles were added in the 42nd Amendment Act of 1976 to the original list. They are requiring the state:

1. Added clause in Article 39: To secure opportunities for healthy development of children
2. Added clause in Article 39 as Article 39A: To promote equal justice and to provide free legal aid to the poor
3. Added clause in Article 43 as Article 43 A: To take steps to secure the participation of workers in the management of industries
4. Added clause in Article 48 as Article 48A: To protect and improve the environment and to safeguard forests and wildlife

The Relationship Between the Fundamental Rights, Directive Principles and Fundamental Duties

- Directive Principles have been used to uphold the Constitutional validity of legislation in case of conflict with Fundamental Rights.
- According to the amendment of 1971, any law that even though it deviates from the Fundamental Rights, but has been made to give effect to the Directive Principles in Article 39(b)(c) would not be deemed invalid. The Fundamental Duties will be held obligatory for all citizens subject to the State enforcing the same by means of a valid law.
- Since both the Fundamental Rights and the Directive Principles were of common origin, it is clear that they both had the same objectives, namely to ensure the goal of a welfare society envisaged by the Preamble.
- If the Fundamental rights seek to achieve the goal by guaranteeing certain minimal rights to the individual as against State action, the Directives enjoin the State to ensure the welfare of the people collectively. Whenever the State

makes laws, they should be made consistently with these principles with a view to establishment of an egalitarian society.

- The idea of embodying a code of Directive Principles has been borrowed by the framers of the Constitution from the Irish Constitution of 1937, which contains similar provisions.
- The preamble, the Directive Principles and the Fundamental Rights constitute the more important features of our Constitution. The Directive Principles of the State Policy enshrined in Part IV and the Fundamental Rights, guaranteed in Part III of the Constitution.
- Although Fundamental Rights and Directive Principles appear in the Constitution as distinct entities, it was the Assembly that separate them; the leaders of the freedom struggle had drawn no distinction between the positive and negative obligations of the states. Both types of rights had developed as a common demand, products of national and social revolutions, of their almost inseparable intertwining and of the character of Indian polity itself.
- The directive principles, though fundamental in the governance of the country, are not enforceable by any court in terms of the express provisions of Article 37 of the Constitution, while fundamental rights are enforceable by the Supreme Court and the High Court in terms of the express provisions of Article 32 and 226 of the Constitution. This does not, however, mean or imply any dichotomy between the two. Its social aspect can, however, be amended only by legislation to carry out the objectives of the directive principles of state policy.

UNIT-5

LAWS RELATED TO MARRIAGE

The Hindu Marriage Act:

Marriages are solemnized ceremonies by which a couple is officially united in the presence of their friends and family members. In India, every religion abides by certain rules and regulations that have to be followed during this occasion. In this article, we take a closer look at the Hindu Marriage Act.

Applicability of the Hindu Marriage Act

- The Hindu Marriage Act is applicable to the following group of people.

- A person who is a Hindu including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj.
- A person who is a Buddhist, Jaina or Sikh.
- A person who is residing in regions where this act is applicable and the person should not be a Muslim, Christian, Parsi or Jew.
- A child both legitimate or illegitimate whose parents are Hindus, Buddhists, Jains or Sikhs.
- A child whose parents is a Hindu, Buddhist, Jaina or Sikh and is raised as a member of a tribe, community, group or family to which their parents belong.
- Any individual who is a convert or re-convert to Hindus, Buddhist, Jaina or Sikh religion.
- According to Clause (25) of Article 366 of the Constitution, this is not applicable to members of any Scheduled Tribe unless the Central Government issues a notification in the Official Gazette.

Conditions for a Hindu Marriage

- A marriage between two Hindus will be solemnized if the following conditions are fulfilled.
- The couple should not have a spouse living during the wedding.
- Neither of the couples is incapable of consenting to the marriage due to unsoundness of mind.
- Neither of the couples should be suffering from any mental disorders which makes him/ her unfit for marriage and the procreation of children.
- Neither of the couples should not be suffering from attacks of insanity or epilepsy.
- The bridegroom has to complete 21 years of age and the bride has to complete 18 years of age at the time of their wedding.
- The couple should not be in a prohibited relationship unless their custom permits them to get married.
- The couple should not be sapindas (cousins) unless their custom permits them to get married.

Overriding Effect of Act

According to the Hindu Marriage Act, any text, rule or interpretation of Hindu Law or any custom or usage as part of the law in force immediately before the commencement of this Act shall cease to have an effect to any matter for which provision is made in this Act. Any other law that has been in force immediately

before the commencement of this Act ceases to have effect in so far as it is inconsistent with any of the provisions contained in this Act.

Ceremonies for a Hindu Marriage

Hindu marriages are solemnized according to the customary rites and ceremonies of either of the couple's custom. One of the rites and ceremonies include the saptapadi where the bridegroom and the bride take seven steps before the sacred fire. The marriage is bound and completed when the seventh step is taken.

Registration of Hindu Marriages

- As proof for Hindu marriages, the State Government has implemented rules that provide the particulars relating to their marriage and conditions that are prescribed in the Hindu Marriage Register. The State Government provides that entering of the particulars as in sub-section (1) it will be compulsory in the State for some cases as per the direction that has been issued. However, violating this would lead the individual to pay a fine of Rs. 25. The Hindu Marriage Register is to be opened for inspection at reasonable times and would be considered as an evidence of statements. This is given by the Registrar on payment of the prescribed fee. The validity of the Hindu marriage will in no way be affected by the omission to make the entry.

Restitution of Conjugal Rights

- When the husband or the wife has withdrawn from the society without a reasonable excuse, the aggrieved person may apply a petition to the District Court for restitution of conjugal rights. After investigating, the court verifies the truth mentioned in the petition and if there is no legal rule for granting the application, the court may grant the restitution of conjugal rights.

All reasonable excuses have to be furnished by the person who has been withdrawn from society.

Judicial Separation

- As per sub-section (1) of Section 13, either of the couples whether solemnized before or after the commencement of this Act has to furnish a petition for judicial separation. When a judicial separation has been passed, there is no requirement for the petitioner to cohabit with the respondent. However, the court can rescind the petition if there is no satisfactory truth made in the statement.

Voidable Marriages

- Any marriages that are solemnized before or after the commencement of this Act, will be voidable and declared invalid in the following cases.
- When the marriage is not consummated due to the impotency of the respondent.
- When a marriage is infringed as per the conditions that are specified in Clause (ii) of Section 5.
- When the consent of the petitioner or the guardian in the marriage of the petitioner is required under Section 5 before the commencement of the Child Marriage Restraint Act 1948, the consent of the guardian was obtained by force or by fraud or by any material fact or circumstances that are related to the respondent.
- If the respondent is pregnant by a person who is not the petitioner.

The legitimacy of Children of void marriages:

- According to Section 11, a child of any marriage is legitimate if the marriage had been valid, whether or not the marriage is null and void.
- If a decree of nullity is granted for a voidable marriage, any child conceived prior to the formulation of the decree will be considered as a legitimate child irrespective of the existence of the decree.

Punishment of Bigamy

- As per the provisions of Section 494 and 495 of the Indian Penal Code (45 of 1860), a marriage between two Hindus after the commencement of the Act is void if at the date of marriage either one of the couples has a living spouse.
- Punishment for Contravention of Certain other Conditions
- The following are the punishments for contravention of a Hindu marriage.
- If there has been a contravention specified in clause (ii) of Section 5, the person committed the crime shall be imprisoned up to fifteen days or shall be charged with a fine that goes up to Rs. 1000
- If there has been a contravention specified in clause (iv) or clause (v) of Section 5, the person committed the crime will be imprisoned for one month or will be charged with a fine that goes up to Rs. 1000 or in some cases, the person will be charged with both

MUSLIM MARRIAGE ACT:

- The Muslim Marriage Act was drafted into the Indian legal system in the year 1954. The Act regulates the solemnization of marriages among the Muslim community in India. According to this Act, both the groom and the bride are to consent to the marriage of their free wills. A formal, binding contract verbal or on paper is considered integral to a religiously valid Muslim marriage and outlines the rights and responsibilities of the bride and groom. This Act applies to all Indian citizens, whether residing in India or abroad. The State of Jammu and Kashmir is excluded under the ambit of this Muslim Marriage Act, though residents domiciled in other states but residing in Jammu and Kashmir would qualify for these provisions. In this article, we will look at the Muslim Marriage Act, 1954 in detail.

Requisites of Marriage:

Requisites of a valid Marriage under the Muslim Marriage Act are explained in detail below:

- Both the parties (groom & bride) should belong to and professes the Muslim faith or religion
- Each of the parties should as regards age, mental capacity and otherwise, be capable of contracting marriage
- The bride and groom will not by reason of anything contained in the Islamic law relating to marriage be prohibited from marrying one another
- As per this act, the Muslim bride and groom, understanding the nature of the contract, will freely consent to marry one another
- Muslim marriage will be affected by or before a person appointed as a marriage officer under the provisions of the Muslim Marriage Act
- Marriage will be registered in accordance with the provisions of the Muslim Marriage Act

Non-Applicability of Act

The Muslim Marriage Act is not applicable to following the type of marriages. In any case, the marriages contracted and registered under this act, the same will be null and void ab initio.

- This act is not applicable if either of the parties has or had a wife or husband alive at the time of contracting and registering the marriage

- Muslim Marriage Act is not applicable if either party is directly descended from the other
- If the bride is a sister of the male either by the full or the half-blood, marriage won't be solemnised under the Muslim Marriage Act
- If the groom is a sister of the female either by the full or the half-blood, marriage won't be solemnised under the Muslim Marriage Act

Note: If any person intermarries than in accordance with the provisions Muslim Marriage Act, the marriage of such persons will not be registered under the provisions of this Act.

Age Limit and Consent

The age of a person, being a member of the Muslim community, is capable of contracting marriage will be sixteen years. If whom being a male is less than twenty-one years of age or being a female is under eighteen years of age (not being a widower or widow), the consent to such marriage will be registered with the presence of following persons:

- Father if living
- If the father is dead, the guardians lawfully appointed or of one of them
- If there is no guardian, then of the mother
- If there is no mother living, then of such other persons as may be appointed by the Minister

The above-mentioned persons will be certified in writing by the marriage officer by or before whom the marriage is effected upon the certificate of such marriage will be issued in accordance with the provisions of this Muslim Marriage Act.

Muslim Marriage Certificate

- Immediately after a Muslim marriage has been affected by or before a marriage officer, he/she will enter in a book to be supplied by the Registrar-General and kept by the marriage officer. For that purpose, a Muslim Marriage Certificate in the prescribed format of the marriage will be signed by the marriage officer and by the parties to the marriage and by two credible witnesses, and such marriage officer will enter up in the counterfoil the prescribed particulars and sign the same.
- Every marriage officer within seven days of a Muslim marriage being affected by or before him, transmit to the Registrar-General the Muslim Marriage Certificate. Upon receipt of this Certificate the Registrar General, if it appears to him that the requisites of a valid Muslim marriage have been

complied with and that the consent of any person required by this Act to consent to such marriage has been obtained, will cause the same to be registered.

- Every marriage officer without reasonable cause or excuse fails to transmit to the Registrar-General any certificate in accordance with the provisions of this act will be guilty of an offence against this Act and will be liable on summary conviction before a Resident Magistrate to a fine not exceeding twenty dollars.

Correction of Clerical Errors in Register Book:

The Registrar-General will correct any clerical error in any Muslim marriage certificate filed in his office and the Register Book and will authenticate every such correction by his signature and the date of such correction.

CHRISTIAN MARRIAGE ACT:

The Indian Christian Marriage Act:

The laws regulating the solemnization of marriages among the Christian community in India is laid down by the Indian Christian Marriage Act of 1872. Initially enacted by the British-Indian administration, Christian marriages in the country are performed by an authorised Minister or Priest in a church. After the marriage ceremony is completed, the minister or priest registers the marriage and issues a certificate of marriage in the name of the couple and thereby, makes it official. To register a marriage officially, it is essential for each party to the union to make an application to the concerned authority that is located in their vicinity regarding the intention of marriage. This article talks about the necessary details of the Indian Christian Marriage Act and its features.

The Act

For the marriage to be valid under the Indian Christian Marriage Act of 1872, specific requirements need to be fulfilled. According to the Act, it is a necessity that either one or both the parties involved in the marriage be Christians. Therefore under the Act, a marriage may be termed as void and redundant unless one of the parties taking part in the union is governed by a different law that forbids such a wedding on the grounds of prohibited degrees of relationship.

Essential Requirements

According to The Indian Christian Marriage Act of 1872, the following are required to be fulfilled to constitute a valid marriage.

1. The age of the Bridegroom must not under twenty-one years and, the age of the Bride must not be under eighteen years.
2. Both the parties of the marriage must give voluntary consent to the ceremony and should not be obtained by misrepresenting facts or under compulsion or undue influence.
3. Neither of the party should have a living spouse at the time of the marriage.
4. The marriage must be performed in the presence of a person licensed to grant a certificate of marriage and at least two reliable witnesses.

Documents Required

The following documents are required for the registration of a marriage under the Indian Christian Marriage Act.

1. A completed application form with precise details.
2. Passport-sized photographs of both the parties to the marriage.
3. The Certificate of Marriage issued by the Minister or the Priest who performed the marriage.
4. Two photographs from the Wedding of the rituals along with an Invitation to the Wedding.
5. Residence proof and the proof of Age of both the parties to the marriage.
6. An affidavit certifying the mental condition and the marital status of both the parties.

Individuals Eligible to Solemnise

The following individuals are authorised to solemnise a Christian marriage as per the Indian Christian Marriage Act.

1. By an individual who has received the episcopal ordination and is authorised to solemnise a marriage according to the rules, rites, ceremonies and the customs of the Church of which he is a Minister.
2. By an individual who is a Clergyman belonging to the Church of Scotland and is authorised to solemnise a marriage according to the rules, rites, ceremonies and the customs of the Church of Scotland.
3. By an individual who is a Minister of Religion who is authorised to solemnise marriage with a license as per the Act.
4. By an individual who is licensed under the Act to grant Certificated of marriage between Christians in India.

Marriage Registrar Conditions:

Various conditions are mentioned in the Act that has to be followed by the Marriage Registrar to perform a Marriage ceremony. The following terms have to be met if the Marriage Registrar has to perform the marriage as stated by the Act.

Notice of Intended Marriage

Either of the party must submit a written application or a notice of the intended marriage to Marriage Registrar that resides in the same vicinity as the parties. This is done to notify the concerned authority of their intention to get married. If both the parties live in different locations, it is essential that each party makes a separate notice in writing to the Marriage Registrar that is located within their area of residence. The written application or notice of the intended marriage is recorded into the “marriage notebook” and is put up in the notification area of the office for public viewing.

Pledge before the Registrar

Either of the party to the marriage must make a personal appearance before the Marriage Registrar before the certificate of notice has been issued. The party should appear before the Registrar by pledging the following.

1. That there are no obstacles, natural inclinations or other legitimate impediments to the intended marriage.
2. That the place of their residence is within the locale of the marriage registrar.

If either of the parties is a minor, the consent of one of the persons that are listed below is of great importance to perform the marriage.

- Father of the Minor, if alive and well.
- The authorised Guardian of the Minor if available.
- The Mother of the Minor, if no other individual is authorised to such a consent resides in the country.

Certificate of Notice

Once the pledge is taken before the Marriage Registrar by either one of the parties to the intended marriage, a Certificate of Notice is issued. Once the pledge is done, the Registrar wait for four days to issue the certificate. After the period has lapsed,

the Marriage Registrar has the power to grant the Certificate of Notice. Information such as the address of the Church or the Chapel or any other place that the marriage rituals are expected to be performed are stated in the Certificate of Notice. This Notice would not be issued if it is stopped by anyone stating apparent reasons why the testament ought not to be granted. The issuance of the certificate of notice makes it mandatory for the marriage to be performed within two months from the date of publication. Failing to do so would make the certificate of notice redundant and new certificate would be required.

Performance of the Marriage

- Under the Indian Christian Marriage Act, a Christian Marriage is performed between the parties to the marriage with accordance to the rituals which is considered to be essential and proper by the Minister or the Priest designated to perform the wedding. The presence of two eligible witnesses other than the minister or the priest performing the marriage is a mandatory requirement at the marriage ceremony. A marriage cannot be performed if it is not performed within two months from the issuance of the certificate of notice. In such a case, a new certificate of notice has to be applied for and issued to solemnise the marriage.

Time and Place

The Indian Christian Marriage Act clearly states where Christian marriages should take place at and the time at which it should be performed. The time for performing a Christian marriage ritual has to be scheduled between the timeframe of six in the morning to seven in the evening. The place that Christian marriage has to be performed is at a Church or a Chapel. Some special considerations and requests are granted that give flexibility to the time and place to conduct the marriage ceremony.

Registration of Marriage

- An application for registration of the marriage is made by both the party to the concerned authority in whose jurisdiction either of the parties has been residing. The wedding is registered by the Marriage Registrar who was present at the marriage and performed the union of the couple in the Marriage Register. An acknowledgement slip of the registration with the authorised signatory of both the parties along with the witnesses present at

the time is recorded. This is then attached to the Marriage Register and thereby indicating that the marriage was registered officially. These slips of acknowledgement are sent out at the end of the month to the Registrar General of Births, Deaths and Marriages. Christian marriages in India may also be endorsed under a special provision without prior notice.

Correction of Errors:

Any person who comes across an error in the form or substance of a marriage entry in the Register of Marriages must bring it to the notice of the person who registered the marriage in the first place. The authorised individual should make the changes within one month of discovering the error. The error must be corrected in the presence of the persons married or, in the case of either of their deaths or absence, in the presence of two other credible witnesses. The correction must be made by the entry in the margin without any alteration to the original entry. The authorised person has to sign the marginal entry and add the date of such a correction made. This marginal correction should be made in the certificate of the marriage as well. Every entry made under this section should be attested by the witnesses in whose presence the correction was made.

Personal Law relating marriage:

Laws relating to marriage have been clearly codified in different Acts which are applicable to people of different religion.

These acts are:

The Converts' Marriage Dissolution Act, enacted during 1866
The Indian Divorce Act, enacted in 1869
The Indian Christian Marriage Act, enacted during 1872
The Kazis Act, enacted during 1880
The Anand Marriage Act, enacted in 1909
The Indian Succession Act, enacted during 1925
The Child Marriage Restraint Act, enacted in 1929
The Parsi Marriage and Divorce Act, enacted in 1936
The Dissolution of Muslim Marriage Act, enacted during 1939
The Special Marriage Act, enacted during 1954
The Hindu Marriage Act, enacted during 1955
The Foreign Marriage Act, enacted in 1969 and

The Muslim Women (Protection of Rights on Divorce) Act, enacted in 1986.

In personal cases, courts are required to work with the personal laws when the issue is not being covered by any statutory law. For instance, let's take a brief look at Hindu personal law.

Hindu Personal Laws

- Hindus personal laws can be found in:
- The 'Shruti' which contains all the four Vedas, namely Rig Veda, Sama Veda, Yajurveda, and Atharva Veda.
- The 'Smritis' which are handed down teachings and sayings of Rishis and holy men of Hindu religion and the commentaries written by many historic authors about the 'Smritis'. There are three types of Smritis, namely: Codes of Manu, Yajnavalkya, and Narada.
- Personal Laws and customs as recognised by the statutory law regulate the Hindus. These are applicable to legal issues related to matters of inheritance, succession, marriage, adoption, co-parenting, the partition of family property, obligations of sons to pay their father's debts, guardianship, maintenance and religious and charitable donations.

Sources of Muslim Personal Law

- The Holy Quran
- The sayings and teachings of Prophet Mohammed carefully preserved in tradition and passed down generation to generation by holy men.
- Ijma, the agreement of Muslim scholars, companions, and disciple of Prophet Mohammed on matters of religion.
- Kiyas, an analysis made using Quran, sayings of Prophet Mohammed, and Ijma when any individual one of them is not applicable to a particular case.
- Digests and commentaries on Muslim law, written by ancient Muslim scholars. The most famous include Hedaya (composed in the 12th century) and Fatawa Alamgiri, compiled under the instructions of Mughal emperor Aurangzeb Alamgiri.
- Personal laws and customs govern the Muslims. It applies to all matters relating to inheritance, wills, succession, legacies, marriage, dowry, divorce, gifts, wakfs, guardianship and pre-emption.

Christian Personal Law

- The Christian Marriage Act, enacted during 1972 has instructions on dealing with matters related to matters of marriage. Indian divorce act enacted during 1869 contains matters related to divorce.

- Under the directions of this act, the husband can appeal for divorce on grounds of adultery by the wife.
- Similarly, the wife can appeal for divorce on the grounds that the husband has converted to another religion or has married another woman or if he is found guilty
- Under that section the husband can seek divorce on grounds of adultery on the part of his wife and the wife can seek divorce on the ground that the husband has converted to another religion and has gone through marriage with another woman or has been guilty of any of the acts mentioned in the act.

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Registration of Civil Marriages

A.

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d Special Marriage Act 1872

- The first law of civil marriages of India was the Special Marriage Act 1872. It was enacted on the recommendation of the First Law Commission set up during the British rule. Mainly meant to facilitate inter-religious marriages, initially it could be availed only by those who did not claim to profess any of the established religions. Later, by an amendment effected in 1923 it was made available – as an alternative to personal law – also to marriages both parties to which belonged to the Hindu, Buddhist, Jain or Sikh religious faiths.
 - Under this Act the processes of solemnization and registration of marriage were combined into the same transaction. Marriage Registrars, independent or ex officio, were to be appointed under its provisions by the Local Government for various territories under its administration (Section 3); and they would play the key role in the solemnization of marriages under the Act. The process would begin with a notice of the intended marriage to be given to the Marriage Registrar in the prescribed form, and end with its solemnization in his presence (Sections 4, 12).
 - After solemnization of a marriage, the Marriage Registrar would “enter a certificate thereof” in the prescribed form in his Marriage Certificate Book, signed by the parties and three witnesses (Section 13). Every Marriage Registrar acting under the Act was required to send, at prescribed intervals, certified true copies of all entries in his Marriage Certificate Book to the Registrar-General of Births, Deaths and Marriages of the region (Section 13-A).

- The Marriage Certificate Book would “at all reasonable times be open for inspection and shall be admissible as evidence of the truth of the 11 statements therein contained” and its copies would be provided to the applicants (Section 14). The Special Marriage Act 1872 remained in force until after independence and was eventually repealed by and replaced with the new Special Marriage Act 1954. Its provisions on solemnization-cum-registration of marriages were, however, more or less retained under the new Act.

B. New Special Marriage Act 1954

- The new Special Marriage Act 1954 also combines solemnization and registration of civil marriages into the same transaction. It enables the State governments to appoint one or more Marriage Officers for its purposes for various administrative units. The Act does not apply in the State of Jammu and Kashmir but provides for the appointment of Marriage Officers there for the people domiciled outside but living within the State (Section 3).
 - The procedure for civil marriages under this Act is more or less the same as under the first Special Marriage Act of 1872 – beginning with a notice of an intended marriage to be given in the prescribed form to the Marriage Officer of the district in which at least one party has lived for at least 30 days (Section 5) and ending with its solemnization in his presence (Sections 11-12).
 - The provision of the old Act of 1872 for a Marriage Certificate Book to be maintained by the Marriage Officers is retained in the new Act which also provides that the marriage certificate “shall be deemed to be conclusive evidence of the fact that a marriage under this Act has been solemnized and all formalities respecting the signatures of witnesses have been complied with.” (Section 13).
- A. By a new provision not found in the old Special Marriage Act of 1872 the 12 new Special Marriage Act of 1954 provides the facility of converting an existing religious marriage into a civil marriage by its registration under its provisions (Section 15). The procedure for this is the same as for marriages to be originally solemnized under the Act, including the issuance of a marriage certificate.

B. The provision for periodical transmission of marriage records by all Marriage Officers to the Registrar-General of Births, Deaths and Marriages is retained in the new Act, periodicity and forms for which are to be prescribed by the State governments under the Rules to be framed for carrying out purposes of the Act (Sections 48-50).

C. Foreign Marriage Act 1969 :

A. The Foreign Marriage Act was enacted to facilitate solemnization of civil marriages by Indian citizens in foreign countries. Marriage Officers are to be appointed by the Central Government for this purpose in its Diplomatic Missions abroad (Section 3). Under this Act an Indian citizen may marry another Indian or a foreigner (Section 4).

- Like in the Special Marriage Act 1954, under this Act too solemnization and registration of marriages are parts of the same transaction. The procedure for solemnization and registration of such marriages is more or less the same as under the Special Marriage Act 1954 (Sections 5-13). Marriage Certificate Books are to be maintained in all Diplomatic Missions. There is no provision in this Act for transmission of records to any general registry of the country.
- Besides solemnization of new marriages, this Act also makes a provision for registration of pre-existing marriages solemnized in foreign countries under the laws of those countries (Section 17). 13

Registration of Hindu, Buddhist, Jain and Sikh Marriages

A. Hindu Marriage Act 1955

- Hindu law was first codified in the princely state of Baroda under the title “Baroda Hindu Nibandh 1937”. Before that the Mysore State had enacted a Hindu Law (Women’s Rights) Act 1933.
- In what was called ‘British India’ a number of laws were enacted one after the other to reform certain aspects of the Hindu law of marriage.
- None of the local and central laws referred to above contained any requirement for registration of marriages with the State authorities. The first law making a provision for registration of Hindu, Buddhist, Jain and Sikh marriages was the Hindu Marriage Act 1955 enacted after Independence.
- The Hindu Marriage Act 1955 does not apply in the State of Goa and the Union Territory of Daman and Diu. In Puducherry it does not apply to the

‘Renoncants’ (those who opted for the local Franco-Indian law at the time of the assimilation of the territory into the Indian Union in 1954).

- The State of Jammu and Kashmir has got its own Hindu Marriage Act enacted on the pattern of the central Act.
- “For the purpose of facilitating the proof of Hindu marriages” Section 8 of the Hindu Marriage Act 1955 enabled the State governments to make Rules for optional registration of marriages, “in such manner and subject to such conditions as may be prescribed,” by getting their particulars entered in a Hindu Marriage 14 Register kept for the purpose. Such Registers “shall at all reasonable times be open for inspection and shall be admissible as evidence of statements therein contained.” Certified copies of entries in the Register would be provided on payment of a fee.
- The Act further empowered the State Governments to issue a “direction” to make registration of marriages compulsory “if it is of opinion that it is necessary or expedient so to do.” The Government could take such an action either for the whole State or for any part thereof and could also decide whether registration will be compulsory “in all cases or in such cases as may be specified.” If a State Government issued such a direction for compulsory registration of marriages, its violation would be punishable with a fine of Rs. 25. Non-registration of a marriage in any case will not, however, affect the validity of any marriage.
- As ordinarily the Hindu Marriage Act does not apply to the Scheduled Tribes, tribal marriages remained outside the scope of Section 8 of the Act and the Rules framed thereunder by the State Governments.

B. Hindu Marriage Registration Rules

- The States of Rajasthan and Madhya Pradesh were the first to make Rules under Section 8 of the Hindu Marriage Act, both in 1956. The latter State replaced its Rules by new Rules made in 1984. Gradually almost all States made the required Rules, but provisions of the various State Rules have not been uniform.
- The Assam Hindu Marriage Rules 1961, for instance, provided that “notwithstanding anything contained in the Act and these Rules, registration of Hindu marriages in Assam, excepting those areas where the Registration Act 1908 does not apply, shall be optional” (Rule 19).
- The Kerala Hindu Marriage Registration Rule 1957 classified various regions in the State into “Compulsory Registration Areas” (where the Government can make registration of all marriages compulsory) and “other areas” (where registration is optional).

- Registration of marriages was kept optional under the Rules made by most of the other States including the West Bengal Hindu Marriage Registration Rules 1958, Andhra Pradesh Hindu Marriage Registration Rules 1965, Karnataka Registration of Hindu Marriages Rules 1966, and Uttar Pradesh Hindu Marriage Registration Rules 1973.
- In later years some States but not all provided rules for compulsory registration, or selectively compulsory, governed by the Hindu Marriage Act 1955. It was only after the Supreme Court directive of 2006 that the remaining State Governments began initiating action in this regard.
- The Rules made under the Hindu Marriage Act generally mention the Registrar-General of Births, Deaths and Marriages appointed and working under the Births, Deaths and Marriages Registration Act 1886 as the supervisory and appellate authority in respect of Marriage Officers in the State. Some of these laws require Marriage Officers to transmit their records to the Registrar-General at prescribed intervals.

C. Special and Local Laws

- The Anand Marriage Act 1909, still in force, was passed to recognize Sikh marriages performed by the religious rites known as “Anandkaraj.” It, however, contained no provision for registration of any such marriage. Recently some Sikh leaders have demanded that the 1909 Act should be enlarged into a full-fledged 16 “Sikh Marriage Act” and registration of all Sikh marriages should be made under that law.
- The Arya Marriage Validation Act 1937 was passed to recognize inter-caste and inter-sect marriages among the Hindus. Strangely, this Act which remains in force said nothing about the well-established Arya Samaj system of certification of marriages.
- Marriages governed by both these Acts can, of course, be registered under Section 8 of the Hindu Marriage Act 1955 and the State Rules made under that provision. So can the marriages among the Brahmosamajis who also have their own system of certification of marriages. Both the Aryasamajis and the Brahmosamajis are specifically described by the Hindu Marriage Act 1955 as “forms” or “developments” of the Hindu religion -- while the Act applies, besides the Hindus, also to the Buddhists, Jains and Sikhs (Section 2).

A. In Jammu and Kashmir the local Hindu Marriage Act 1980 dittoed almost all provisions of the central Hindu Marriage Act 1955 as originally enacted.

Section 8 of the State Act literally reproduced Section 8 of the central Act relating to registration of marriages. The State Government has not provided for compulsory registration of any marriage governed by the local Hindu Marriage Act.

Registration of Muslim Marriages

Certification by the Kazis :

- A. A system of private registration of marriages with the kazis has always prevailed among the Indian Muslims.
- B. Though in principle Islamic law does not require a ritual solemnization of marriage, among the Muslims of India marriages are invariably solemnized by religious officials known as the “kazi”. The short ceremony performed by the kazi, known as “nikah”, begins with formally obtaining consent of the parties – first of the bride and then of the groom – and ends with recitation from the Holy Quran followed by prayers. Before, or immediately after, the ceremony the kazi prepares a nikah-nama (marriage certificate) which gives full details of the parties and is signed by both of them, and by two witnesses. The kazi authenticates the nikahnama by putting his signatures and seal on it.
- C. Printed forms of standard nikah-nama in Urdu and Hindi are stocked by all kazis who fill in it the details of the marriages they solemnize, issue copies to both parties, and always preserve a copy in their records.
- D. Under the law of India the nikah-namas issued by the kazis are admissible in evidence.

B. The Kazis Act 1880:

- There is an old central law called the Kazis Act 1880 empowering State governments to appoint kazis for the purpose of helping desiring local Muslims with solemnization of marriages, etc. The Government in British India had inherited the power to appoint kazis from the Mughal rulers but had abdicated it in 1864. On the demand of Muslim leadership led by the great Sir Syed Ahmad Khan, the power was resumed by enacting the Kazis Act 1880.
- Under this Act kazis may be appointed by a State Government for various areas under its control. A kazi can also be removed by the appointing authority on the grounds of misconduct, long absence, insolvency or incapability (Section 2). The Act, now in force in most States, makes it clear that presence of a Stateappointed kazi will not be mandatory for any marriage (Section 4).

- The central Kazis Act does not till now apply to private kazis and contains no provision relating to kazis' function of preparing and preserving records of marriages. In Maharashtra, however, the Act was amended in 1980 to make it applicable also to private kazis and require all kazis – private and State-appointed – to maintain proper records of marriages which they may be invited to solemnize.

c. Local Muslim Marriage and Divorce Registration Acts

There are Muslim Marriage and Divorce Registration Acts in force in six States providing for voluntary registration of marriages and divorces among the local Muslims.

These States are as follows:

- (i) West Bengal
- (ii) Bihar
- (iii) Jharkhand
- (iv) Assam
- (v) Orissa
- (vi) Meghalaya

- The parent law among these is the old Bengal Mohammedan Marriage and Divorce Registration Act 1876 which is now in force in the first three of the above-named States.
- The Orissa legislature re-enacted in 1949, with some changes, the old Bengal law of 1876 referred to above. Titled Orissa Mohammedan Marriage and Divorce Registration Act 1949, it extends to the whole State.
- The Assam legislature had enacted a similar law in 1935 – the Assam Moslem Marriage and Divorce Registration Act. The newly created State of Meghalaya locally re-enacted this law in 1974 with no substantive change. All these Acts empower the local governments to license suitable persons in various areas authorizing them to register marriages and divorces among the local Muslims. These persons, to be known as “Mohammedan Marriage Registrars”, have to act as per the procedure laid down at length in the Acts. All the Acts also prescribe various forms for registration of marriages and different forms of divorce, including talaq (divorce by husband) and khula (divorce at the instance of wife).
- The position of the Mohammedan Marriage Registrars appointed under these Acts is akin to the kazis appointed under the central Kazis Act 1880. Like the latter, all these local Acts also clarify that the presence of a State-appointed Mohammedan Marriage Registrar will not be obligatory for any marriage, and

also that neither non-registration would affect the validity of any marriage nor will mere registration validate a marriage which is otherwise invalid under Muslim law. Registration under these Acts is thus a mere facility provided by law.

- All the Mohammedan Registrars licensed under these Acts have to function under the general superintendence of District Registrars functioning under the Registration Act 1908 and are required to transmit to them their registration records every month. The Inspector-General of Registration functioning in the State under that Act has to exercise control on all Mohammedan Marriage Registrars and issue regulations for their guidance.
- All these Acts empower the State Government to make Rules for carrying out their purposes, and such Rules have been made and amended from time to time.
- Under the Rules framed under the Bengal law of 1876 a Permanent Committee headed by the Inspector-General of Registrar oversees appointments, suspension and removal of Mohammedan Registrars. With the approval of the Government the Committee can also examine from time to time their knowledge of Muslim law.
- In some of the States where such Acts are in force the Rules made thereunder have been made applicable also to the kazis functioning under the central Kazis Act 1880 (detailed above). These Rules are, however, not being followed in practice for fear of resentment by the clerics who do have a strong hold upon the society.

A. In the State of Jammu and Kashmir a Muslim Marriage Registration Act was enacted in 1981, providing for compulsory registration, but had to be soon withdrawn due to stiff opposition by community leaders.

Registration of Christian, Parsi, Jewish and Bahai Marriages

A. Indian Christian Marriage Act 1872

The Indian Christian Marriage Act 1872 provides that every marriage both parties to which are, or either party to which is, Christian shall be solemnized in accordance with its provisions (Section 4). This provision conflicts with the Special Marriage Act 1954 which is available, like everyone else, also to Christians for marrying within or outside their community. It has, however, not been amended or repealed.

The Indian Christian Marriage Act 1872 is obsolete in so far as it makes a distinction between “Christians” (defined as “persons professing Christian religion”) and “Indian Christians” (defined as “Christians descendants of natives of India converted to Christianity as well as such converts”). It also makes separate provisions for followers of various Churches – including Church of England (also

called Anglican Church), Church of Scotland and Church of Rome (also called Roman Catholic Church). The Act provides separate rules for the solemnization and registration of marriages of Indian Christians and other Christians, and also for the followers of various Churches.

Due to the aforesaid classification and distinctions the system of registration of marriages provided by the Act is quite complicated.

Marriages may, according to the Act, be solemnized by the following:

- (i) Ministers of Church who have received episcopal ordination;
- (ii) Clergymen of the Church of Scotland;
- (iii) Ministers of Religion licensed under the Act;
- (iv) Marriage Registrars appointed under the Act;
- (v) Persons licensed under the Act to grant certificates of marriage between

“Indian Christians”.

- Part IV of the Act (Sections 27-37) contains elaborate provisions for registration of marriages solemnized by Ministers and Clergymen covered by categories (i) to (iii) above. There are in this Part separate registration provisions for marriages of Christians in general and of Indian or Native Christians.
- Part V of the Act (Sections 38-59) provides rules for solemnization-cumregistration of marriages directly by Marriage Registrars appointed under the Act.
- Part VI (Sections 60-65) relates to marriages of “Indian Christians” solemnized by licensees under the Act and provides rules for certification.
- There are different provisions in the Act for the transmission of records of registration of various categories of marriage to the Registrar-General of Births, Deaths and Marriages.
- This Act, thus, has a very complicated system of registration of marriages solemnized under this Act and it suffers from a tremendous lack of uniformity.

B. Parsi Marriage and Divorce Act 1936

- The Parsi Marriage and Divorce Act was first enacted in 1865 which was replaced by a new Act bearing the same caption in 1936. The new Act was amended in some respects in 1988.

- Parsi marriages are to be solemnized under the Act by the Parsi priests who are required to certify them in a prescribed form to be signed by the priest, the contracting parties and two witnesses (Section 6).
- The officiating priests are required by the Act to periodically transmit their records to Marriage Registrars appointed under the Act. A priest who neglects either to so certify a marriage or to transmit its copy to the Marriage Registrar will be guilty of an offence punishable with simple imprisonment up to three months, or with fine up to a hundred rupees, or with both (Section 12).
- The Marriage Registrars are to be appointed by the State Government for various areas except within the local limits of the ordinary original civil jurisdiction of a High Court for which they are to be appointed by the Chief Justice or a senior Judge of the Court (Section 7).
- The Marriage Registrars except those appointed by the High Court are required to periodically transmit copies of their records to the Registrar-General of Births, Deaths and Marriages (Section 9).

C. Bahai and Jewish Marriages

- **Bahai marriages** are solemnized by religious officials of the community which has a system of certification of marriages very similar to the nikah-namas issued by the kazis in Muslim marriages (see above).
- The Jewish system of solemnization is also similar to that of the Muslims. Jewish priests known as Rabbis solemnize marriages and issue certificates. There is no system among either the Bahais or the Jews of transmission of marriage records to any authority under control of the State.
- There is no legal requirement, or practice, of registering the Bahai or the Jewish marriages with the State registry.

Births, Deaths and Marriages Registration Act 1886

A. Limited Scope of the Act

A. A Births, Deaths and Marriages Registration Act was enacted by the Central Legislature in 1886. It remains in force till this day.

B. A new Registration of Births and Deaths Act was passed by Parliament in 1969. It had no provision relating to registration of marriages and clarified that its provisions are not “in derogation of” the old Births, Deaths and Marriages Registration Act 1886 (Section 29). The provisions of the old Act of 1886 relating to marriage registration, whatever they are, thus remain in force.

C. The title of the Births, Deaths and Marriages Registration Act 1886 is somewhat misleading as it does not require registration of marriages – voluntary or compulsory – under its provisions.

B. Transmission of Marriage Records

The Births, Deaths and Marriages Registration Act 1886 provides for the establishment of a “general registry office” in each State under the charge of a “Registrar-General of Births, Deaths and Marriages” (Section 6). It also provides for the appointment of “Registrars of Births and Deaths” by the State Governments (Sections 12-18). There is, however, no provision for the appointment of Marriage Registrars.

The Act requires the Registrar-General of Births, Deaths and Marriages appointed and working under the Act to keep proper indexes of the certified copies of Marriage Registers received by him from the officials working under the provisions of three old laws, viz.:

- (i) Parsi Marriage and Divorce Act 1865 (now Parsi Marriage and Divorce Act 1936;
- (ii) Indian Christian Marriage Act 1872 (still in force); and
- (iii) Special Marriage Act 1872 (now Special Marriage Act 1954).

The Act adds that these indexes like those of registers of births and deaths, maintained by the Registrar-General, have “at all reasonable times be open to inspection” and copies of entries in them given to applicants for the same are admissible in evidence for the purpose of proving a marriage (Sections 8-9).

General State Laws on Marriage Registration

A. Bombay Registration of Marriages Act 1954

- Before the reorganization of States, the legislature of the former State of Bombay had enacted a law for compulsory registration of marriages. Titled as Bombay Registration of Marriages Act 1954, it was made applicable to all marriages other than those solemnized under the following laws all of which had their own provisions for marriage registration:
 - (i) Parsi Marriage and Divorce Act 1936,
 - (ii) Indian Christian Marriage Act 1872, and
 - (iii) Special Marriage Act 1872 (now Special Marriage Act 1954).
- After the re-organization of states in 1956 the Bombay Act of 1954 was retained in force, with necessary adaptation, in the present States of Maharashtra and Gujarat. In both States it was later amended in certain respects.

Under this Act the State Government may appoint, by name or ex officio, so many persons to act as Registrars of Marriages for such local areas as it may think necessary and prescribe their duties and powers under the Rules to be made there under. The Act, read with the Rules made under it, lays down an elaborate procedure for registration of marriages.

Every marriage contracted in the State has to be compulsorily registered as provided by this law. The requirement applies not only to the first but also to all subsequent marriages of any person. Also, it applies in whatever form or manner a marriage may have been contracted or solemnized. This obligation applies from the date on which the registration law of 1954 is brought in force in any local area, as per the State government's gazette notification.

Failure to register a marriage as required by the law will attract a statutory penalty by way of fine up to two hundred rupees but shall not make the marriage invalid if it is otherwise valid under the law applicable to it.

For the purpose of registration of a marriage a memorandum of marriage is to be prepared and signed by the parties to the marriage. If either party is under the age of eighteen years at the time of marriage the memorandum will be prepared and signed by that party's father or guardian. However, where such party has married without the consent of father or guardian, that party - and not the guardians - will prepare and sign the memorandum. It has to be in a statutory form providing all the details as laid down in the Rules. The officiating priest or whoever else solemnizes a marriage has to sign the memorandum.

A. Within the prescribed period the memorandum so prepared is to be sent in duplicate and with the prescribed fee by registered post to the Registrar of Marriages of the local area where the marriage takes place. The Registrar will file one copy of the memorandum in his Register of Marriages and send the other copy to the State's Registrar-General of Births, Deaths and Marriages working under the Births, Deaths and Marriages Registration Act 1886.

- A penalty of fine of two hundred rupees is prescribed by the law imposable on conviction for:
 - (i) willfully omitting or neglecting to deliver or send a memorandum of marriage as required by the law,
 - (ii) willfully omitting or neglecting to deliver or send a memorandum of marriage within the prescribed time, and

- (iii) making in such a memorandum any statement which is false in any material particular and which the person making it knows or has reason to believe to be false.

B. Laws of Other States

- The Bombay Registration of Marriages Act 1954, now applicable in Maharashtra and Gujarat, has been adopted mutatis mutandis by local legislation in some other States including Andhra Pradesh and West Bengal.
 - Nowhere failure to register a marriage, which is otherwise compulsory, affects the validity of marriage in any way. It also does not adversely affect the conjugal or post-divorce rights of either party to marriage or the availability of matrimonial remedies under the law applicable. In the former Mysore State a Registrar-General of Births, Deaths and Marriages Act was passed in 1956.
- The Rajasthan legislature passed a Registration of Births, Deaths and Marriages Act in 1958. This Act provides that the State Government may in its discretion establish a general registry office separately for keeping certified copies of registers of marriages and appoint to the charge of such separate office an officer to be called the Registrar-General of Marriages for the State [Section 4(b)]. It makes the central Births, Deaths and Marriages Registration Act 1886 inapplicable in the merged territories where it was earlier in force [Section 25 (i)]. It also repeals the local Acts on this subject earlier enforced in some such territories [Section 25 (ii) – (vi)].

Registration of Divorces

A. Divorces Obtained Outside the Court The Hindu Marriage Act 1955 recognizes and protects divorces obtained under customary law (Section 29), but makes no provision for registration of such divorces effected outside the court.

The Muslim Marriage and Divorce Registration Acts applicable in West Bengal, Bihar, Jharkhand, Orissa, Assam and Meghalaya – referred to above – provide for voluntary registration of out-of-court divorces with the Mohammedan Marriage Registrars appointed under those Acts by the State Governments.

The following forms of divorce can be so registered in all the States:

- (i) talaq (divorce by the husband),
 - (ii) khula (divorce at the instance of wife), and
 - (iii) mubara'at (divorce by mutual consent).
- Separate forms are prescribed by these Acts for the registration of each of these categories of divorce.

- The Orissa Mohammedan Marriage and Divorce Registration Act 1949 provides also for registration of talaq-tafwiz (divorce by wife in terms of a stipulation for this purpose in the marriage contract). It prescribes special forms for the registration of such divorces.
- Registration of all divorces under all these laws is to be made on a voluntary basis; and non-registration of any divorce does not vitiate its legal validity.

B. Divorces Obtained in Courts

Under the Parsi Marriage and Divorce Act 1936 a divorce can be obtained only through the intervention of a court. The Act requires the Courts passing a decree of divorce, nullity or dissolution to send a copy of each such decree for registration to the Marriage Registrar within its jurisdiction (Section 10).

There is no such provision for registration of divorces under any of the following laws:

- (i) Indian Christian Marriage Act 1872,
- (ii) Special Marriage Act 1954, and
- (iii) Hindu Marriage Act 1955.

Findings and Recommendations

A. Findings

We now proceed to summarize our findings based on our survey of the existing Central and State laws relating to registration of marriages:

- (i) There has been, and remains, tremendous diversity of laws relating to registration of marriages. The present state of the law on the subject is indeed complicated and confusing.
- (ii) The only laws which provide for any kind of registration of divorces relate to Muslims and Parsis. All other marriage registration laws do not provide for registration of divorces although it is a socially beneficial proposition.
- (iii) Registration of out-of-court divorces among the Hindus, Buddhists, Jains and Sikhs – which the Hindu Marriage Act 1955 recognizes – is extremely desirable.
- (iv) In the Muslim society there is a system of private registration of marriages by the kazis, which needs to be streamlined and linked with registration of marriage with State Registry.
- (v) Among the Muslims divorces are never registered with a kazi. In those cases where a divorce takes place with the intervention of a kazi no record of the divorce is maintained by him. The provisions of the local laws in the Eastern States for registration of divorces among the Muslims are dormant and are hardly used 32 in practice. Absence of registration of divorces in a community whose personal law

allows out-of-court divorce leaves abundant room for misuse of law and often causes great hardship to women.

(vi) In very few States all marriages irrespective of the law under which these may have been solemnized have to be compulsorily registered. The majority of States have not enacted any general law on marriage registration applicable to all communities.

(vii) In those States where there are laws for compulsory registration of all marriages, such laws are faulty and ineffective. People generally do not adhere to them, as non-registration entails only fine of a petty amount.

(viii) The administrative machinery for registration of marriages is not regulated everywhere by one and the same law. This creates a lot of confusion with registration officials as well as people wanting or required to register their marriages.

(ix) As various communities are still governed by different marriage laws, Rules for compulsory registration of all marriages in all communities cannot obviously be made under any particular community-specific law.

(x) There is a general confusion in the minds of the people that registration of a marriage solemnized as per religious rites and desired to be governed by the religion-based law of the parties will turn it into a civil marriage to be governed by the general law of civil marriages. This is a great inhibition against marriage registration which needs to be effectively removed.

(xi) Advantages of registration of marriage and disadvantages of non registration are not specified in any law or policy document and therefore there is little clarity in the mind of the people in this respect.

B. Recommendations

Under the Constitution of India family matters are in the concurrent jurisdiction of the Centre and States [List III, Entry 5]. Parliamentary legislation on compulsory registration of marriages is therefore not only possible but also highly desirable. This will bring country-wide uniformity in the substantive law relating to marriage registration and will be helpful in effectively achieving the desired goal. Rules under the proposed Act may of course be made by the State Governments, and this will take care of the local social variations.

We therefore recommend enactment of a central law on the subject. We further recommend consequential changes in all the relevant central and local laws. Our detailed recommendations are as follows:

(i) A “Marriage and Divorce Registration Act” [hereinafter referred to as the “proposed law”] should be enacted by Parliament, to be made applicable in the

whole of India and to all citizens irrespective of 34 their religion and personal law and without any exceptions or exemptions.

(ii) The proposed law should deal only with registration of marriages and divorces and must not touch any substantive aspect now governed by various matrimonial laws – general and community specific.

(iii) A proper and common machinery for registration of marriages and divorces, including registration offices at the district/sub-district levels should be provided for under the proposed law. The State Governments may set up such offices, appoint Marriage and Divorce Registration Officers by name or ex officio at various levels, and prescribe rules to regulate their working.

(iv) Since in all communities marriages are solemnized with a religious ceremony, the religious officials solemnizing the marriages can play a major role in respect of registration of marriage. The proposed law should make it mandatory for the “officiating priest” of every marriage to prepare and maintain proper records of all marriages in a prescribed form.

The term “officiating priest” should for this purpose include the following:

- a) pundits, purohits and other Hindu religious officials by whatever name called who officiate at a marriage;
- b) kazis and all other Muslim religious officials by whatever name called who solemnize a nikah;
- c) Christian pastors and other Church officials who solemnize a Christian marriage;
- d) Parsi, Jewish and Bahai religious leaders who officiate at any marriage among these communities;
- e) clerics of all other religions performing this function; and
- f) any other person, whether religious official or not, who performs religious or customary rites at any marriage.

(v) It should be made mandatory for every “officiating priest” (as defined above) to transmit copies of all their records at regular intervals to the local Marriage and Divorce Registration Officer.

(vi) While transmitting his records to the Marriage and Divorce Registration Officer, the officiating priest should also send a certificate that every marriage included in the record was to the best of his knowledge and belief in accordance with the requirement of the marriage law applicable to parties.

(vii) The proposed law should amend the following Acts to insert in them the requirements stated above at paras (v) and (vi) above:

- a) Indian Christian Marriage Act 1872;
- b) Kazis Act 1880;
- c) Parsi Marriage and Divorce Act 1936; and

d) Hindu Marriage Act 1955. .

(viii) The Kazis Act 1880 should be further amended to make it applicable both to private kazis and to every person who performs the nikah ceremony at any Muslim marriage.

(ix) The Special Marriage Act 1954 should be amended to provide that Marriage Officers working under its provisions shall transmit their records at prescribed intervals to the Marriage and Divorce Registration Officer of the concerned district.

(x) The Foreign Marriage Act 1969 should be amended to provide that Indian Diplomatic Missions in all countries shall send at prescribed intervals their records to the Ministry of Foreign Affairs in Delhi for onward transmission to the State Registry of the State concerned.

(xi) The Kazis Act 1880 should be further amended to provide that every divorce among the Muslims, in whatever form it takes place, must be communicated in writing to the kazi of the area within a prescribed time. The kazis should be required to maintain proper records of all such divorces and periodically transmit their records of divorces to the Marriage and Divorce Registration Officer of the area along with marriage records.

(xii) Section 29 of the Hindu Marriage Act 1955 should be amended to provide that all customary divorces among the Hindus, Buddhists, Jains and Sikhs should be duly registered with the Marriage and Divorce Registration Officers working under the proposed law.

(xiii) The following Acts should be amended, on the pattern of the provision to this effect found in the Parsi Marriage and Divorce Act 1936, to require the registries of courts granting decrees of 37 divorce or nullity of marriage to periodically send information about the same in a prescribed form to the local Marriage Registration Office:

- (a) Indian Christian Marriage Act 1872;
- (b) Parsi Marriage and Divorce Act 1936;
- (c) Special Marriage Act 1954; and
- (d) Hindu Marriage Act 1955.

(xiv) The proposed law should declare failure to register a marriage or divorce as required by its provisions to be an offence punishable with heavy fines and, in default of payment of fine, with imprisonment for a prescribed period.

(xv) The proposed law should also provide that no judicial relief will be granted in a disputed matter if the concerned marriage or divorce is not duly registered under its provisions.

(xvi) The proposed law should be given an overriding effect on all other laws through a non obstante clause duly inserted in it.

(xvii) The following laws should be repealed with necessary saving provisions:

- a) Births, Deaths and Marriages Registration Act 1886;
- b) All State laws dealing with registration of marriages in general;
- c) Muslim Marriage and Divorce Registration Acts (by whatever name called) in force in West Bengal, Bihar, Jharkhand, Orissa, Assam and Meghalaya; and
- d) Any provision relating to registration of marriages in any pre existing law which comes in conflict with the provisions of the proposed law (to the extent of such conflict).

Guardianship Under Hindu Law:

The Dharmashastras did not deal with the law of guardianship. During the British regime the law of guardianship was developed by the courts. It came to be established that the father is the natural guardian of the children and after his death, mother is the natural guardian of the children and none else can be the natural guardian of minor children. Testamentary guardians were also introduced in Hindu law: It was also accepted that the supreme guardianship of the minor children vested in the State as *parens patrie* and was exercised by the courts. The Hindu law of guardianship of minor children has been codified and reformed by the Hindu Minority and Guardianship Act, 1956.

Guardianship of the person

Minor Children

- Under the Hindu Minority and Guardianship Act, 1956, S. 4(b), minor means a person who has not completed the age of eighteen years. A minor is considered to be a person who is physically and intellectually imperfect and immature and hence needs someone's protection. In the modern law of most countries the childhood is accorded protection in multifarious ways. Guardian is "a person having the care of the person of the minor or of his property or both person and property."

It may be emphasized that in the modern law guardians exist essentially for the protection and care of the child and to look after its welfare. This is expressed

by saying that welfare of the child is paramount consideration. Welfare includes both physical and moral well-being. Guardians may be of the following types :

- A. Natural guardians,
- B. Testamentary guardians, and
- Guardians appointed or declared by the court.
- Recently, the Supreme Court had stayed an order of the Gujarat High Court asking a mother to take her eight-year-old son to the United Kingdom, because of a judicial order passed there in a custody battle initiated by her estranged husband. Divorce and custody battles can become a quagmire and the innocent child gets caught up in the legal and psychological warfare between both parents.
- Under Indian law, maximum importance is given to the best interests of the child and so either parent does not have a clear primacy to be granted the custody of the child.

After the dissolution of a marriage, custody of a child can be given as:

Joint Physical Custody: A new concept that has evolved while negotiating divorce settlements. Both parents will have legal custody, but one will have the physical custody (child resides with him or her) and will be the child's primary caretaker.

Sole Custody: One parent has been proven to be an abusive and unfit parent and the other parent is granted custody.

Third Party Custody: Neither of the biological parents are given custody of the child. Instead, the child custody is granted to a third person by the court.

The Guardians and Wards Act, 1890 is the universal law pertaining to issues involving child custody and guardianship in India, regardless of the child's religion. However, under secular principles, India also sanctions laws pertaining to different religions.

Under secular law as well as Hindu law

- The mother usually gets custody of the minor child, under the age of five.
- Fathers get custody of older boys and mothers of older girls, but it is not a strict rule and is primarily decided based on the child's interests.
- The choice of a child above the age of nine is considered.
- A mother who is proven to neglect or ill-treat the child is not given custody.

Custody under Muslim Law

As per the Muslim Law, only the mother holds the ultimate right to seek her child/children's custody under the Right of Hizanat as long as she is not convicted or found guilty of any misconduct. The father's right of Hizanat is applicable only in the absence of an able mother.

Custody under Christian Law

If divorce is inevitable, acrimonious battles cannot be the option to settle issues of child custody and access. Custody of a child only implies to whom the child will physically reside with. Both parents continue to be natural guardians.

Helpful information

The thinking has shifted from **custody and access being the 'right of a parent' to being the 'right of a child'**. The principle on which custody is decided is the 'best interests of the child'. Therefore, the parent who can take better care of the child's emotional, educational, social and medical needs is favoured.

The earning capacity of the parent does not determine custody, but the capacity to provide a safe and secure environment does. Even a mother who is a housewife can gain custody of the child and the father will be asked to provide child support.

The mother is the preferred custodial parent when the child is less than five years old. The opinion of a child who is over nine years old will be considered.

The non-custodial parent can get different types of access to the child based on circumstances and convenience. For example, court could grant weekly, fortnightly, daily or monthly visitation rights. It can be day or overnight access. It could also be free access with no fixed schedule, but as per the parents' and the child's convenience.

The parents can agree to a **one-time amount or a staggered payment** at different stages of the child's educational life or a monthly payment with incremental increase. The child support should cover the child's educational and nominal lifestyle expenses.

The **court is parens patriae or the ultimate guardian of the child**. So the child's property is protected by law, and terms of custody, visitation and child support can be altered in changed circumstances in the interest of the child.

Other interesting rulings

A Supreme Court bench headed by Justice Vikramjit Sen had ruled that **an unwed mother does not have to take consent from the biological father of the child, or reveal his identity for sole guardianship of the child**.

The Delhi High Court has ruled that using the mother's name is sufficient for a child to apply for a passport when the child is being brought up by a single mother without any involvement from the father.

Adoption under different laws in India:

- Adoption is a process of establishing a parent-child relationship between persons who are not related by birth. It allows parentless and orphan children to have parents, home, name and a good life and on the other hand, it enables childless parents to have a child of their own.
- Adoption-by-legal-course ensures irrevocable rights to both adoptive parents as well as adopted child. In India, there are 3 main existing legislations i.e.
- The Hindu Adoption and Maintenance Act of 1956 which is applicable on Hindus, Buddhists, Jains and Sikhs.
- The Guardian and Wards Act of 1890 assist other religions i.e. Muslim, Parsi, Christian and Jews in adoption as there are no concrete provisions under their personal laws.
- The Juvenile Justice (Care and Protection) Act of 2000, amended in 2010 covers the rehabilitation and social reintegration for orphan children.

Adoption under different legislations in India

The Hindu Adoption and Maintenance Act, 1956:

Hindu Adoption and Maintenance Act, 1956 changed the years long restrictions in adopting the child by eradicating various gender based prejudiced provisions. The law is applicable on Hindus, Buddhists, Jains, Sikhs and other religions that fall under the governance of Hindu Law.

1. Who is allowed to adopt?

Any Hindu Male:

- Who is an adult and is of sound mind;
- If he is married, then adoption decision should be made in consensus with his living wife;
- In case, his wife has abandoned the world for any reason.
- If he is married but his wife has changed her religion and is ceased to be a Hindu;
- If his wife is declared to be of unsound mind by the court of appropriate jurisdiction.

Married Woman can also adopt, if

- She is a widow.
- She is a divorcee.
- Her husband has abandoned the world or changed his religion from Hinduism to another, or is of unsound mind as declared by a competent court.

Unmarried Woman can also adopt, if:-

She is an adult and is major.

She is a Hindu.

She is capable to adopt in terms of soundness of mind.

2. Who can be adopted?

- The child can either be a girl or a boy if he/she is a Hindu; or;
- He/ She has not been adopted before;
- The age of the child is below 15 years;
- The child is not married.
- The last 2 conditions can be legally waived off if the adopting parent(s) belong to a Hindu Community where their customs and usage allow them to adopt married person or person who have attained the age of 15 years.

3. What are the necessary requirements for a valid adoption?

- The adopting parent/person is legally capable of adopting the child.
- The giving or the biological parent is legally authorized of giving in adoption.
- The person who is to be adopted fulfills the aforementioned eligibility criterion and hence, is legally capable of being adopted.

4. Capacity of a Hindu male to adopt:

- A Hindu male should be of sound mind and has attained the age of majority.
- He should have the legal capacity to take in adoption.

Provided following conditions are fulfilled:-

A.If he is married and has a living wife, then he can adopt only with the consent of his wife.

B.He doesn't require consent of his wife if:-

- His wife has ceased to be a Hindu;
- His wife has completely abandoned the world;
- His wife is declared to be of unsound mind by the court of competent jurisdiction

5. Capacity of a Hindu female to adopt:

The Act has promoted the 'Right of equality' by enacting a separate provision defining the capacity of Hindu female to take in adoption. It allows any female Hindu to adopt, if:-

- She is of sound mind and has attained the age of majority.
- She is legally capable to take a boy or a girl in adoption.

Provided following conditions are fulfilled:-

A. If she is married and has a living husband, then she can adopt only with the consent of her living husband.

B. She doesn't require consent of her husband, if:

- Her husband is deceased.
- Her husband has renounced the world completely.
- Her husband has changed his religions and thus ceased to be a Hindu.
- Her husband is declared to be of unsound mind by the court of competent jurisdiction.

6. Procedure for adoption:

- There is a need of following a valid procedure to carry out adoption which involve a series of steps:
- The parents/persons who are willing to take a child in for adoption must fulfill the eligibility conditions and capacity to adopt.
- In order to take in adoption, they have to get in touch with any voluntary coordinating agency or Child Welfare Agency in their respective region/area.

- The Agency will, then, register their particulars by way of Application-Form.
- The Agency will conduct a preliminary interview with the adopting couple in order to understand their intention and motivation behind adoption. It is a way to evaluate their reasons for adoption, emotional health, their quality of married life, family & financial background, couple's attitude towards this big step and verify your application along with submitted documents.
- Next, this agency will identify a placement agency and a suitable child that fulfills the legal requirements as prescribed in the Act and the requirements of couple's application.
- Afterwards, a 'Home-Study' report is prepared for perusal by the Agency.
- The adopting parents will be called to meet the suitable child as identified by the placement agency.
- The Doctor selected by the adopting parents will screen the child medically.
- Once the decision has been made, the prospective parents can file the petition at the court of apt jurisdiction, where court hearing takes place. The court is required to dispose the adoption case within a maximum duration of 2 months.
 - As the Court issues the decree, the adoption is finalized.
 - The agency will be guided to ensure a post-adoption follow up.
- The adoptive parents or adopted child cannot cancel the valid adoption or return back to his/her adoptive parents if valid procedure has been followed. However, in case of any fraud in the adoption proceedings, only the court can invalidate such an adoption.

Documentation required under the adoption procedure

Passport.

- A. Residence proof.
- B. Income proof.
- C. Marriage certificate copy with a photograph.
- D. A copy of divorce decree/death certificate of spouse.
- E. A copy of birth certificate of couple.
- F. Medical certificate certifying the health of the couple.
- G. An undertaking to permitting a follow up post the adoption by a foreign or equivalent adoption authority.

What are the property rights to adopted children under Hindu Law?

- After valid adoption decree has been passed by the court, an adopted child will be deemed to be the child/legal heir of his/her adoptive parents from the time of adoption. Hence, he has all the legal rights to

inherit the property of adoptive parents just like their biological children.

Muslim, Christian and Parsi Law :

Muslims, Christian and Parsi do not have any Act or Law that governs adoption proceedings. The Guardianship and Wards Act, 1890 comes in aid to that Non-Hindu couple/person who wishes to adopt a child. The Act allows 'Guardianship' but does not allow complete adoption, and thus, makes the child a 'Ward' and the interested couple their 'Guardian'.

What are the main provisions under the GWA Act for 'guardianship'?

- It is applicable to all the children with no relevance to race, caste or creed.
- Unlike Hindu Adoption & Maintenance Act, 1956, GWA Act doesn't grant equivalent status to the adopted child as that to the biological child of the adoptive parents. It only grants a 'Guardian-Ward' relationship.
- Here, the Act allows guardianship only till the child is minor. This relationship lasts when the child attains the age of 21 years. After completing the prescribed age, he/she will not remain as 'ward' and will be considered as an individual identity.

What is the Procedure under the Act?

- The person seeking guardianship has to place a completely filled application with the Court. The application must provide complete information of the person, his reasons to become guardian and any other information that is asked in the application.
- After admitting the application, the court will set the date of hearing where it will hear and view evidences, requirements and then, will announce its decision after considering the interests of minor and on the basis of its discretionary powers.

What are the property rights to children adopted under this Act?

Under this Act, the child will only become the ward of his/her guardian parents. He will not become their own child and thus, do not take their name or inherit their property by any right. However, if the adoptive parents wish to bequeath their property, then they can do so by way of will, which can later be challenged by any of their blood relative.

Inter-country adoption:

- **Procedure, Documentation and timeline**

What is Inter-country Adoption?

- It is a new concept wherein the child is adopted by a foreign national or person of foreign origin. In order to prevent misuse or illegal use of the children, the adoption proceedings should be dealt with extra caution and consideration. In India, there is no separate Act that governs Inter-country adoption; still, it is covered under Guidelines Governing Adoption of Children, 2015.
- Also, as per the Supreme Court Guidelines:
 - In foreign parent can adopt an Indian child before he/she completes the age of 3 years.
- In the absence of any concrete Act on inter-country adoption, the provisions of Guardian and Wards Act, 1890 will be followed for adoption.

Adoption Procedure

- The adoption procedure involves the following steps:-
- The foreign or non-resident Indian nationals who wish to adopt a child of an Indian origin have to approach Central Authority or an authorized foreign adoption agency for preparing or developing their Home Study Report and for other essential actions.
- Once the Home study report is prepared, the application will be registered by the agency in CARA (Child Adoption Resource Information and Guidance System) along with requisite documents i.e. passport, residence proof, income proof, copy of marriage certificate and photo, copy of divorce decree/death certificate of spouse, copy of birth certificate of couple, medical certificate, an undertaking to allow follow up after adoption by foreign Adoption or equivalent authority.
 - A. The said report and documents will be carefully examined at CARA for ascertaining their eligibility and suitability.
- The profiles of 2 children will be referred to them for selection and they have to hold back any one of them within 96 hours, with respect to their preferences.
 - A. Then, they will be required to sign his/her medical examination report or child study report within 30 days.
- They can request for personal visit to meet the child, which will be obliged only after the application of adoption is approved and accepted by CARA.
- Once CARA sent it's No Objection Certificate (NOC) in favor of proposed adoption within 10 days from the receipt of the acceptance of the child by the

prospective adoptive parents, then only, the prospective parents will be allowed to take the child in pre-adoption foster care in India.

- The specialized adoption Agency in India will file an application in the district court of apt jurisdiction with appropriate documents within 7 days from date of receipt of acceptance of the child by prospective parents.
- The adoption proceeding will take place in court in- camera. The case needs to be disposed off within two months from the date of filing of adoption petition.
- On satisfaction, the court will grant the certified adoption order to the agency which will further be forwarded to the prospective adoptive parents within 10 days and will make necessary entry in the CARA system.
- Finally, the agency will provide the child's birth certificate to the prospective adoptive parents quoting their names as the legal parents and date of birth as mentioned in adoption order.

CARA:

Central Adoption Resource Authority

Central Adoption Resource Authority (CARA) is a statutory body of Ministry of Women & Child Development, Government of India. It functions as the nodal body for adoption of Indian children and is mandated to monitor and regulate in-country and inter-country adoptions.

CARA is designated as the Central Authority to deal with inter-country adoptions in accordance with the provisions of the Hague Convention on Inter-country Adoption, 1993, ratified by Government of India in 2003.

CARA primarily deals with adoption of orphan, abandoned and surrendered children through its associated /recognised adoption agencies.

Eligibility criteria for prospective adoptive parents

1. The prospective adoptive parents shall be physically, mentally and emotionally stable, financially capable and shall not have any life threatening medical condition.
2. Any prospective adoptive parents, irrespective of his marital status and whether or not he has biological son or daughter, can adopt a child subject to following, namely:-
 - a. the consent of both the spouses for the adoption shall be required, in case of a married couple;

- b. a single female can adopt a child of any gender;
 - c. a single male shall not be eligible to adopt a girl child;
3. No child shall be given in adoption to a couple unless they have at least two years of stable marital relationship.
 4. The age of prospective adoptive parents, as on the date of registration, shall be counted for deciding the eligibility and the eligibility of prospective adoptive parents to apply for children of different age groups shall be as under:-

Age of the child	Maximum composite age of prospective adoptive parents (couple)	Maximum age of single prospective adoptive parent
Upto 4 years	90 years	45 years
Above 4 and upto 8 years	100 years	50 years
Above 8 and upto 18 years	110 years	55 years

5. In case of couple, the composite age of the prospective adoptive parents shall be counted.
6. The minimum age difference between the child and either of the prospective adoptive parents shall not be less than twenty-five years.
7. The age criteria for prospective adoptive parents shall not be applicable in case of relative adoptions and adoption by step-parent.
8. Couples with three or more children shall not be considered for adoption except in case of special need children as defined in sub-regulation (21) of regulation 2, hard to place children as mentioned in regulation 50 and in case of relative adoption and adoption by step-parent.

Adoption Procedure for Resident Indians

Registration and home study of the prospective adoptive parents:

1. The Indian prospective adoptive parents irrespective of their religion, if interested to adopt an orphan or abandoned or surrendered child, shall apply

for the same to Specialised Adoption Agencies through Child Adoption Resource Information and Guidance System by filling up the online application form, as provided in **Schedule VI**, and uploading the relevant documents thereby registering themselves as prospective adoptive parents.

2. The prospective adoptive parents shall opt for desired State or States by giving option for those particular States at the time of registration.
3. Registration on Child Adoption Resource Information and Guidance System would be a deemed registration in all Specialised Adoption Agencies of the State or States they have opted for.
4. The registration number of prospective adoptive parents shall be available with all the Specialised Adoption Agencies in those State or States, as the case may be.
5. The registration shall be complete and confirmed to the prospective adoptive parents immediately on receipt of the completed application form and requisite documents on Child Adoption Resource Information and Guidance System:

Provided that the documents shall be uploaded within a period of thirty days from the date of registration failing which the prospective adoptive parents have to register afresh.

6. The prospective adoptive parents shall get their registration number from the acknowledgement slip and use it for viewing the progress of their application.
7. The prospective adoptive parents shall select a Specialised Adoption Agency nearest to their residence for Home Study Report in their State of habitual residence.
8. The Home Study Report of the prospective adoptive parents shall be prepared through the social worker of selected Specialised Adoption Agency and in case they are unable to conduct Home Study Report within stipulated time, they shall take the assistance of a social worker from a panel maintained by the State Adoption Resource Agency or District Child Protection Unit, as the case may be.
9. The Specialised Adoption Agency or the empanelled social worker of the State Adoption Resource Agency or District Child Protection Unit shall counsel the prospective adoptive parents during the home study.
10. The Home Study Report shall be completed in the format given in **Schedule VII**, within thirty days from the date of submission of requisite documents and shall be shared with the prospective adoptive parents immediately, thereafter.

11. The Home Study Report shall be posted in the Child Adoption Resource Information and Guidance System by the Specialised Adoption Agency as soon as it is complete.
12. The Home Study Report shall remain valid for three years and shall be the basis for adoption of a child by the prospective adoptive parents from anywhere in the country.
13. The prospective adoptive parents shall be declared eligible and suitable by the Specialised Adoption Agency based upon the Home Study Report and supporting documents and in case any prospective adoptive parent is not declared eligible or suitable, the reasons for the same shall be recorded in the Child Adoption Resource Information and Guidance System.
14. The prospective adoptive parents may appeal against the decision of rejection to the Authority as provided **regulation 59**.
15. The appeal referred to in **sub-regulation (14)** shall be disposed of within a period of fifteen days and the decision of the Authority in this regard shall be binding.
16. The District Child Protection Unit shall facilitate online registration of application of prospective adoptive parents, uploading of their documents and also for addressing technical difficulties faced by the Specialised Adoption Agencies.
17. The adoption of a child by the prospective adoptive parents, after completion of their registration and Home Study Report, shall depend upon the availability of a suitable child.

Referral of a child from a Specialised Adoption Agency through Child Adoption Resource Information and Guidance System to prospective adoptive parents:

1. The seniority of the prospective adoptive parents for child referral shall be from the date of uploading of documents and completion of registration process in Child Adoption Resource Information and Guidance System.
2. On the basis of seniority, the prospective adoptive parents shall be referred online profile of three children which will include the photographs, Child Study Report and Medical Examination Report, in their preference category, if any, from one or more Specialised Adoption Agencies through the Child Adoption Resource Information and Guidance System in one or more referrals.
3. After viewing the profile of the child or children, the prospective adoptive parents may reserve one child within a period of forty-eight hours for possible adoption and the rest of the children would be released by Child

Adoption Resource Information and Guidance System for other prospective adoptive parents in the waiting list.

4. The Specialised Adoption Agency shall get the details of the prospective adoptive parents through the Child Adoption Resource Information and Guidance System for fixing an appointment with the prospective adoptive parents for matching, to assess the suitability of the prospective adoptive parents by an Adoption Committee as defined in **sub-regulation (2) of regulation 2** and the Adoption Committee shall prepare the minutes of the meeting as per format provided in **Schedule XXVII**.
5. The quorum of the Adoption Committee shall be two members and the quorum of the Adoption Committee in case of adoption from a Child Care Institution shall be three members, while the presence of one official from the District Child Protection Unit would be mandatory.
6. The Specialised Adoption Agency shall also organise a meeting of the prospective adoptive parents with the child.
7. The entire process of matching shall be completed within a maximum period of twenty days from the date of reserving the child.
8. The Specialised Adoption Agency shall counsel the prospective adoptive parents when they visit the agency for matching.
9. While accepting the child, the prospective adoptive parents shall sign the Child Study Report and Medical Examination Report which may be downloaded from the Child Adoption Resource Information and Guidance System, in the presence of the social worker or chief functionary of the Specialised Adoption Agency and the Specialised Adoption Agency shall record the acceptance by the prospective adoptive parents in the Child Adoption Resource Information and Guidance System.
10. In case the prospective adoptive parents are not selected for the child by the Adoption Committee, the reason for non-selection of the prospective adoptive parents shall be recorded in the Child Adoption Resource Information and Guidance System.
11. If grounds of rejection are found to be due to systemic error or on non-justifiable reasons, seniority of the prospective adoptive parents shall be retained.
12. In case the prospective adoptive parents do not accept the reserved child or the Adoption Committee does not find the prospective adoptive parents suitable, then the prospective adoptive parents shall be relegated to the bottom of the seniority list, as on that date, who may avail a fresh chance when the seniority becomes due and the same procedure shall be followed in the subsequent chances.

13. In all cases referred to in **sub-regulations (12)**, the reasons for not considering the child have to be clearly stated in Child Adoption Resource Information and Guidance System.
14. The registration of prospective adoptive parents shall continue till child adoption, with revalidation of the Home Study Report in every three years.
15. The prospective adoptive parents may also get the Medical Examination Report of the child reviewed by a medical practitioner of their choice before giving their acceptance for adoption of the child.

Pre-adoption foster care:

1. The child shall be taken in pre-adoption foster care by the prospective adoptive parents within ten days from the date of matching, after signing the pre-adoption foster care undertaking in the format provided in **Schedule VIII**.

Legal procedure:

1. The Specialised Adoption Agency shall file an application in the court concerned, having jurisdiction over the place where the Specialised Adoption Agency is located, with relevant documents in original as specified in Schedule IX within ten working days from the date of matching of the child with the prospective adoptive parents and in case of inter-country adoption, from the date of receiving No Objection Certificate from the Authority, for obtaining the adoption order from court.
2. The Specialised Adoption Agency shall file an application in the given format as per **Schedule XXVIII or XXIX**, as applicable.
3. In case the child is from a Child Care Institution, which is not a Specialised Adoption Agency and is located in another district, the Specialised Adoption Agency shall file the application in the court concerned, in the district where the child or the Specialised Adoption Agency is located and in such a case, the Child Care Institution will be a co-petitioner along with the Specialised Adoption Agency and the Child Care Institution shall render necessary assistance to the Specialised Adoption Agency concerned.
4. In case of siblings or twins, the Specialised Adoption Agency shall file single application in the court.
5. Since an adoption case is non-adversarial in nature, the Specialised Adoption Agency shall not make any opposite party or respondent in the adoption application.
6. The court shall hold the adoption proceeding in-camera and dispose of the case within a period of two months from the date of filing of the adoption

application by the Specialised Adoption Agency, as provided under sub-section (2) of section 61 of the Act.

7. The adoptive parents shall not be asked in the adoption order to execute any bond or make investment in the name of the child, considering the fact that their psycho-social profile and financial status have already been ascertained from the Home Study Report and other supporting documents.
8. The Specialised Adoption Agency shall obtain a certified copy of the adoption order from the court and shall forward it to the prospective adoptive parents within ten days and it shall also post a copy of the order and update the relevant entries in the Child Adoption Resource Information and Guidance System.
9. Registration of an adoption deed shall not be mandatory as per the Act.
10. The Specialised Adoption Agency shall apply to the birth certificate issuing authority for obtaining the birth certificate of the child within three working days from the date of issuance of adoption order, with the name of adoptive parents as parents, and date of birth as recorded in the adoption order and the same shall be issued by the issuing authority within five working days from the date of receipt of the application.
11. The Specialised Adoption Agency shall submit an affidavit to the court while filing a petition as provided in **Schedule XXIII**.

Follow-up of progress of adopted child:

1. The Specialised Adoption Agency which has prepared the Home Study Report, shall prepare the post-adoption follow-up report on six monthly basis for two years from the date of pre-adoption foster placement with the prospective adoptive parents, in the format as provided in **Schedule XII** and upload the same in Child Adoption Resource Information and Guidance System along with photographs of the child.
2. In case the adoptive parents relocate, they shall inform the agency which has conducted their home study and the District Child Protection Unit of the district where they relocate.

Adoption Procedure for Step Parents

Adoption by step-parent:

1. The couple (step-parent and one of the biological parents) shall register in Child Adoption Resource Information and Guidance System with the required documents as mentioned in **Schedule VI**.

2. Consent of the biological parent(s) and the step-parent adopting the child or children shall be as provided in the **Schedule XX (refer instructions in Schedule XX)**.
3. In case the custody of the child is under litigation, the adoption process shall be initiated only after the finalisation of the case by the court concerned.
4. The biological parent and the step-parent shall file an application in the Family Court or District Court or City Civil Court as the case may be, as per format given at **Schedule XXXII**.
5. The applicants shall obtain a certified copy of the adoption order from the court concerned and furnish a copy of the same online to the Authority through Child Adoption Resource Information and Guidance System.

Legal Procedure:

1. The prospective adoptive parents, who intend to adopt the child of a relative as defined in **sub-section (52) of section 2** of the Act, shall file an application in the competent court under **sub-section 2 of section 56 or sub section (1) of section 60** of the Act in case of in-country relative adoption or inter-country relative adoption, respectively, alongwith a consent letter of the biological parents as provided in Schedule XIX and all other documents as provided in **Schedule VI**.
2. The biological parent and the step-parent, who intend to adopt the child or children of the biological parent, shall file the adoption application as provided in **Schedule XXXII**, in the court concerned of the district where they reside, along with consent letter of the biological parents and the step-parent adopting the child or children, as provided in the **Schedule XX** and all other documents as provided in **Schedule VI**.
3. The prospective adoptive parents, in case of inter-country relative adoption, shall file the adoption application in the court concerned of the district, where the child resides with biological parents or guardians as provided in **Schedule XXXI**.
4. The prospective adoptive parents shall file an application in Family Court or District Court or City Civil Court, as the case may be.
5. Before issuing an adoption order, the court shall satisfy itself of the various conditions stipulated under **section 61** of the Act, and **regulations 51 to 56**, as the case may be.
6. The prospective adoptive parents shall obtain a certified copy of the adoption order from the court and furnish a copy of the same to the District Child Protection Unit for online submission to the Authority.

Inheritance and Succession, Rights of Women and Daughters under Personal Laws

- The general law relating to the inheritance and succession can easily be referred to The Indian Succession Act, 1925. Under this Act every Indian is entitled to equal shares on inheriting the property on the death of a person. The exceptions are Hindus, Sikhs, Jains, Buddhists and Muslims as they are governed under separate laws of succession. As for the persons of different faiths than Hinduism and Mohammedan, the Indian Succession Act, 1925 applies.
- We can easily segregate the laws of non-testamentary or intestate succession and inheritance as would be applicable to Hindus, Sikhs, Jains and Buddhist and with Parsis, Christians and Jews with that of Muslims and with persons of inter faith marriages.
- Laws of succession applicable to Hindus, Sikhs, Jains and Buddhist; for the non-testamentary or intestate succession/inheritance, the governing law is the Hindu Succession Act, 1956.
- Laws of succession applicable to Parsis; for the intestate succession the governing law is the Indian Succession Act, 1925 specifically under section 50 to 56 of the Indian Succession Act, 1925.
- Laws of succession applicable to Christians and Jews; for the intestate the governing law is the Indian Succession Act, 1925 specifically under section 31 to 49 of the Act.
- Laws of succession governing Muslims; for non-testamentary succession the The Muslim Personal Law (Shariat) Application Act, 1937 is applicable and where a muslim has died testate, the issue has to be governed under the Indian Succession Act, 1925 where a Will relates to immovable property situate within the State of West Bengal, and that of Madras and Mumbai Jurisdiction.
- Laws of succession in case of inter faith marriages, under Special Marriage Act, 1954.
- Under Hindu Succession Act, 1956, the properties of a Hindu male dying intestate devolves, in the first instance, equally on his sons, daughters, widow and mother and include the specified heirs of predeceased sons or daughters. The widow of the deceased is entitled to inherit equally with sons and daughters. The provisions of section 30 of the Act raise issues which are questionable in nature whereby the deceased husband, if he so desires, may write a Will and exclude his wife. The Will may contain bequeath of all his properties and no means of support to the widow.

- If there be a meticulous reasoning, the rights of the Women and Daughters under the Hindu Succession Act can be resolved; the Gender inequalities in succession law proliferate extensively. Another aspect which is equally complicated is The Streedhan — Streedhan is the property held by a woman in India and treating the Streedhan on the death of the husband is also to be redressed by making suitable changes by the Parliament and address these and many other issues in the biased inheritance law under the Hindu Succession.
- The law applicable to India can be said to be unlike for the State of Maharashtra where the women and more particularly the daughters have dual advantage. A daughter is entitled to a share in the father's Hindu undivided family, generally regarded as (HUF) as well as a share in the husband's HUF. This again is meager and notional shares which at times take unending time in the legal foray in situations where the male heirs do not approach the court for the division of the property of the deceased.
 - Under the Mitakshara teachings, the joint family property devolves by survivorship and when a male Hindu dies after the commencement of this Act having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act. The concept however is viewed differently when the Mitakshara coparcener dies leaving behind a female relative or male relative claiming through Class I, this undivided interest will not devolve by survivorship but by succession as provided under the Hindu Succession Act, 1956. Class I heirs are Son, Daughter, Widow, Mother, Son of a predeceased son, Daughter of predeceased son, Widow of predeceased son, Son of a predeceased daughter, Daughter of predeceased daughter, Son of predeceased son of predeceased son, Daughter of predeceased son of a predeceased son, Widow of predeceased son of a predeceased son.
- The Indian Succession Act, 1925, states that everyone is entitled to equal inheritance, barring exceptions to Hindus, Sikhs, Jains, Buddhists and Muslims. Under the act, the daughter of a person dying intestate would be entitled only to one-fourth of the son's share, or Rs. 5,000/-, whichever is lesser, this amount is also termed as Streedhan and this entitlement excludes the women from any further right in seeking a proper division of the properties of the deceased. The bias and gender deprecation is the only factor that the Indian women and daughters are isolated and remain dependent on the male heirs for their share and right in the seeking

distribution of the property and giving rise to differences in the families and long legal battles.

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- The concept of Mitakshara coparcenary, in a joint family is to be analysed in the light of the current status of a women who is regarded equal to a man. This is unreal and the logistics with regard to the shares in the property under the Hindu Succession Act, 1956 speaks all. A daughter will get a small share of property compared to the son. The father's property is equally shared between brother and sister. In addition, the brother is entitled to a share in the coparcenary from which the sister is excluded. A good example to explain this anomaly is to the right of a daughter in the residence is only confined to the possession and not of ownership in the family owned house.
- In order to set at rest the long drawn legal battles and animosity among the heirs of the deceased, the law of succession should be emphatically amended to provide and give equal inheritance to all, irrespective of the gender discrimination and bias. Special emphasis to property distribution among Hindus, the succession right by birth should be abolished and the Mitakshara coparcenary should be converted into Dayabhaga, which means equal distribution of not only separate or self acquired properties of the deceased male, but also of undivided interests in coparcenary property. It should also consider a daughter of a coparcener in a HUF under Mitakshara law to be coparcener by birth as of a son on the right of claim in the property in equal shares in the coparcenary property.
 - I have learnt that there have been many representations to the Government on this issue of equal rights to women under the Hindu Succession Act, 1956 have been made and soon a legislation to amend the Hindu Succession Act will be made which will provide for giving daughters and sons equal rights in the property. The Legislation will also consider the marital status of the woman and irrespective of her status; the women shall have full right to inherit the ancestral property like a son of the family. On the anvil of the legislation making its mark as a statue, the Hindu Succession Act, 1956 may have to be completely abolished with regard to the rights to a daughter in the Hindu Mitakshara Coparcenary Property as to that of the sons. The objective of the amendment should be to curb any kind of dispute with regard to the shares in the property and also in view of the amendment to the law in some States in India. It should however be clear that during the lifetime of the parents the properties acquired and

divided either by gifts or by virtue of a Will, the equal and determinate shares, if any, would become ineffective. Therefore, the changes in the law and amendments should also consider this aspect and lay a comprehensive and good law of inheritance and succession without being partial and bias to the gender.

- To answer these issues, some other States have amended the law. The Hindu Succession [Andhra Pradesh] Amendment Act, 1985 is a classic example on achieving this feat of including daughter as equally entitled to the share in the property as a son. This remarkable development on the rights of a daughter equal to that of a son in all circumstances has gone without a challenge and this has given a reason to correct the Mitakshara system as a violation of the fundamental right of equality under the Constitution of India. Some more States like Tamil Nadu, Maharashtra and Kerala have also amended the law by including women as members of the coparcenary, but to the dismay that the applicability of the amendment is confined to the State in which the law is amended and not the whole country.
- Now coming to the Muslims, the law governing Muslims and Muslim women in India is under The Muslim Personal Law (Shariat) Application Act, 1937. The Shariat is regarded as the Custom or Usage for the purposes of division of all properties, except agricultural land. In the earlier times Muslims were governed by the local customs, laws and practices where they were domiciled which ran contrary to the Shariat in following the local customs and laws. The customary laws were highly discriminatory and it excluded daughters and others like widow were in the bottom line in the succession order, this practice runs contrary to the Shariat where a daughter and widow cannot be excluded by any other heir and also have the protection from the testamentary restrictions. The shares of the daughters and widows are lower than a man.

LEGISLATION RELATED TO SOCIAL PROBLEM SUCH AS , PROSTITUTION:

- Prostitution is regarded as the oldest profession in the world and there are several countries with long histories of this activity. India is one of those countries. Back in the era of kingdoms, courtesans were accorded regal status of sorts. However, the situation is now not that good for people involved in the profession. Most of them live in sordid conditions and once they get in there is almost no way out of

the quagmire. In fact in India, there are several locations where prostitution happens to be the only way to generate any income.

- These locations are Wadia in Gujarat, Natpurwa in Uttar Pradesh, Bachara tribe in Madhya Pradesh, and Devdasis in Karnataka. Natpurwa is inhabited by people belonging to the Nat caste. They have a tradition of 400 years. The Devdasis are basically young girls married off to Goddess Yellamma at a tender age and then forced into prostitution for the rest of their lives. At Wadia it is the menfolk of the village who find suitors for the women. In case of Bachara tribe the eldest daughter in the family is forced to become a prostitute.

Is prostitution legal in India?

As far as laws are concerned, prostitution in India is not illegal per se. However, Indian penal code states that certain activities related to prostitution are contraventions of law.

Now the situation is such that the aforementioned activities are integral to the profession itself. So, does by outlawing them the Indian legal system say that prostitution is effectively illegal? That is a question that needs to be pondered seriously.

Laws related to prostitution

- The most basic law regarding the sex workers' status The Immoral Traffic (Suppression) Act was passed in 1956. It is also referred to as SITA. This law states that prostitutes are allowed to ply their trade in private but they cannot carry out their business in the open. An article published in BBC states that prostitution is illegal in India. Indian laws however do not regard sex in exchange of money as prostitution. As per laws, clients can be arrested if they indulge in any sexual activity in public. Even though exchange of sex for money is permissible on an individual capacity, a lady cannot do it in within a span of 200 yards of a public place. Sex workers are not within the ambit of normal labour laws. However, they have all the rights that would be enjoyed by a citizen and are entitled to be rescued and rehabilitated if they want to do so.
- However, SITA is not used as such. At times, different sections of the IPC are employed to bring charges of supposed-criminal acts like public

indecentry against sex workers. They can also be accused of being public nuisance. The problem is there is no clear definition of what these crimes constitute and sex workers are basically left to the whims of the officials who bring the charges against them. SITA has recently been changed to become PITA or The Immoral Traffic (Prevention) Act. There have been several attempts to change this law so that a bigger slice of blame can be placed on the clients. However, the Union Health Ministry has opposed such developments. These days, insurance companies are coming forward and insuring sex workers.

Immoral Traffic (Prevention) Act – ITPA

- The Immoral Traffic (Prevention) Act was passed in 1986 and is an amendment of the SITA. As per this law prostitutes will be arrested for soliciting their services or seducing others. In the same vein, call girls are not allowed to make their phone numbers public. They can be imprisoned for a maximum of 6 months along with financial penalties if they are caught doing so.
- Clients who consort with prostitutes or indulge in such activities within 200 yards of a designated area can be imprisoned for a maximum of 3 months and they need to pay fines for the same as well. In case, someone indulges in such activities with someone under 18 years old, he or she can be jailed between 7-10 years. Pimps and similar people who live from the income made by a prostitute are guilty as well. For that matter, if an adult man lives with a prostitute he can be regarded as guilty. If he cannot prove himself to be innocent, he can face imprisonment between 2-4 years.
- People who run businesses such as brothel-keepers and landlords are liable to be prosecuted as well as they are considered to be illegal. In case of the first offence they will be imprisoned for a maximum of 3 years. In case they forcibly keep someone in their brothel to be used as a prostitute or exploited for sexual purposes, they can be jailed for a minimum of 7 years.
 - This law also forbids prostitution in hotels. People involved in human trafficking or trying to recruit someone – either forcibly or willingly – are liable to be jailed between 3-7 years.
 - It is the legal responsibility of the government to rescue and rehabilitate such women and place them in protective homes. For the purpose of this law, locations such as places of worship, hostels, educational institutions, and hospitals are regarded as public places. Brothel is a place, which is inhabited by more than a couple of sex workers.

Should prostitution be legalised in India?

As per official statistics there are 3 million sex workers in India. There are several women in India who get in the business because they are in need of money. However, there are also plenty of people, who are forced into the business. The All India Network of Sex Workers President, Bharati Dey states that people become prostitutes of their own accord and they need to be given the same rights as others. In the last few years, the industry has witnessed tremendous growth, and most of the new entrants are women from the rural areas with little or no education. For some of them casual labour with little payment is the way to go, while for others sex, with higher pay, is a much better choice.

The arguments in favour

- Groups, such as one headed by Dey, want sex trade to come out in the open. During April 2015 there was a session on acts of crime against women. There it was said that the fact that if India was able to decriminalize sex work, it will place women in the country in a better position. In 2009, Supreme Court had suggested that prostitution be made legal. The National Commission for Women, a national-governmental body, has changed its stance on the issue as well. Lalitha Kumaramangalam, its head, has stated that if prostitution is properly regulated then authorities would be in a better position to stop trafficking, especially that of children.
- It would also help in improving the squalid conditions in which the clients and workers operate and reduce the spread of HIV-AIDS as well as any other disease. On 8 November she presented the case to a Supreme Court special panel, which looked to change the law. Mayank Austen Soofi has been writing about the brothels of GB Road, Delhi and says that all the sex workers he has interacted with wish to be accorded legal status. They are weary about going to doctors and always afraid of being harassed by the police. They also live with the possibility of being expelled by their landlords in case they come to know what they do for a living.

The arguments against

- Without a shadow of a doubt, ending of forced prostitution has to be the focus of any activity directed against prostitution right now. An anti-trafficking group named Apne Aap says that the traffickers, who also double up as brokers, pay low sums to the parents of the young girls and girl children in villages and then these hapless souls are

subjected to rape repeatedly. Quite often, police and NGOs raid these outfits and rescue the girls but it is of no use since their families sell them again to the same broker. According to Apne Aap, more than 30% of sex workers in India are under the age group of 18 years.

- This group is evidently against giving legal status to prostitution. It says that with greater demand for sex, the amount of trafficking will only increase. It was also running a campaign named Cool Men Don't Buy Sex in order to bring down such demands. From the looks of it, this programme never really became the success that they were hoping it to be and as of now the chances of prostitution being legalized are also rather low. BJP is known to be a conservative party and it is unexpected that it will provide its stamp of approval to sex trade, which is expected to be in the shadows for the time being.

JUVENILE DELINQUENCY:

Introduction

- In the last few decades, the crime rate by the children under the age of 16 years has increased. The reason of increasing crime rate is may be due to the upbringing environment of the child, economic conditions, lack of education and the parental care. These are the some of the basic reasons. And the most disappointing part is that, children (especially under the age group of 5 to 7 years) now a days are used as tool for committing the crime as at that this stage their mind is very innocent and can easily be manipulated.
- The frightful incident of “*Nirbhaya Delhi Gang Rape Case*”, on December 16, 2012 shocked the whole nation and many debates were started among legal fraternity and socialists. The main reason and issue of the debate was the involvement of accused, who was just six months short to attain the age of 18 years. The involvement of the accused in such a heinous crime of rape forced the Indian Legislation to introduce a new law and thus, Indian Parliament came up with a new law which is known as “*Juvenile Justice (Care and Protection)*”, 2015.
- The Introduction of the Act has replaced the existing juvenile laws and has introduced some remarkable changes. One of the remarkable changes is juvenile under the age group of 16 to 18 years should be tried as an adult.

Definition of Child and Juvenile under the Juvenile Justice Act, 2015 and other various laws

Generally, a “child ”mean a person who has not attain the age of 18 years and is not mature to understand that what is right and wrong . In modern era, the

penal laws of most countries have adopted the principle of '*doli incapex*' which means of knowing that act there are committing is a crime. The penal laws also states that Only child between the age of seven to twelve age can be convicted, provided that, the act they have committed is a heinous crime and they have knowledge and has attained the sufficient knowledge to understand the consequences of their act.

According to sub- section 12 of Section 2 of The Juvenile (Care and Protection) Act, 2015 a "child" means a person who has not completed eighteen years of age. The Act classifies the term "child" into two categories: –

- "child in conflict with law" , and
- "child in need of care and protection"

The child who has committed an offence and he or she is under the age of 18 years on the date of commission of the offence is basically called as " child in conflict with law". The second sub – category is " child in need of care and protection" means a child ad defined under Section 14 of the Act.

- **Children Act, 1960 :-** Section 2(e) of the Act states " child" means a boy who has not attained the age of sixteen years or a girl who has not attained the age of eighteen years.
- **United Nations Convention :** – The UN Convention on the Rights of Child, 1989 defines that "child" means a human being below the age of eighteen years unless the law declaration applicable to child , majority is attained earlier.

Difference between Juvenile and Child

A person under the age of full legal obligation and responsibility is a minor or a person who is below the legal age of eighteen years is minor. A child being accused of a crime is not tried as an adult and is sent to Child Care Centre whereas juvenile is a person between the age group of sixteen and eighteen years. A young person who is been accused of crime is a juvenile offender and is tried as adult in court proceedings.

In general sense both the term has same meaning but however difference lies in context of implications in the eyes of law. Minor implies young and teen persons whereas juvenile either indicates immature person or young offenders.

International Concerns for Juvenile

The General Assembly of the United Nations adopted the Convention on the Rights of the Child on 20th November, 1989 which prescribe a set of standard to be adhered to by all the States parties in securing the best interest of the child .The

International instruments and conventions have contributed considerably to the issue of child rights and prevention of child abuse. The International bodies like United Nations and UNICEF have always paid more emphasis on the development of Child.

Following are the International Instruments and Conventions that are signed by all the

States of UN in order to protect the rights of Children:-

1. UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)
2. UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)
3. UN Rules for the Protection of Juvenile Deprived of their Liberty (Havana Conventions)
4. Guidelines for the Action on Children in Criminal Juvenile System (Vienna Guidelines)

History of Juvenile Justice System in India

- In present era, a movement for the special treatment of juvenile offenders has started throughout the world including many developed countries like U.K., U.S.A. This movement has been started around the 18th century. Prior to this, juvenile offenders were treated as same as other criminal offenders. And for the same reason, General Assembly of United Nations has adopted a Convention on the Rights of Child on 20th November 1989. This convention seeks to protect the best interest of juvenile offenders. The Convention states that to protect the social – reintegration of juvenile, there shall be no judicial proceeding and court trials against them. The Convention leads the Indian Legislation to repeal the Juvenile Justice Act, 1986 and to make a new law. Thus, Indian Legislation came up with a new act which was called as “*The Juvenile Justice (Care and Protection of Children) Act, 2000*.”
- **The Juvenile Justice, 1986** which repealed the earlier *Children Act, 1960*, aimed at giving effect to the guidelines contained in the Standard Minimum Rules for the Administration of Juvenile Justice adopted by the

U.N. countries in November 1985. The above mentioned Act consisted of 63 Sections, 7 Chapters and is extended to whole India except to the State of Jammu and Kashmir. The primary purpose of the Act was to provide care and protection, treatment, development and rehabilitation of the neglected juvenile delinquent. The main objectives of the Act were:-

1. The act basically laid down uniform framework for the juvenile justice in country in such a way that it protects the right and interest of juvenile.
2. It talks about the machinery and infra – structure for the care, protection treatment, development and rehabilitation of the juvenile offenders.
3. It set out the basic provisions for the proper and fair administration of criminal justice in case of heinous crime done by juvenile offenders.

Juvenile Justice Act , 2000

- The Act was enacted in year 2000 with aim and intent to provide protection for children. The mentioned was amended twice – first in the year of 2006 and later in year of 2011 .The amendment was made to address the gap and loopholes in the implementation.
- Further, the increasing number of cases of juvenile crimes in the last recent years and frightful incident of “*Delhi Gang Rape Case*” has forced the law makers to come up with the law. The major drawback of the Act was that it contains ill equipped legal provisions and malfunctioning juvenile system was also the major reason in preventing the juvenile crimes in India. The act was replaced soon by *The Juvenile Justice(Care and Protection) Act, 2015*.

Present Juvenile Justice System in India

Like the other countries , India had also made legal provisions that especially and specifically deals with the rights and protection of juvenile offenders which seeks to tackle the problem of juvenile delinquency. The Juvenile Justice System in India is made on the basis of three main assumptions:-

1. young offenders should not be tried in courts , rather they should be corrected in all the best possible ways,
2. they should not be punished by the courts , but they should get a chance to reform
3. trial for child in conflict with law should be based on non-penal treatment through the communities based upon the social control agencies for e.g. Observation Homes and Special Homes.

Juvenile Justice Act, 2015

The aims to consolidate the laws relating to children alleged and found to be in conflict with law and children in need of care and protection by catering and considering their basic needs through proper care & protection, development, treatment, social-integration, by adopting a child friendly approach in the adjudication and disposal of matters in the best interest of children. The act also focuses on rehabilitation of juvenile offenders through various child care houses and institutions.

The most important subjects of the Act are as follows:-

Claim of Juvenility

The very first and most debatable question among the legal fraternity and socialists is the “claim of juvenility”. The claim of Juvenility is to be decided by Juvenile Justice Board. The Board has to decide the claim of juvenility before the court proceedings but the claim of juvenility can be raised before the court at any stage of proceedings and even after the disposal of the matter by the Board. The Board had to consider **Rule 12 of the Juvenile Justice Rules, 2007** in order to determine the claim of juvenility. In case of *Kulailbrahim v. State of Coimbatore* it was observed by the Court that accused has right to raise the question of juvenility at any point of time during trial or even after the disposal of the case under the Section 9 of Juvenile Justice Act, 2015.

Juvenile Justice Board

- There shall be a constitution of Board for the purpose of inquiry and hearing in the matters of juvenile in conflict with law.
 - The Board shall consists of Principal Magistrate and two social workers, among whom one should be a women. The Act provides that under no circumstances the Board can regulate and operate from regular court premises. The decision taken by the Principal Magistrate shall be final.
1. **Special Procedure of Juvenile Justice Board :-** The Act has provided the procedure against the juvenile offender. Following are the main special procedure –
 2. The proceedings cannot be initiated on a complaint registered by the police or citizen
 3. The hearing must be informal and should be strictly confidential.
 4. The offenders should be kept under Observation Home after detention.

5. The trial of juvenile in conflict with law shall be conducted by lady Magistrate.
6. A child in conflict with law may be produced before an individual member of the Board , when Board is not sitting.

Causes of Juvenile Delinquency

Researches and Studies shows that there are various causes of juvenile delinquency in India. Every person has different behavioral patterns so as in case with children also. The behavior patterns develop in early childhood and at early stage it is very difficult to identify any kind of behavior. But as soon as , child grows up comes out to real world , behavior patterns changes from time to time and many circumstances or situation may arise the delinquent behavior in them .

Following are the some of the causes of Juvenile Delinquency:-

1. **Adolescence Instability:** – The biological, psychological and sociological are one of the important factors in the behavior pattern of adolescent. At this stage, teenagers become more conscious about their appearances and fashions, enjoyment, food, play and etc. And at this age, they want freedom and they wanted to be independent but sometimes they are given any chances and opportunities by their parents, teachers and elders this leads to development of anti – social behavior in them. Thus, this anti – social behavior, biological changes, psychological causes are the some of the reasons which is responsible for juvenile delinquency.
2. **Disintegration of Family System:** – Disintegration of family system and laxity in parental control is also the main cause of increasing rates of juvenile delinquency. In normal cases divorce of parents, lack of parental control, lack of love and affections are the major factors of juvenile delinquency.
3. **Economic condition and Poverty:** – Poverty and poor economic condition is also consider has major contributing factor of increasing juvenile crimes as result of poverty, parents or guardian fails to fulfill the needs of the child and at the same time children wants that their desires should be fulfilled by parents by hook or by crook and when their desires are met they start themselves indulging in stealing money from homes or any other parents. And this develop habitual tendency of stealing which results into theft at large scale.
4. **Migration:** – Migration of deserted and destitute juveniles' boys to slums areas brings them in contact with some anti – social elements of society that

carries some illegal activities like prostitution, smuggling of drugs or narcotics etc. These sorts of activities attract the juvenile a lot and they may involve themselves in such activities.

5. **Sex Indulgence:-** The children those who have experienced sex assault or any other kind of unwanted physical assault in their early childhood may develop any kind of repulsiveness in their behavior and mind. In this age they may become more vagrants or may want to have sex experience. Too much of sex variance may lead the boys towards the crime of kidnapping and rapes etc.
6. **Modern Life Style:** – The rapidly changing society patterns and modern living style, makes it very difficult for children and adolescents to adjust themselves to the new ways of lifestyle. They are confronted with problems of culture conflicts and are unable to differentiate between right and wrong.

Juvenile Justice and Constitution of India

The Constitution of India is consider as the fundamental law of India. Constitution provides rights and duties of citizens. It also provides provision for the working of the government machineries. Constitution in Part III has provided Fundamental Rights for its citizens in the same manner in its Part IV it has provided *Directive Principles of State Policies (DPSP)* which acts as general guidelines in framing government policies. Constitution has provided some basic rights and provisions especially for the welfare of children. Like: –

1. Right to free and compulsory elementary education for all the children under the age of 6 to 14 years.(Article 21A)
2. Right to be protected from any hazardous employment under the age of fourteen age.(Article 24)
3. Right to be protected from being abused in any form by an adult.(Article 39(e)).
4. Right to be protected from human trafficking and forced bonded labour system.(Article 39)
5. Right to be provided with good nutrition and proper standard of living.(Article 47)
6. Article 15(3) of the Constitution of India provides special powers to State to make any special laws for the upliftment and the betterment of children and women.

Therefore, the law makers while drafting the Juvenile Act, 2015 has consider all the necessary provisions laid down by the Constitution so that child's rights are protected in all the possible ways.

This is for the same reason that Chapter IV of the Act lays down the provisions for betterment of the juveniles and has focused on the Reformation and Rehabilitation of Juveniles in all the possible circumstances.

Criminal Justice (Reformative or Punitive) and Juvenile:

- Juvenile Justice is a legal framework which defines justice for juvenile under the Indian Legal System. The system is giving a special treatment and protection to juvenile delinquency. Juvenile Delinquency means a crime committed by youth who is under the age of 18 years. At present, everyone knows that there is an increasing rate of juvenile crimes and this increasing rate is creating a debatable issue of age determination. Age determination is considered as one of the most important factor to determine the maturity level of the accused. The increasing crime rate is raising a question that whether the juvenile can be tried as an adult or not? The act itself answer to the question that no juvenile offender who comes under the definition of “child with conflict with law” as defined under sub – section 13 of Section 2 of the Act shall not be tried as adult and shall sent to Child Care Centre or any Rehabilitation Centre(till the offender attain the age of 21 years and then he or she may shifted to the jail or prison).
- Thus, the present Juvenile Law in India, considers Age Determination as a paramount importance to find out whether the offender falls under the purview of Juvenile Justice Act.
- According to the Act, the maximum tenure of punishment which can be given to the juvenile offenders is three years and this punishment is valid for heinous crime also. In case of an adult offender, the maximum punishment which can be given is 7 years or life imprisonment or death penalty. But, the Act, in case of juvenile offenders believe on Reformation of juvenile as much as possible. The reformation type of punishment under the Act includes: – Sending juvenile to Rehabilitation Centers , Juvenile Schools or making them involve in various program headed by government or NGO’s.
- In the present scenario, there is no need to give such a minor kind of punishment for a heinous and harsh offence just because of Age determination or Age factor . Rape is Rape, one can’t walk away taking a plea of age factor or mental incapacity or mental unfitness.
- Thus, the existing law in the name of Age determination or Age Consent , is not creating an deterrent effect on the anti – social behavior of youth. Juvenile

offenders are in believe that committing heinous crime is no issue as they will get away very little or no punishment in name of reformation.

- Adopting of reformatory theory of punishment by law, is giving an undue advantage to juvenile to perpetuate their ability to commit crime without facing any harsh consequences. Reformation is good but not always. If law is talking about reforming the juvenile offenders so that they can have a better life in future then law should also talks about the rights of the victim .Justice must be given to the victim. The theory of reformation is helping juvenile to reform but it is not helping the victim at all.
- The present juvenile system in India is created on believe that juvenile offenders can be reformed and rehabilitated , sending them to bars or prisons will going to reaffirm their status and identity as “criminals”. Now the question arises is that there is no guarantee that juvenile offenders will get reformed and will not show their anti – social behavior again.
- The act is totaling focusing on the reformation rather than penalization. Penalization will definitely will create a deterrent effect on the juvenile and increasing rate of crime by juvenile will slow down.

Conclusion

The increasing rates of juvenile crime in India in very concerning issue and need to be focused upon. Although government has laid various legislation and rules to stop the incidents of juvenile crimes but the present laws on juveniles is not creating a deterrent effect on the juveniles and thus the results are not fruitful and legislative intent is not accomplishing .

Child Labour Law & Regulations in India

Child labour deprives children of their childhood and is harmful to their physical and mental development. The Government provides free education to all children and has taken various steps to prevent child labour in India. However, child labour continues to be a problem in various parts of India due to poverty, lack of good schools and the growth of the informal economy. If all Entrepreneurs in the country decide to take steps to abolish child labour and help needy children receive education during their childhood, a vibrant and robust India can be created. “Knowledge will set you free” – In this article, we provide an overview of the law, rules and regulations pertaining to prevention of child labour in India.

Legal Age for Working in India

Hiring children below the age of 14 years for any kind of work, other than in certain family-based work, is a cognizable offence and will attract a jail term of upto 2 years. Adolescents between the age of 14 – 18 years cannot be employed in any hazardous occupation. Under the Child Labour (Prohibition and Regulation) Amendment Bill, 2012, the parents of the underage child employed can be penalised as well.

Children under 14 Years of Age

- Children under the age of 14 years cannot be employed or permitted to work in any occupation or process.
 - However, this restriction will not apply if a child helps his/her family or family enterprise (which is not a hazardous occupation), after his/her school hours or during vacation. Family in relation to a child means his/her father, mother, brother, sister and father's sister and brother and mother's sister and brother.
- In addition, a child below the age of 14 years will also be allowed to work as an artist in an audio-visual entertainment industry, including advertisement, films, television serials or any other entertainment or sports activities except the circus, subject to conditions and safety measures.

Adolescents – 14 to 18 Years of Age

The Child Labour (Prevention and Regulation) Amendment Act allows adolescents to work in non-hazardous occupations and processes. If an adolescent is employed, the following conditions must be satisfied by the employer:

- The period of work on each day should be fixed in a manner that no period or work would exceed three hours.
- The adolescent must have an interval for rest for atleast one hour after working for three hours.
- The total time spent working by an adolescent cannot exceed 6 hours in a day, including the time spent in waiting for work.
- Adolescents cannot be employed during the hours of 7PM to 8AM.
- Adolescents cannot be made to work overtime.
- Adolescents cannot work in more than one establishment, at anytime.
- Adolescents must be provided in every week, a holiday of one whole day.

Rules for Employing Adolescents

All employers employing adolescents must maintain a register with the following information:

- Name and date of birth of every adolescent employed to permitted to work.

- Hours and periods of work of any adolescent and the intervals of rest to which the adolescent is entitled.
- The nature of work of any such adolescent.

In addition to the above register, on employing or permitting an adolescent to work in an establishment, the owner of the establishment must send to the Local Inspector the following information within 30 days:

- Name and situation of the establishment.
- Name of the person in actual management of the establishment.
- Address to which communications relating to the establishment must be sent.
- Nature of the occupation or process carried on in the establishment.

Punishment for Violation of Child Labour Laws

Any person who employs a child or permits any child to work in contravention to the Child and Adolescent Labour (Prohibition and Regulation) Act is punishable with imprisonment for a term which would not be less than 6 months but which could extend to 2 years. In addition to imprisonment, the employer can also be fined an amount of Rs.20,000 to Rs.50,000.

Hazardous Occupation and Processes

The following occupations and processes have been listed as hazardous under Section 3 of the Child and Adolescent Labour (Prohibition and Regulation) Act. Hence, any child below the age of 18 cannot be employed for any of the following:

Occupation

An occupation connected with:

1. Transport of passengers, goods or mails by railway;
2. Cinder picking, clearing of an ash pit or building operation in the railway premises;
3. Work in a catering establishment at a railway station, involving the movement of a vendor or any other employee of the establishment from one platform to another or into or cut of a moving train;
4. Work relating to the construction of a railway station or with any other work where such work is done in close proximity to or between the railway lines;
5. A port authority within the limits of any port;
6. Work relating to selling of crackers and fireworks in shops with temporary licences;
7. Abattoirs/ slaughter Houses;
8. Automobile workshop and garages;
9. Foundries;

10. Handling of toxic or inflammable substances or explosives;
11. Handloom and power loom industry;
12. Mines (underground and underwater) and collieries ;
13. Plastic units and fiber glass workshops;
14. Employment of children and domestic workers or servants;
15. Employment of children in dhabas (road side eateries), restaurants, hotels, motels, tea shops, resorts, spas or other recreational centers;
16. Diving;
17. Circus;
18. Caring of Elephants.

Processes

Any of the following processes:

1. Bidi- making;
2. Carpet-weaving including preparatory and incidental process thereof;
3. Cement manufacture, including bagging of cement;
4. Cloth printing, dyeing and weaving including processes, preparatory and incidental thereto;
5. Manufacture of matches, explosives and fire-works;
6. Mica-cutting and splitting;
7. Shellac manufacture;
8. Soap manufacture;
9. Tanning;
10. Wool- cleaning;
11. Building and construction industry including processing and polishing of granite stones;
12. Manufacture of slate pencils (including packing);
13. Manufacture of products from agate;
14. Manufacturing process using toxic metals and substances, such as lead, mercury, manganese, chromium, cadmium, benzene, pesticides and asbestos;
15. 'Hazardous process' as defined in section 2(cb) and 'dangerous operation' as notified in Rules under section 87 of the Factories Act, 1948 (63 of 1948);
16. Printing as defined in section 2(k)(iv) of the Factories Act, 1948 (63 of 1948);
17. Cashew and cashewnut descaling and processing;
18. Soldering processes in electronics industries;
19. "Aggarbatti" manufacturing ;

20. Automobile repairs and maintenance including processes incidental thereto, namely, welding, lathe work, dent beating and painting;
21. Brick kilns and roof tiles units;
22. Cotton ginning and processing and production of hosiery goods;
23. Detergent manufacturing;
24. Fabrication workshop (ferrous and non-ferrous);
25. Gem cutting and polishing;
26. Handling of chromite and manganese ores;
27. Jute textile manufacture and coir making;
28. Lime kilns and manufacture of lime;
29. Lock making;
30. Manufacturing processes having exposure to lead such as primary and secondary smelting, welding and cutting of lead-painted metal construction, welding of galvanized or zinc silicate, polyvinyl chloride, mixing (by hand) of crystal glass mass, sanding or scrapping lead paint, burning of lead in enamelling workshops, lead mining, plumbing cable making, wire patenting, lead casting, type founding in printing shops, Store type setting, assembling of cars, shot making and lead glass blowing;
31. Manufacture of cement pipes, cement products and other related work;
32. Manufacturing of glass, glassware including bangles, fluorescent tubes, bulbs and other similar glass products;
33. Manufacture of dyes and dye stuff;
34. Manufacturing or handling of pesticides and insecticides;
35. Manufacturing or processing and handling of corrosive and toxic substances, metal cleaning and photo engraving and soldering processes in electronic industry;
36. Manufacturing of burning coal and coal briquettes;
37. Manufacturing of sports goods involving exposure to synthetic materials, chemicals and leather;
38. Moulding and processing of fibreglass and plastic;
39. Oil expelling and refinery;
40. Paper making;
41. Potteries and ceramic industry;
42. Polishing, moulding, cutting, welding and manufacture of brass goods in all forms;
43. Process in agriculture where tractors, threshing and harvesting machines are used and chaff cutting;
44. Saw mill all processes;
45. Sericulture processing;

46. Skinning, dyeing and processes for manufacturing of leather and leather products;
47. Stone breaking and stone crushing;
48. Tobacco process including manufacturing of tobacco, tobacco paste and handling of tobacco in any form;
49. Tyre making, repairing, re-treading and graphite beneficiation;
50. Utensils making, polishing and metal buffing;
51. `Zari making (all processes);
52. Electroplating;
53. Graphite powdering and incidental processing;
54. Grinding or glazing of metals;
55. Diamond cutting and polishing;
56. Extraction of slate from mines;
57. Rag picking and scavenging.
58. Processes involving exposure to excessive heat (e.g. working near furnace) and cold;
59. Mechanized fishing;
60. Food Processing;
61. Beverage Industry;
62. Timber handling and loading;
63. Mechanical Lumbering; .
64. Warehousing;
65. Processes involving exposure to free silica such as slate, pencil industry, stone grinding, slate stone mining, stone quarries, and agate industry.

UNTOUCHABILITY:

What is untouchability?

Untouchability is a direct product of the caste system. It is not merely the inability to touch a human being of a certain caste or sub-caste. It is an attitude on the part of a whole group of people that relates to a deeper psychological process of thought and belief, invisible to the naked eye, translated into various physical acts and behaviours, norms and practices.

Untouchability is the product of casteism and the belief in purity of so called upper castes. It is generally taken for granted that Dalits are considered polluted people at the lowest end of the caste order. All the menial tasks were to done by the low caste, like removing human waste (known as “manual scavenging”), dragging away and skinning animal carcasses, tanning leather, making and fixing

shoes. They are supposed to reside outside the village so that their physical presence does not pollute the “real” village. They are restricted in terms of space and their houses were to be of inferior quality and devoid of any facilities like water and electricity.

Who are Dalits?

- 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 borne 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. 6 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.

UNTOUCHABILITY IN INDIA

- When the constitution of India outlawed untouchability in 1950 many national leaders believed that a centuries old practice had been brought to an end. But now nearly 60 years later there is no total success of the statutory measure. Millions of Dalits across the country who account for roughly 1/5th of the population continue to suffer birth-based discrimination and humiliation. In states like Tamil Nadu which boasts a long history of reformist movements is no exception.
- Infact untouchability has not only survived the constitutional ban but taken new avatars in many parts of the state.
- Caste-based discrimination has often led to violence, leaving hundreds of the disadvantaged people in distress particularly in the 1990s. Over 80 forms

of untouchability have been identified, many of which are apparently free India's additions to the list. From time immemorial Dalits have been deprived of their right to education and the right to possess land and other forms of property.

- Left with nothing but their physical labor to earn their livelihood they have all along been forced to do the toughest and most menial jobs for survival. Apart from the denial of access to public roads, tanks, temples and burial/cremation grounds there are other forms of untouchability.
- Segregation of Dalits is seen almost everywhere in 8 Tamil Naidu's villages. But nothing can perhaps beat the high wall 500 meters long that has been built at Uthapuram in Madurai district as a barrier between Dalits and caste Hindus. While untouchability is still rampant and is taking new forms particularly in villages, the constitutional ban and compulsions of modernity and development have to some extent blunted its rigor. Rail transport has been unifying forces in society. Yet the Railways have been among the worst offenders in respect of the law against manual scavenging. Dalits constitute a significant portion of its workforce of manual scavengers along railway lines. Although all state governments claim that they have abolished manual scavenging reports reveal that this practice is very much alive in many places.
- Postmen have also been found to practice untouchability. A study conducted in Tamil Nadu noted that in two villages in Madurai district postmen did not deliver postal articles to Dalit addressees. Dalits were required to collect the articles at the post office. There are also road transport related violations of the law against untouchability.
- Among them is the unwritten rule that gives caste Hindus priority over Dalits in boarding buses in many areas, buses not stopping in Dalit areas, transport employees picking quarrels with Dalit passengers without provocation and Dalits not being allowed to use bus shelters. State government still follows a traditional procedure of making announcements in villages by beating a drum and for that they deploy Dalits. Worse still are the roles of schools and teachers in perpetuating untouchability and sowing the seeds of caste-related discrimination in young minds.
- The Dalit children are often discouraged by teachers and fellow students belonging to caste Hindu social groups. In many schools Dalit pupils were not allowed to share water with caste Hindus. To punish an erring or naughty Dalit boy teachers scold him by calling him by his caste name. If the teacher decides that the boy needed a beating as punishment the task

was assigned to another Dalit boy. There is also systematic refusal of admission to Dalits in certain schools particularly at the plus two levels. In some villages during the temple festivals Dalits are supposed to stay hidden from caste Hindus. The two-tumbler system under which Dalits and non-Dalits are served tea in different vessels is still prevalent in some teashops. In some eateries they are compelled to sit on the floor.

Untouchability and discrimination In the name of untouchability, Dalits have faced work and descent-based discrimination at the hands of the dominant castes. Instances of this discrimination at different places and times included.

- Prohibition from eating with other caste members
- Provision of separate cups in village tea stalls
- Separate seating arrangements and utensils in restaurants
- Segregation in seating and food arrangements in village functions and festivals
- Prohibition from entering into village temples
- Prohibition from wearing sandals or holding umbrellas in front of higher caste members
- Prohibition from entering other caste homes
- Prohibition from riding a bicycle inside the village
- Prohibition from using common village path
- Separate burial grounds
- No access to village's common/public properties and resources (wells, ponds, temples, etc.)
- Segregation (separate seating area) of children in schools
- Bonded labour
- Social boycotts by other castes for refusing to perform their "duties" Even after more than 50 years of Independence India still has the world's largest number of poor people in a single country.

- It is estimated that 1 in every 3 Indians lived in what could be categorized as absolute poverty—a total of 310 million people. Those especially vulnerable throughout India continue to be rural women, the disabled, and people of lower castes – especially the Dalits or "Untouchables." be born a Hindu in India is to enter the caste system, one of the world's longest surviving forms of social stratification.
- Embedded in Indian culture for the past 1,500 years, the caste system follows a basic precept: All people are created unequal. The ranks of Hindu society come from a legend in which them main groupings, or varnas, emerge from a primordial being. From the mouth come the Brahmins—the priests and teachers.

- From the arms come the Kshatriyas—the rulers and soldiers. From the thighs come the Vaisyas—merchants and traders. From the feet come the Sudras—laborers. Each varna in turn contains hundreds of hereditary castes and subcastes with their own pecking orders. A fifth group describes the people who are untouchable—the primordial being does not claim them.
- Untouchables are outcastes—people considered too impure and polluted to rank as worthy beings. Discrimination against India's lowest Hindu castes is technically illegal. But try telling that to the 250 million Dalit people (nearly 1/4 of India's society) who face violent reprisals if they forget their place. The term "Dalit" means "those who have been broken and ground down deliberately by those above them in the social hierarchy." Dalits live at risk of discrimination, dehumanization, violence, and enslavement through human trafficking every day.
- Prejudice defines their lives as everyday they are shunned, insulted, banned from temples and higher caste homes, made to eat and drink from separate utensils in public places and too often raped and murdered.

Indian Law:

- Discrimination against Dalits is Social, Not Legal While there are beliefs that are rampantly propagated about Dalits in India being considered as the lowest in the caste system, the Constitution of India provides them with the right to equality.
- The society considers a person belonging to a Dalit community as being polluted by the society. The Dalits are supposedly meant to do only jobs that are 'impure' such as clear human waste from villages and wash clothes and make shoes. In villages and cities, the herd mentality of following the caste system continues.
- The Dalit children face discrimination even in schools. They are made to clean the toilets and eat separately. Offensive names are given to Dalit children such as Kachro (filth), Melo (dirty), Ghelo (stupid) and so on. Though Dalits are considered as social untouchables, the women in their community are not. Since time immemorial, Dalit women have been raped, sexually harassed and perceived as objects to be used and discarded, even by the police. However, the Constitution of India provides reservation for the Dalits in the sphere of education and government jobs to ensure they are given an equal opportunity to grow and prosper in this country.
- The country's highest positions such as that of the former President (K.R. Narayanan) and former Chief Justice of India (K.G. Balakrishnan) have been

occupied by highly eminent individuals who happened to be Dalits. 12
Constitutional Provision: The very basis of the administration that is the Constitution of India does not tolerate such discrimination. Its whole structure is based on treating all citizen of this country at par. Paragraphs 15 and 16 and 17 categorically make provisions in this regard.

Paragraph 15 of the Constitution of India:

1) The State shall not discriminate against any citizen on grounds only of religion, caste, sex, place of birth or any of them.

2) No citizen shall on grounds only of religion, race, caste, sex, place of birth or any of them, be subjects to any disability, liability, restriction with regard to.

A) Access to shops, public restaurants, hotels and places of public entertainment; or

B) The use of wells, tanks, bathing Ghats, roads and places of public resort maintained wholly or partly out of State funds dedicated to the use of the general public. Paragraph 16 of the constitution of India:

1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment of office under the state.

3) Nothing in this Article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to any office under the Government of, or any local or other authority within a State or Union Territory, any requirement as to residence within that State or Union Territory prior to such employment or appointment.”

“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of ‘untouchability’ shall be an offence punishable in accordance with law.”

Constitution of India:

- The directive principles of the state policy laid down in the Constitution of India categorically rule against untouchability. The provisions in this regard are being reproduced below to make clear the effects made by the Government for eradication of untouchability.
- Directive against untouchability as contained in chapter XVI of the Constitutional of India: The Government will develop the economic and educational interest of the weakest classes, especially Scheduled Castes with

special protections and will protect them from social injustice and all forms of exploitation.”

- Provisions for eradication of untouchability as embodied in Article-46 of the Constitution of India: 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 146 provides that in the States of Bihar, Madhya Pradesh and Orissa there shall be a Minister in charge of Tribal Welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.”

Article 330 makes provision for the reservation of seats for the people of Scheduled Castes, Tribes etc, and provisions of the Article in this respect reads as follows:

- 1) Seats shall be reserved in the House of the People for:
 - a) The Scheduled Castes;
 - b) The Scheduled Tribes except the Scheduled Tribes in the tribal areas of Assam and in Nagaland, and c) The Scheduled Tribes in the autonomous districts of Assam.
- 2) The number of seats reserved in any State or Union Territory for the Scheduled Castes or the Scheduled Tribes under clause
 - 1) Shall bear, as nearly as may be the same proportion in the total number of seats allotted to that State or Union Territory in the House of the people as the population of Scheduled tribes in the State or Union Territory or part of the State or Union Territory in the House of the people as the population of the Scheduled Tribes in the State or Union Territory or part of the State or Union Territory, as the case may be, in respect of which seats are so reserved, bears to the total population of the State or Union Territory.

Reservation in appointments, in order to remove the untouchability:

The constitution has also made provision for reservation of seats in service or appointment. Articles 335 and 338 of the constitution of India provisions in this regard. The provision of the Constitution is reproduced below:

Article 335: The claims of the members of the Scheduled castes and the Scheduled tribes shall be taken into consideration consistently with the maintenance of

efficiency of administration in making of appointments to services and posts in connection with the affairs of the union or of a State.’ Article 338 has something similar to say:

- 1) There shall be a Special Officer for the Scheduled Castes and Scheduled Tribes to be appointed by the President.
- 2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for the Scheduled Castes and Scheduled Tribes under this constitution and report to the President upon the working of those safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before the Parliament.”

Commission for enquiring the conditions of the members of the Scheduled Castes, Scheduled Tribes etc.: The constitution had made provisions for appointment of the Commission to study the conditions of the Scheduled Castes and Scheduled Tribes.

Article 340 1) has made very clear cut provisions in this regard: “The President may be order appoint a Commission consisting of such persons as he thinks fit to investigate the conditions of socially and educationally backward classes within the territory of India and the difficulties under which they labour and to make recommendations to the steps that should be taken by the Union or any State to remove such difficulties and to improve their condition and as to the grants that should be made for the purpose by the Union or any state and other appointing such Commission shall define the procedure to be followed by the commission.

2) Enactment and measures for improving the condition of the members of the Scheduled Castes for eradicating untouchability:

- Our modern society is very much governed by economic factors. If the members of a particular society are economically well off, they shall not be looked down by members of the other communities. The Government of Indian had therefore felt two basic things to perform. The first 16 thing was to make enactments and enact legislative measures against untouchability.
- The second task was to improve the economic, social and educational conditions of the members of the Scheduled Castes. This will automatically solve their problem. The Government of India therefore in 1955 passed ‘untouchability Offence Act.’ As a result of this Act practicing untouchability was made penal offence. On the basis of this law the untouchability was made penal offence. On the basis of this law the Harijans were allowed entry into temples, use of public places of worship and

facilities, use of places of recreation, public inhabitants educational institutions etc, people were warned against harassing the Harijans and the so called untouchables.

- Intensive propaganda and greater outlay on Harijan Welfare: Mere enactment of laws is not sufficient. This proved to be true in regard to the eradication of untouchability also. The Government on one hand passed laws against untouchability and on the other hand carried out intensive propaganda against the social evil. Harijan weeks were observed, films and other audio visual programmes against untouchability were carried out. Apart from it, different plans made a good deal of provisions for providing assistance to Harijans and taking steps against untouchability. They also made reservations and fixed quota in appointments.
- These steps by the Government of India yielded good results.

Bettering the economic lot of the Harijans:

Apart from allocating higher funds for Harijans Welfare, the Government made various other efforts for improving their economic condition. It was a known fact that the Harijans were under the financial debt. The first task was to make them free from these debts. They had been subjected to bonded labour and did not own land. All these factors made them economically weak.

Non-governmental efforts for eradication of untouchability: Government undertook the task of eradicating untouchability only after the country's freedom. Prior to that it was non-government bodies including Indian national Congress and Gandhi's Sarva Sava Samiti that made efforts for the eradication of the untouchability. Now various voluntary organisations are in the field. Some of these existed even before and some of them have now come into being.

Organisations like Harijan Sevak Sangh, Indian Depressed Class League, Seva Sangh, Depressed Classes Conference and Scheduled Caste Federation are making effort to eradicate untouchability. Apart from it, there are various State level organisations in Mysore, Tamil Nadu, Andhra Pradesh, Bihar etc; these bodies are providing facilities to Harijans young boys and girls for education. They are setting up Harijan hostels, institutes for training Harijans Women in useful crafts and so on.

The Government of India and the State Government provide financial assistance to these bodies. These bodies in their turn collect donations and also finance their programmes. The job of these bodies is to assist the Government in the task of eradication of untouchability. Untouchability is another major problem of Rural India. It is basically a rural problem. Its seeds are only found in rural soils.

Untouchability is an ancient concept traditionally. Indian society was broadly divided into four groups such as Brahmin, Kshatriya, Vaishya and Sudra. In the 20 caste hierarchy the lowest place was given to the Sudras and they were regarded as untouchables by the rest members of Hindu Caste. Mahatma Gandhi, the father of nation, says “Untouchability is the hate fullest expression of Caste System and it is a crime against God and man”.

Further he lovingly called the untouchables as Harijan means the people of God. Since untouchability is a very old concept, therefore, the untouchables were identified by the different names in different periods. In Vedic period, they were known as ‘Chandala’. In Medieval age, they were addressed as ‘Achhuta’.

In the British period, they were known as ‘Exterior Caste’. In the present time, they were generally known as the ‘Scheduled Caste’ by the Indian Constitution. Though the untouchables are theoretically considered as a part of Varna organisation, they are closely linked with the Hindu Social Life. The presence of untouchables is very indispensable for the smooth functioning of Hindu Society because they perform certain polluting occupations like scavenging, removal of the dead cattle and so on.

It is extremely difficult to define untouchability. Therefore, it is usually defined in terms of disabilities suffered by those who are considered to be the untouchables. Thus it may be said that suffering from all kinds of disabilities is the sign of untouchability.

Thus, untouchables are those castes which are subject to all kinds of disabilities in every walk of life such as social, economic, religious and political in other words, the persons who have no right to enjoy any privilege, who do not touch the shadow of higher caste, who follow the lowest kind of occupations, who have occupied the lowest place in the caste hierarchy and deprived from all sorts of things are called to be the untouchables.

21 Disabilities of Untouchables:

1) Social Disabilities: From the social point of view, the untouchables suffered following disabilities.

i) Lower Social Status:

Since social status was fixed for different castes, therefore, the untouchability was placed at the lowest place in the caste hierarchy and enjoys lowest status in the society. Their social status was just like a golden zero. Moreover, they were considered as the symbol of pollution by the higher caste people. Consequently, the untouchables are deprived of all kind of commercial contacts.

ii) Educational disabilities:

Traditionally, the untouchables were forbidden from receiving any education. They were not entitled to acquire the knowledge of Vedas. Even if they were not permitted to touch the religious books. The untouchables were not allowed to get education from the public institution. Only recently they have given educational facilities.

iii) Disabilities relating to Social habits:

Till recently, the untouchables are faced many problems in various social habits like food, drink and social intercourse. They are not permitted to take food or drink from the house of high caste people. They are eating only 'Kachha' foods which are prepared by the ordinary things. In the social intercourse, they are also faced the same problem.

iv) Prohibition in the use of public places:

In fact, the untouchables were not allowed to use village wells, ponds, public hospitals, roads and so on. They were not permitted to live in those places where the higher caste people reside. The untouchables were forced to live in the worst type of village slums. Moreover, they were leading a life just like the domestic animals.

2) Economic disabilities:

Economically, to the position of untouchable's castes was very pitiable. They were deprived from all kinds of economic privileges in the society following are the main economic disabilities of untouchables.

i) No right to property:

Traditionally, the untouchables were not allowed to have any land or property of their own. They were prevented from entering in various types of enterprises.

They were not permitted to acquire wealth or to buy land in village. Even if, the untouchables have no right to sell their landed property to any one. Moreover, they were deprived from all sorts of right to property.

ii) No right to choose occupation:

In the past, the untouchables were not allowed to engage themselves in occupations which were reserved from the members of higher castes. They were compelled to stick to their traditional occupations. They were largely engaged in agricultural and other associated works as wage earners. The untouchables were traditionally associated with such lower occupations like scavenging, leather works, basket making and so on. Though generation to generation, they lived with half-belly with no hope of getting some tasty foods. Even now their position is not very much different from what it had been. Most of them are still far below the poverty line.

iii) Landless laborer:

The untouchables were traditionally known as landless laborers because they have no land in the village. They were leading a landless laborer life. Before the abolition of zamindari system, their primary duty was to work for a landlord without any remuneration. Thus their position was just like a slave and in certain circumstances worst than a slave. In this context, Gandhiji has said that, “the untouchables performed the most essential service of society yet at the same time they were the lowest paid ones. Only such amount of wages is given to them that are necessary to unite, their cursed soul and their physical frames.

3) Religious disabilities:

Though, the untouchables are known as the Hindus by religion, yet they were not permitted to enter into the Hindu temple and pilgrimages nor were they allowed to use public bathing Ghats. The untouchables were not allowed to study religious books. They were also deprived from the Jajman of Brahmin priests. For example, a Brahmin never accepts to perform the religious ceremony of an untouchable. Only recently, efforts have been made by the Government for removing these religious disabilities by legislators.

4) Political disabilities:

In the past, the untouchables were also deprived from all kinds of political privileges. They were not allowed to participate in political administration and general election of the traditional India. They were also not permitted to hold any public post. Only during the British rule, they for the first time got the right to

vote. But, now-a-days, they have enjoy maximum political rights on the ground that some seats in Parliament and State Assemblies are reserved constitutionally for them, but it is doubtful, weather they can properly utilise this political rights without their economic development. It means without their economic improvement, they cannot utilise the political rights which they have got.

Indian Law:

Legal Measures against Un touchability Indian law does not permit the practice of un touchability. Article 17 of the Constitution of India bans the practice. The government of India has passed the Un touchability Act, 1955, to eliminate any form of caste based discrimination. To eradicate the caste based discrimination, the government introduced the reservation system, meaning that it has reserved seats in educational institutes and government services for Dalits. Political parties in India use this as the bait to get votes from the Dalit community too. However, this is a highly debated issue because many Dalits oppose it, stating that merit should be given preference over caste considerations. Whether we practice or preach against untouchability, the truth is that it is still practiced in various parts of India. Those who dared to question social discrimination faced physical and mental torment because the social ground reality still remains the same for them.

ARTICLE 17 abolishes “untouchability³” and forbids its practice in any form. The enforcement of any disability arising out of untouchability is to be an offence punishable in accordance with law. It does not stop with mere declaration but announces that this forbidden ‘untouchability, is not to be henceforth practiced in any form. If it is so practiced it shall be dealt with as an offence punishable in accordance with the law. Untouchability is neither defined in the Constitution nor in the Act.

The Mysore High Court has, however, held that the term is not to be understood in its literal or grammatical sense but to be understood as the ‘practice as it had developed historically’ in this Country. Understood in this sense, it is a product of the Hindu caste system according to which particular section amongst the Hindus had been looked down as untouchables by the other sections of that society.

A literal construction of the term would include persons who are treated as untouchables either temporarily or otherwise for various reasons, such as, suffering from infectious diseases or on account of social observance such as, are associated with birth or death or on account of social boycott resulting from caste or other dispute. In either case such persons can claim the protection or benefit either of

Article 17 or of the 1955 Act.² In exercise of the powers conferred by Article 35, Parliament has enacted the Untouchability (Offences) Act, 1955.

This Act was amended by the Untouchability (Offences) Amendment Act, 1976, in order to make the law more stringent to remove untouchability from the society. It has now been renamed as, The Protection of Civil Rights Act, 1955. The expression 'Civil Right' is defined as 'any right accruing to a person by reason of the abolition of untouchability by Article 17 of the Constitution.'

Under the amended Act any discrimination on the ground of untouchability will be considered an offence.

It imposes a duty on public servants to investigate such offences.

It provides that if a public servant, will fully neglects the investigation of any offence punishable under this Act he shall be deemed to have abetted an offence punishable under this Act.

PHYSICAL AND MENTAL LEGISLATION:

General legal provisions relating to the disabled lies in

1. Constitution
2. Education Laws
3. Health Laws
4. Family Laws
5. Succession laws
6. Labour Laws
7. Judicial Procedures
8. Income Tax Laws, &
9. Various Acts
 - The Person with Disabilities Act, 1995
 - The Mental Health Act, 1987
 - The Rehabilitation Council of India, 1992
 - The National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation, and Multiple Disabilities Act, 1999
 - Declaration On The Rights Of Mentally Retarded Persons

The disabled and the constitution:

The Constitution of India applies uniformly to every legal citizen of India, whether they are healthy or disabled in any way (physically or mentally).

Under the Constitution the disabled have been guaranteed the following fundamental rights:

1. The Constitution secures to the citizens including the disabled, a right of justice, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and for the promotion of fraternity.
2. Article 15(1) enjoins on the Government not to discriminate against any citizen of India (including disabled) on the ground of religion, race, caste, sex or place of birth.
3. Article 15 (2) States that no citizen (including the disabled) shall be subjected to any disability, liability, restriction or condition on any of the above grounds in the matter of their access to shops, public restaurants, hotels and places of public entertainment or in the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of government funds or dedicated to the use of the general public. Women and children and those belonging to any socially and educationally backward classes or the Scheduled Castes & Tribes can be given the benefit of special laws or special provisions made by the State.
4. There shall be equality of opportunity for all citizens (including the disabled) in matters relating to employment or appointment to any office under the State.
5. No person including the disabled irrespective of his belonging can be treated as an untouchable. It would be an offence punishable in accordance with law as provided by Article 17 of the Constitution.
6. Every person including the disabled has his life and liberty guaranteed under Article 21 of the Constitution.
7. There can be no traffic in human beings (including the disabled), and beggar and other forms of forced labour is prohibited and the same is made punishable in accordance with law (Article 23).
8. Article 24 prohibits employment of children (including the disabled) below the age of 14 years to work in any factory or mine or to be engaged in any other hazardous employment. Even a private contractor acting for the Government cannot engage children below 14 years of age in such employment.
9. Article 25 guarantees to every citizen (including the disabled) the right to freedom of religion. Every disabled person (like the non-disabled) has the freedom of conscience to practice and propagate his religion subject to proper order, morality and health.

- 10.No disabled person can be compelled to pay any taxes for the promotion and maintenance of any particular religion or religious group.
- 11.No Disabled person will be deprived of the right to the language, script or culture which he has or to which he belongs.
- 12.Every disabled person can move the Supreme Court of India to enforce his fundamental rights and the rights to move the Supreme Court is itself guaranteed by Article 32.
- 13.No disabled person owning property (like the non-disabled) can be deprived of his property except by authority of law though right to property is not a fundamental right. Any unauthorized deprivation of property can be challenged by suit and for relief by way of damages.
- 14.Every disabled person (like the non-disabled) on attainment of 18 years of age becomes eligible for inclusion of his name in the general electoral roll for the territorial constituency to which he belongs.

Education Law for the Disabled

- The right to education is available to all citizens including the disabled. Article 29(2) of the Constitution provides that no citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on the ground of religion, race, caste or language.
- Article 45 of the Constitution directs the State to provide free and compulsory education for all children (including the disabled) until they attain the age of 14 years. No child can be denied admission into any education institution maintained by the State or receiving aid out of State funds on the ground of religion, race, caste or language.

Health Laws

- Article 47 of the constitution imposes on the Government a primary duty to raise the level of nutrition and standard of living of its people and make improvements in public health - particularly to bring about prohibition of the consumption of intoxicating drinks and drugs which are injurious to one's health except for medicinal purposes.
- The health laws of India have many provisions for the disabled. Some of the Acts which make provision for health of the citizens including the disabled may be seen in the Mental Health Act, 1987 (See later in the chapter).

Family Laws

Various laws relating to the marriage enacted by the Government for DIFFERENT communities apply equally to the disabled. In most of these Acts it has been provided that the following circumstances will disable a person from undertaking a marriage. These are:

- Where either party is an idiot or lunatic,
- Where one party is unable to give a valid consent due to unsoundness of mind or is suffering from a mental disorder of such a kind and extent as to be unfit for 'marriage for procreation of children'
- Where the parties are within the degree of prohibited relationship or are sapindas of each other unless permitted by custom or usage.
- Where either party has a living spouse

The rights and duties of the parties to a marriage whether in respect of disabled or non-disabled persons are governed by the specific provisions contained in different marriage Acts, such as the Hindu Marriage Act, 1955, the Christian Marriage Act, 1872 and the Parsi Marriage and Divorce Act, 1935. Other marriage Acts which exist include; the Special Marriage Act, 1954 (for spouses of differing religions) and the Foreign Marriage Act, 1959 (for marriage outside India). The Child Marriage Restraint Act, 1929 as amended in 1978 to prevent the solemnization of child marriages also applies to the disabled. A Disabled person cannot act as a guardian of a minor under the Guardian and

Wards Act, 1890 if the disability is of such a degree that one cannot act as a guardian of the minor. A similar position is taken by the Hindu Minority and Guardianship Act, 1956, as also under the Muslim Law.

Succession Laws for the Disabled

Under the Hindu Succession Act, 1956 which applies to Hindus it has been specifically provided that physical disability or physical deformity would not disentitle a person from inheriting ancestral property. Similarly, in the Indian Succession Act, 1925 which applies in the case of intestate and testamentary succession, there is no provision which deprives the disabled from inheriting an ancestral property. The position with regard to Parsis and the Muslims is the same. In fact a disabled person can also dispose his property by writing a 'will' provided he understands the import and consequence of writing a will at the time when a will is written. For example, a person of unsound mind can make a Will during periods of sanity. Even blind persons or those who are deaf and dumb can make their Wills if they understand the import and consequence of doing it.

Labour Laws for the Disabled

The rights of the disabled have not been spelt out so well in the labour legislations but provisions which cater to the disabled in their relationship with the employer are contained in delegated legislations such as rules, regulations and standing orders.

Judicial procedures for the disabled

Under the Designs Act, 1911 which deals with the law relating to the protection of designs any person having jurisdiction in respect of the property of a disabled person (who is incapable of making any statement or doing anything required to be done under this Act) may be appointed by the Court under Section 74, to make such statement or do such thing in the name and on behalf of the person subject to the disability. The disability may be lunacy or other disability.

Income Tax Concessions

Relief for Handicapped

- **Section 80 DD:** Section 80 DD provides for a deduction in respect of the expenditure incurred by an individual or Hindu Undivided Family resident in India on the medical treatment (including nursing) training and rehabilitation etc. of handicapped dependants. For officiating the increased cost of such maintenance, the limit of the deduction has been raised from Rs.12000/- to Rs.20000/-.
- **Section 80 V:** A new section 80V has been introduced to ensure that the parent in whose hands income of a permanently disabled minor has been clubbed under Section 64, is allowed to claim a deduction upto Rs.20000/- in terms of Section 80 V.
- **Section 88B:** This section provides for an additional rebate from the net tax payable by a resident individual who has attained the age of 65 years. It has been amended to increase the rebate from 10% to 20% in the cases where the gross total income does not exceed Rs.75000/- (as against a limit of Rs.50000/- specified earlier).

The persons with disabilities (PWD) (equal opportunities, protection of rights and full participation) act, 1995

“The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995” had come into enforcement on February 7, 1996. It is a significant step which ensures equal opportunities for the people with disabilities and their full participation in the nation building. The Act provides for both the preventive and promotional aspects of rehabilitation like education, employment and vocational training, reservation, research and manpower development, creation of barrier- free environment, rehabilitation of persons with

disability, unemployment allowance for the disabled, special insurance scheme for the disabled employees and establishment of homes for persons with severe disability etc.

Main Provisions of the Act

- Prevention and Early Detection of Disabilities
- Education
- Employment
- Non-Discrimination
- Research and Manpower Development
- Affirmative Action
- Social Security
- Grievance Redressal

Prevention and early detection of disabilities

- Surveys, investigations and research shall be conducted to ascertain the cause of occurrence of disabilities.
- Various measures shall be taken to prevent disabilities. Staff at the Primary Health Centre shall be trained to assist in this work.
- All the Children shall be screened once in a year for identifying 'at-risk' cases.
- Awareness campaigns shall be launched and sponsored to disseminate information.
- Measures shall be taken for pre-natal, peri natal, and post-natal care of the mother and child.

Education

- Every Child with disability shall have the rights to free education till the age of 18 years in integrated schools or special schools.
- Appropriate transportation, removal of architectural barriers and restructuring of modifications in the examination system shall be ensured for the benefit of children with disabilities.
- Children with disabilities shall have the right to free books, scholarships, uniform and other learning material.
- Special Schools for children with disabilities shall be equipped with vocational training facilities.
- Non-formal education shall be promoted for children with disabilities.
- Teachers' Training Institutions shall be established to develop requisite manpower.

- Parents may move to an appropriate forum for the redressal of grievances regarding the placement of their children with disabilities.

Employment

3% of vacancies in government employment shall be reserved for people with disabilities, 1% each for the persons suffering from:

- Blindness or Low Vision
- Hearing Impairment
- Locomotor Disabilities & Cerebral Palsy
- Suitable Scheme shall be formulated for
- The training and welfare of persons with disabilities
- The relaxation of upper age limit
- Regulating the employment
- Health and Safety measures and creation of a non- handicapping, environment in places where persons with disabilities are employed

Government Educational Institutes and other Educational Institutes receiving grant from Government shall reserve at least 3% seats for people with disabilities.

No employee can be sacked or demoted if they become disabled during service, although they can be moved to another post with the same pay and condition. No promotion can be denied because of impairment.

Affirmative Action

Aids and Appliances shall be made available to the people with disabilities.

Allotment of land shall be made at concessional rates to the people with disabilities for:

- House
- Business
- Special Recreational Centres
- Special Schools
- Research Schools
- Factories by Entrepreneurs with Disability,

Non-Discrimination

- Public building, rail compartments, buses, ships and air-crafts will be designed to give easy access to the disabled people.
- In all public places and in waiting rooms, the toilets shall be wheel chair accessible. Braille and sound symbols are also to be provided in all elevators (lifts).
- All the places of public utility shall be made barrier- free by providing the ramps.

Research and Manpower Development

- Research in the following areas shall be sponsored and promoted
- Prevention of Disability
- Rehabilitation including community based rehabilitation
- Development of Assistive Devices.
- Job Identification
- On site Modifications of Offices and Factories
- Financial assistance shall be made available to the universities, other institutions of higher learning, professional bodies and non-government research- units or institutions, for undertaking research for special education, rehabilitation and manpower development.

Social Security

- Financial assistance to non-government organizations for the rehabilitation of persons with disabilities.
- Insurance coverage for the benefit of the government employees with disabilities.
- Unemployment allowance to the people with disabilities who are registered with the special employment exchange for more than a year and could not find any gainful occupation

Grievance Redressal

- In case of violation of the rights as prescribed in this act, people with disabilities may move an application to the
- Chief Commissioner for Persons with Disabilities in the Centre, or
- Commissioner for Persons with Disabilities in the State.

The Mental Health Act, 1987

Under the Mental Health Act, 1987 mentally ill persons are entitled to the following rights:

1. A right to be admitted, treated and cared in a psychiatric hospital or psychiatric nursing home or convalescent home established or maintained by the Government or any other person for the treatment and care of mentally ill persons (other than the general hospitals or nursing homes of the Government).
2. Even mentally ill prisoners and minors have a right of treatment in psychiatric hospitals or psychiatric nursing homes of the Government.
3. Minors under the age of 16 years, persons addicted to alcohol or other drugs which lead to behavioral changes, and those convicted of any offence are entitled to admission, treatment and care in separate psychiatric hospitals or nursing homes established or maintained by the Government.

4. Mentally ill persons have the right to get regulated, directed and co-ordinated mental health services from the Government. The Central Authority and the State Authorities set up under the Act have the responsibility of such regulation and issue of licenses for establishing and maintaining psychiatric hospitals and nursing homes.
5. Treatment at Government hospitals and nursing homes mentioned above can be obtained either as in patient or on an out-patients basis.
6. Mentally ill persons can seek voluntary admission in such hospitals or nursing homes and minors can seek admission through their guardians. Admission can be sought for by the relatives of the mentally ill person on behalf of the latter. Applications can also be made to the local magistrate for grants of such (reception) orders.
7. The police have an obligation to take into protective custody a wandering or neglected mentally ill person, and inform his relative, and also have to produce such a person before the local magistrate for issue of reception orders.
8. Mentally ill persons have the right to be discharged when cured and entitled to 'leave' the mental health facility in accordance with the provisions in the Act.
9. Where mentally ill persons own properties including land which they cannot themselves manage, the district court upon application has to protect and secure the management of such properties by entrusting the same to a 'Court of Wards', by appointing guardians of such mentally ill persons or appointment of managers of such property.
10. The costs of maintenance of mentally ill persons detained as in-patient in any government psychiatric hospital or nursing home shall be borne by the state government concerned unless such costs have been agreed to be borne by the relative or other person on behalf of the mentally ill person and no provision for such maintenance has been made by order of the District Court. Such costs can also be borne out of the estate of the mentally ill person.
11. Mentally ill persons undergoing treatment shall not be subjected to any indignity (whether physical or mental) or cruelty. Mentally ill persons cannot be used without their own valid consent for purposes of research, though they could receive their diagnosis and treatment.
12. Mentally ill persons who are entitled to any pay, pension, gratuity or any other form of allowance from the government (such as government servants who become mentally ill during their tenure) cannot be denied of such payments. The person who is in-charge of such mentally person or his

dependents will receive such payments after the magistrate has certified the same.

13. A mentally ill person shall be entitled to the services of a legal practitioner by order of the magistrate or district court if he has no means to engage a legal practitioner or his circumstances so warrant in respect of proceedings under the Act.

The Rehabilitation Council of India Act, 1992

This Act provides guarantees so as to ensure the good quality of services rendered by various rehabilitation personnel. Following is the list of such guarantees:

1. To have the right to be served by trained and qualified rehabilitation professionals whose names are borne on the Register maintained by the Council
2. To have the guarantee of maintenance of minimum standards of education required for recognition of rehabilitation qualification by universities or institutions in India.
3. To have the guarantee of maintenance of standards of professional conduct and ethics by rehabilitation professionals in order to protect against the penalty of disciplinary action and removal from the Register of the Council
4. To have the guarantee of regulation of the profession of rehabilitation professionals by a statutory council under the control of the central government and within the bounds prescribed by the statute

The national trust for welfare of persons with autism, cerebral palsy, mental retardation and multiple disabilities act, 1999

1. The Central Government has the obligation to set up, in accordance with this Act and for the purpose of the benefit of the disabled, the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability at New Delhi.
2. The National Trust created by the Central Government has to ensure that the objects for which it has been set up as enshrined in Section 10 of this Act have to be fulfilled.
3. It is an obligation on part of the Board of Trustees of the National Trust so as to make arrangements for an adequate standard of living of any beneficiary named in any request received by it, and to provide financial assistance to the registered organizations for carrying out any approved programme for the benefit of disabled.

4. Disabled persons have the right to be placed under guardianship appointed by the 'Local Level Committees' in accordance with the provisions of the Act. The guardians so appointed will have the obligation to be responsible for the disabled person and their property and required to be accountable for the same.
5. A disabled person has the right to have his guardian removed under certain conditions. These include an abuse or neglect of the disabled, or neglect or misappropriation of the property under care.
6. Whenever the Board of Trustees are unable to perform or have persistently made default in their performance of duties, a registered organization for the disabled can complain to the central government to have the Board of Trustees superseded and/or reconstituted.
7. The National Trust shall be bound by the provisions of this Act regarding its accountability, monitoring finance, accounts and audit.

UN Declaration on the Rights of Mentally Retarded Persons

This declaration on the rights of mentally retarded person's calls for national and international actions so as to ensure that it will be used as a common basis and frame of reference for the protection of their rights:

1. The mentally retarded person has, to the maximum degree of feasibility, the same rights as under human beings.
2. The mentally retarded person has a right to proper medical care, physical therapy and to such education, training, rehabilitation and guidance which will enable him to further develop his ability, and reach maximum potential in life.
3. The mentally retarded person has a right of economic security and of a decent standard of living. He/she has a right to perform productive work or to participate in any other meaningful occupation to the fullest possible extent of capabilities.
4. Whenever possible, the mentally retarded person should live with his own family or with his foster parents and participate in different forms of community life. The family with which he lives should receive assistance. If an institutional care becomes necessary then it should be provided in surroundings and circumstances as much closer as possible to that of a normal lifestyle.
5. The mentally retarded person has a right to a qualified guardian when this is required in order to protect his personal well-being or interests.

6. The mentally retarded person has a right to get protection from exploitation, abuse and a degrading treatment. If prosecuted for any offence; he shall have right to the due process of law, with full recognition being given to his degree of mental responsibility.
7. Whenever mentally retarded persons are unable (because of the severity of their handicap) to exercise their rights in a meaningful way or it should become necessary to restrict or deny some or all of their rights then the procedure(s) used for that restriction or denial of rights must contain proper legal safeguards against every form of abuse. This procedure for the mentally retarded must be based on an evaluation of their social capability by qualified experts, and must be subject to periodic review and a right of appeal to the higher authorities.