

# **MAR GREGORIOS COLLEGE OF ARTS & SCIENCE**

Block No.8, College Road, Mogappair West, Chennai – 37

Affiliated to the University of Madras  
Approved by the Government of Tamil Nadu  
An ISO 9001:2015 Certified Institution



## **PG DEPARTMENT OF SOCIAL WORK**

**SUBJECT NAME: SOCIAL POLICY AND SOCIAL LEGISLATION**

**SUBJECT CODE: HBWEE**

**SEMESTER: III**

**PREPARED BY: PROF. D. MOIEESON THAIRIYAM**

## **ELECTIVE III – 1. Social Policy and Social Legislation**

**Total Teaching Hours: 45**

### **Objectives**

**To develop an understanding of the social policy in the perspective of the National Goals as stated in the Constitution**

**To develop the capacity to recognize the linkage between development issues and social policy in terms of the plans and programmes**

**To develop an understanding of the concepts of social policy and social welfare policy**

### **Unit 1**

**Social Policy and Constitution; Social policy, social welfare policy, its relation to the constitution, fundamental rights and Directive Principles of State Policy and Human Rights. Definition, needs and contents, evolution of social policy in India, social policy and planned social change and development.**

### **Unit 2**

**Policy Formulation, approaches to social policy, unified, integrated and sectoral; models of social policy and their application to Indian situation, process of formulation, social policies, plans and programmes, policies in India – a historical perspective- policies-backward classes, scheduled classes. scheduled tribes, denotified communities, women, children, youth, handicapped, aged, populations, family welfare, urban & rural development, education, health, poverty alleviation, Review of Five year Plans, Programmes and policies of Twelfth (12) Five Year Plan.**

### **Unit 3**

**Policy and Planning: Concept, Scope, linkages between social policy and planning. Social work and social planning; Planning – historical perspective. Political systems. Political process, co-ordination of center and state, Panchayati Raj, Peoples participation. Political judiciary, social movement and voluntary action, legal aid and public interest litigation. Planning Machinery and Monitoring, process of social planning in India; Implementation at various levels, Monitoring and evaluation**

### **Unit 4**

**Overview of Major Social Legislation in India, Hindu law : legislation pertaining to marriage divorce and succession, Hindu Marriage Act 1955, Hindu Adoption and Maintenance Act, 1956, Hindu Minority and Guardianship Act ,1956, Hindu Succession Act ,1956. Special Marriage Act, 1954, Provision regarding marriage and divorce in Mohammedan law. Legislation pertaining to children: Child Labour (abolition & regulation) Act 1986. Juvenile Justice Act 2001.**

## Unit 5

**Legislations: SC/ST. Prevention of Atrocities Act, 1989. Dowry Prohibition Act (1961) Immoral Traffic Prevention Act (1956) Tamil Nadu Slum Areas (Improvement and Clearance) Act (1971) the Mental Health Act, 1987, Medical Termination of Pregnancy Act 1971. Manual Scavenging and Dry Latrines (prohibition) Act 1993, Bonded Labour Abolition Act 1976, Transplant of Human Organs Act 1994, Family Court's Act 1984, Protection of Human Rights Act, 1993 Tamil Nadu Prohibition of Eve teasing Act 1988. Tamil Nadu Prohibition of Ragging Act 1997, Persons with Disabilities Act 1995.**

## BOOKS FOR REFERENCE

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## Unit 1

### Introduction

## **Social Policy and Constitution:**

Social policy is the strategy of action indicating the means and methods to be followed in successive phases to achieve the declared social objectives.

Constitution is the basic principles and laws of a nation, state, or social group that determine the powers and duties of the government and guarantee certain rights to the people in it

It is a written instrument embodying the rules of a political or social organization of a nation.

### **Aim:**

To acquaint the students about the social policy and Constitution

Preview

This Unit will be conducted in following Parts:

Part I - Social policy- Definition, Needs and Contents

Part II - It's relation to the constitution

Part III - Evolution of social policy in India

Part IV - Social policy and planned social change and development.

### **Policy**

A strategy, action or plan for solving a problem or meeting a need of the people.

It's set of rules what we choose to do or not to do about some problem.

Public Policy or Welfare Policy:

Anything government chooses to do or not to do, which affects the quality of life for the people.

Public Welfare Policy

Most often used to refer specifically to "welfare" programs for the poor.

Social Welfare Social welfare programs and social services are sometimes referred to as "social welfare institutions."

Social policy- Definition, Needs and Contents

Social Policy- Meaning

Social policy has three dimensions:

Social protection

Investing in people

Supporting social development

Definition

Social Policy entails the study of the social relations necessary for human wellbeing and the systems by which wellbeing may be promoted.

“Social policy primarily refers to the guidelines, principles, legislation and activities that affect the living conditions conducive to human welfare”

“Social Policy is defined as actions that affect the well-being of members of a society through shaping the distribution of and access to goods and resources in that society”

The phrase ‘social policy’ generally has two possible meanings. It is used to refer to the academic subject called Social Policy or, more importantly, it means social policies themselves, that is to say the intentions and activities of governments that are broadly social in their nature.

The classic examples of social policies are the activities of governments in providing money and services to their citizens in five main areas:

- Social protection benefits (often known as social security);
- Health services;
- Education services;
- Housing provision and subsidies;
- Personal social services

Need

Need to regulate Market institutions and Social structures - Social policy is an instrument applied by governments to regulate and supplement market institutions and social structures.

Social services - Social policy is often defined as social services such as education, health, employment, and social security.

Redistribution - Social policy is also about redistribution, protection and social justice.

Use of Human Capital and Productive Employment - Social policy is instrumental in that governments use it pragmatically to secure the political support of citizens, and to promote positive economic outcomes by enhancing human capital and productive employment.

Link between Human and Economic Development - Social policies can also create a virtuous circle linking human and economic development that, in the long run, will benefit everybody by boosting domestic demand and creating stable cohesive societies.

Social policy is about bringing people into the centre of policy-making, not by providing residual welfare, but by mainstreaming their needs and voice across sectors, generating stability and social cohesion.

## Contents

Social policies – Policies those governments have in relation to such things as social security, health, education, housing and the personal social services.

Social Policy focuses on the nature of human interdependency; on the way in which people care for and about each other; on the part the ‘welfare state’ plays in shaping the nature of caring.

The goal of social policy is to maximize people’s chances of a good life. Its substance, therefore, lies in the theoretical debate and practical definition of what constitutes the good life and the fundamental nature of human need.

Social Welfare Policy - Evolution, its relation to the Constitution, Fundamental rights and Directive Principles of State Policy and Human Rights.

What is Social Welfare?

“In pursuit of the ideals of the welfare State, progress, prosperity and protection the modern democratic state provides numerous welfare services to its citizens, what broadly is called social welfare.”

“Well being and improvement of the living standards of the people in general and particularly the under-privileged sections of the society”

– *CM Mahajan/Mohinder Singh, Social Policy and Social Administration in India*

Social Welfare Policy and its Purposes include

Prevention, alleviation, or contributions to the solutions of recognized social problems in order to improve the well-being of individuals, groups or communities.

Social Welfare . . . but, not everyone benefits!

There are always "winners" and "losers" in the process.

Values and morals determine what kinds of policies are developed to deal with social problems.

## Understanding Social Policy

In practical terms, it consists of a course of actions and measures deliberately taken to direct the affairs of society towards the realization of predetermined goals or objectives.

"Stated most simply, policy is the sum of government activities, whether acting directly or through agents, as it has an influence on the life of citizens

## Various Types of Welfare Policy

### Health Policy

The decision of who survives and who doesn't

One basis for the quality of Healthy life decisions for the survivors

Education Policy

The decision of government for the people to have access and opportunity to get quality education.

Employment Policy

The types of jobs individuals will be able to hold in our society

Housing Policy

Ensures house and that too proper house for everyone (Concrete)

Economic Policy

Ensures the poor to increase the standards of living in economic life

Other Kinds of Policy

Public Agency Policy :-

That operates on the basis of laws, administrative rules and court decisions

Private Agency Policy:-

This policy based on decisions of a board of directors of private agencies....

Levels of Policy

Federal - usually refers to governmental policy that applies to everyone

State - policies which apply to everyone in a particular state

Local - policies established by local governments which apply to local areas

Individual/ Personal Self-Assessment

Personal values

Small group Family rules

Community Charter

Agency Board decisions

Mission statement

Society Laws, statutes

Macro-Level Policy

Involves broad laws, regulations and guidelines that provide framework for the provision of services and benefits Frequently laws and regulations

Examples: Americans with Disabilities Act, American Indian Child Welfare Act.

#### Mezzo-Level Policy

Refers to the administrative policy that organizations generate to direct their operations.

Examples: financial policy manual outlining pay, benefits, travel; program area manual - intake, eligibility, record keeping, etc.

#### Micro-Level Policy

How social workers and other helping professions translate macro- and mezzo-level policies into client services

### Evolution of Social Welfare Policy in India

#### Historical Background

Charity and Religious beliefs served as a basis for “doing good/ initiating or participating in charitable activities.” Examples:

Kautilya’s Arthashastra (321-296BC) – talks about “happiness of the people as a primary duty of the king”.

Teaching of Buddha/ Emperor Ashoka's desire for people’s Welfare.

Benevolent Mughal kings – Sher Shah Suri/Akbar

Charity Dharma Social & Religious Beliefs

#### Evolution of Social Welfare Policy in India - Western Approach to Social Welfare in India

State has a role to play with regard to the welfare of the people.

Expansion of social services and promotion of Welfare services among the needy people.

Christian missionaries/Social reformers/Social movements stimulated new thinking.

Social laws/Acts passed against unhealthy social customs/practices/inequalities.

Less scope for Religion-Welfare based on political considerations/ Effort – Scattered, Limited,

Demonstrative and not genuine



## Social welfare Policy after independence

### PREAMBLE

We, the people of India, have solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens:

JUSTICE in social, economic and political;

LIBERTY of thought, expression, belief, faith and worship;

EQUALITY of status and of opportunity; and to promote among them all

FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

In our constituent assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this constitution.

Every liberal democratic constitution has a preamble articulating its spirit. The Preamble to the Indian Constitution also has stated the noble aims of the polity. The first point that needs mention is that, according to the Preamble, it is 'We, the people of India' who, in the Constituent Assembly of India, adopted, enacted and gave to ourselves this Constitution. In short, the authority of the Constitution, as the Supreme Law of the land, is derived from the people and not from the grace of any external sovereign. Therefore, India is a Democratic, Sovereign country. India is also a Republic. It does not recognize any hereditary rule.

The democratic character of the state is ensured by the right of the people to elect the first chambers of the Union Parliament and the state Legislative Assemblies on the basis of adult franchise. Every resident, adult citizen of sound mind, and not legally barred on grounds of crime, corruption or illegal practice, is entitled to be registered as a voter (Article 326 of the Constitution).

The Constitution also promises to all its citizens Justice, social, economic and political; Liberty of thought expression, belief, faith and worship; Equality of status and of opportunity and to promote among them all Fraternity assuring the dignity of the individual. By an amendment in 1976 the aims of establishing secularism and socialism and promoting the unity and integrity of the nation were proclaimed.

### Fundamental Rights (Art 14 – Art 35) - Part III of the Indian Constitution

#### Right to Equality (Art 14-Art 18)

Art 14. Equality before law

Art 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

Art 16. Equality of opportunity in matters of public employment

Art 17. Abolition of Untouchability

Art 18. Abolition of titles

Right to Freedom (Art 19 – Art 22)

Art 19. Protection of certain rights regarding freedom of speech, etc

Art 20. Protection in respect of conviction for offences

Art 21. Protection of life and personal liberty

Article 21A has been added to the Fundamental Rights in 2002 to ensure that free and compulsory education to all children of the age of 6 to 14 years is made available by the State

Art 22. Protection against arrest and detention in certain cases

Right against Exploitation (Art 23 – Art 24)

Art 23. Prohibition of traffic in human beings and forced labour

Art 24. Prohibition of employment of children in factories, et

Right to Freedom of Religion (Art 25-Art 28)

Art 25. Freedom of conscience and free profession, practice and propagation of religion

Art 26. Freedom to manage religious affairs

Art 27. Freedom as to payment of taxes for promotion of any particular religion.

Art 28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions

Cultural and Educational Rights (Art 29 – Art 30)

Art 29. Protection of interests of minorities.

Art 30. Right of minorities to establish and administer educational institutions

Right to Constitutional Remedies (Art 32 – Art 35)

The Right to Constitutional Remedies empowers citizens to approach the Supreme Court of India to seek enforcement, or protection against infringement, of their Fundamental Rights.

DIRECTIVE PRINCIPLES OF STATE POLICY (Art 36 – Art 51) - Part IV of the Indian Constitution

The Directive Principles are some affirmative instructions to the State authorities to secure to all citizens justice- social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunity; and to promote among them all fraternity assuring the dignity of the individual and the unity and integrity of the nation. These principles underline the philosophy of Democratic Socialism to secure the high ideals set forth in the Preamble to the Constitution. It is the duty of the State to follow these principles both in the matter of administration as well as in the making of laws because the basic aim of the Directive Principles is to establish a welfare state where economic and social democracy might flourish.

The Directive Principles of State Policy may be classified under several groups, covering socio-economic rights to statements of international policy of the country. Significantly, these principles are not justifiable in character. They cannot be enforced by the courts of law if the State does not follow these principles in matters of administration as well as in making of laws. But it is the duty of the State to follow them to promote fraternity and equality and to guarantee justice to the people of the country. Nevertheless, The Directive Principles are regarded as the basic foundation of democracy and welfare State. They are incorporated in the Constitution to meet economic and social aspirations of the people of our country. Political democracy requires for its success economic security. The Directive Principles provide some economic principles to secure economic justice and security.

Borrowed from the Irish Constitution

Directive Principles of State Policy is for socio-economic transformation

These principles are not directly enforceable by the court of law.

Interpretations of the Constitution, including the Fundamental Rights, are to be guided by these policies.

The Constitution enjoins the state to regard DPSP as fundamental in governance and to apply them when making laws.

The makers of our Constitution incorporated the Directive Principles as supplement to the Fundamental Rights

Common Good and Life of Dignity (Art 38 –Art 39)

Secure adequate means of livelihood to all its citizens.

Raise the standard of living of the people & Promote international peace and security

In the Sphere of Law (Art 39A, Art 40, Art 44, Art 50)

Provide free legal aid to the poor

In the Economic Sphere (Art 41, Art 47)

Prevent concentration of wealth in the hands of a few

Rights of Workers (Art 43, Art 23A)

For Children and the Weaker Sections (Art 45, Art 46)

Provide Free and Compulsory Education for Children

In the Sphere of Agriculture and Environment (Art 48, Art 48A)

Preserve the country's natural resources.

## HUMAN RIGHTS

The term 'Human Rights' was first introduced in the United States Declaration of Independence in 1776.

The Institute of International Law, New York prepared a draft Declaration of Human Rights in 1929 and the Inter-American Conference passed a resolution, seeking establishment of an International Forum for the Furtherance of Human Rights of Mankind

The Atlantic Charter (1941), the United Nations Charter (1945) and the Universal Declaration of Human Rights (1948) laid down "a common standard of achievement for all peoples and all nations".

These were followed by the two Covenants on (i) Civil and Political Rights and (ii) Economic, Social and Cultural Rights in 1966.

Implementation of these instruments is governed by the following principles of law enforcement:

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- (a) International Human Rights Law is binding on all States and their agents, including law enforcement officials.
- (b) Human Rights are a legitimate subject for international law and for international scrutiny.
- (c) Law enforcement officials are obliged to know, and to apply international standards of human rights.

The scope of the Human Rights concept is expanding day by day. All human rights and fundamental freedoms are indivisible and interdependent and hence equal and urgent attention needs to be given to their implementation, promotion and protection. To ensure this the United Nations monitoring system has developed two mechanisms:

- (i) Conventional mechanism which refers to specific committees or "treaty bodies" and
- (ii) Extra-conventional mechanism or "special procedures" such as independent expert reports of special reporters or working groups.

There are 6 treaty bodies to monitor implementation of international instruments –

- (a) Human Rights Committee (HRC)
- (b) Committee on Economic, Social & Cultural Rights (CESCR)
- (c) Committee on Elimination of Racial Discrimination (CERD)
- (d) Committee on the Elimination of Discrimination against Women (CEDAW)
- (e) Committee against Torture (CAT)
- (f) Committee on the Rights of the Child (CRC)

Definition of Human Rights

Section 2(d) of the Protection of Human Rights Act 1993 defines,

“Human Rights means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by the courts in India.”

All laws are formulated in accordance with the Constitution and the basic purpose of every law is necessarily protection of human rights of individual citizens. The public servants who are vested with authority to implement and enforce laws are supposed to achieve this purpose through their actions and prove themselves as “protectors of human rights”.

NGOs – Partners in Human Rights Action  
Section 12 of The Protection of Human right Act, 1993 says that the Commissions shall encourage the efforts of non-governmental organizations and institutions working in the field of human rights

The NHRC has been maintaining and updating the list of NGOs working in the human rights field. The list, which is growing fast, has facilitated networking amongst like-minded NGOs, strengthening their capacities in the process.

## SOCIAL DEVELOPMENT & PLANNED SOCIAL CHANGE

Definition

“Social development is planned and directed change in a social system on democratic lines to ensure that such conditions are created in society as may be instrumental in optimum development of people, effective performance of roles in accordance with expectations of status which they have, and leading a happy, satisfying and peaceful life”.

Planned and directed change is three dimensional— changes in values, institutions and practices (VIPs) (*Kulkarni, 1999: 2*).

*James Midgley (1995)* has had a decisive impact on the international discussion on social development. He conceives it as a "process of planned social change designed to promote the well-being of the population as a whole in conjunction with a dynamic process of economic development" (*Midgley 1995, p. 25*).

### World Summit on Social Development, Copenhagen - 1995

The World Summit on Social Development held in Copenhagen in 1995 came out with a declaration in which ten commitments were made by the participating world leaders:

1. Eradicate absolute poverty by a target date to be set by each country;
2. Support full employment as a basic policy goal;
3. Promote social integration based on the enhancement and protection of all human rights;
4. Achieve equality and equity between women and men;
5. Accelerate the development of Africa and the least developed countries;
6. Ensure that structural adjustment programs include social development goals;
7. Increase resources allocated to social development;
8. Create “an economic, political, social, cultural and legal environment that will enable people to achieve social development”;
9. Attain universal and equitable access to education and primary health care; and
10. Strengthen cooperation for social development through the UN

(Vision Office, 2006).

Action is required in four areas of

creation of an enabling environment for social development;

eradication of poverty;

expansion of productive employment and reduction of unemployment;

promotion of gender equality with equity and social integration.

#### Creation of an Enabling Environment for Social Development

The Constitution of India, especially its Part III—Fundamental Rights and Part IV—Directive Principles of State Policy, make a number of provisions relating to maternity, nutrition, health, education, training, employment, wages, labor welfare, social security for all categories of people—men and women, and infants, children, adolescents, youths, adults and aged—which promote social development.

#### Social Integration

India has been a multi-religions and multi-cultural society because people of different races and cultures have come at different points of time and settled here. It has been proud of “unity in

diversity.” However, due to the deliberate efforts of the foreign rulers, particularly British, to divide the country and rule over it, it has been utterly lacking in social harmony, despite the fact that National Integration Council and National Foundation for Communal Harmony have been in existence and engaged in promoting integration, and a number of stringent provisions have been made under various laws including Indian Penal Code dealing with inter-community conflict and inter-caste strife.

Despite full commitment of the government to promote social development, desired goals could not be achieved and even today there are millions of unemployed and poor people, especially women in the country.

A number of factors have been responsible for this failure. Noteworthy among these are:

- (i) Inability of the country to control its population;
- (ii) Exploitation of resources of the country by rich for their luxury;
- (iii) Multiplicity of political parties infested with intra- and interparty rivalry;
- (iv) Confrontation between ruling party or coalition of parties in the centre and state;
- (v) Apposition for the sake of opposition by party or coalition of partisan opposition;
- (vi) Exploitation of various types of “isms” like communalism, casteism, Etc. by political parties to attain and retain power;
- (vii) Criminalization of politics and politicization of crime;
- (viii) Widely prevalent corruption committed primarily due to unhealthy alliance between politicians and bureaucrats;
- (ix) Inability of courts to punish the accused mainly for want of evidence;
- (x) Unsatisfactory services of most of the civil society organizations;
- (xi) Apathetic and unconcerning attitude of the poor towards their Own predicament; and
- (xii) lack of scientific temper and a sharp decline in the “concern for others” among common people.

In a nutshell, India stands fully committed to promote the cause of social development,

In pursuance of promises contained in its Constitution and commitment made in the World Summit on Social Development,

It has formulated the required policies, plans and programs but desired progress could not be made due to a multiplicity of reasons, particularly due to country-wide prevalence of traditional attitudes, frequent intercommunity and inter-caste conflicts, baseless opposition of even right kind of corruption in administrative machinery.

## UNIT-2

### Introduction

Policy Formulation, approaches to social policy, unified, integrated and sectoral:

Policy formulation is the development of effective and acceptable courses of action for addressing what has been placed on the policy agenda.

Approaches to social policy means way of dealing with a situation.

### Aim:

To acquaint the students about the Policy Formulation, approaches to social policy, unified, integrated and sectoral

### Preview

This Unit will be conducted in following Parts:

Part I - Models of social policy and their application to Indian situation,

Part II -Process of formulation

Part III - Social policies, plans and programmes, policies in India

Part IV -historical perspective- policies- BC/SC/ST, denotified communities, women, children, youth, handicapped, aged, populations, family welfare, urban & rural development, education, health, poverty alleviation.

Part V -Review of Five year Plans

What are the Approaches to SP:

Visionary approach - idealistic, comprehensive so as to include practically every policy of the government within its purview emphasis more on what social policy should be than what it is.

According to this approach ...social policies are principles or courses of action designed to influence

The overall quality of life in a society

The circumstances of living of individuals and groups living in that society and



The nature of intra societal relationships among individuals, groups and society as a whole.

Narrow approach -social policy is a fall out of economic policy and a policy direction on social services and social welfare.

Models of Social Policy- There are three models of social policy namely, integrative, unified and sectoral policies.

Integrative Policy- Bringing together of various parts, not necessarily losing their identity. (Achieved through several policies), Example 20 Point Program –Poverty Alleviation

1. Attack on Rural Poverty
2. Rainfed Agriculture
3. Better Irrigation
4. Bigger Harvests
5. Land reforms
6. Welfare of Rural Labour
7. Health for All
8. Equality for Women
9. Two Child Norm
10. Expansion of Education
11. Drinking Water
12. Justice for SC/ST
13. Opportunities for Youth
14. Housing for the Poor
15. Improvement of Slums
16. Forestry Development
17. Protection of Environment
18. Concern for the Consumer
19. Energy for the Villages
20. Responsive Administration

Unified Policies - Formulating a single policy or combining several policies into one policy to achieve an objective or a group of objectives

Eg. New Policy on Panchayat Raj Constitutional 73rd & 74th Amendment,

New Industrial relations Bill,

New Education Policy,

Single Window System etc

Sectoral Policies - Specific policies formulated by classifying the economic, social and cultural activities into several sectors to achieve specific objectives. Sectoral policies are not exclusive of integrated and unified policies, but inclusive of them. All the policies are at first formulated as sectoral policies. Experience in implementing them exposes the inadequacies or gaps. To overcome these inadequacies, policy makers evolve either integrative or unified policies i.e. sectoral policies either converge or diverge or multiply.

## PROCESS OF POLICY FORMULATION

As per the CONSTITUTION OF INDIA,

The power of policy making between the Centre and the States is divided by three legislative lists-the union, the state and the concurrent.

Derived from the Australian constitution, these lists clearly divide the powers vested on the State and the Union.

These three lists, in a way, also define areas of policy formulation between the Union Government and the states.

The Government of India (Transaction of Business) Rules made under the Constitutional provisions govern the procedure for policy making.

The Union List: Also referred to as List I, this list contains legislations, on which the Union enjoys exclusive control. Of the total 99 subjects that are included in the Union list, some are enlisted below:

Defence ,Banking ,Taxes ,Coinage, Insurance, Currency , Union Duties ,Foreign Affairs

The State List: This is the List II of the Indian Legislative. There are a total of 69 subjects in this particular list, all of which are exclusive legislative powers of the State. Some of the subjects enlisted in the State list are as follows:

Public Order and Police, State Taxes and Duties ,Agriculture , Sanitation Local governments , Forests, Fisheries , Public Health

The Concurrent List: This list contains 52 items, which are powers vested on the State as well as the Union. Some of the subjects included in the Concurrent List are as follows:

Economic and Social Planning , Criminal Law and Procedure, Civil Procedure Torts, Trusts , Marriage , Education , Welfare and LaborContracts.

## POLICY MAKING PROCESS-A ACTORS INVOLVED

**CABINET COMMITTEES** - The cabinet committees are entrusted to take the primary initiative.

Official level committees of Secretaries - which examine inter-ministry matters involving policy issues. Senior civil servants (Secretaries/under secretaries).

Depending on the nature of the policy, consultations with the state governments are also necessary.

Significant role of Finance Ministry, Law Ministry and Planning Commission in Policy Formulation.

The initial thinking provided by the political executives lead to the preparation of the agenda paper.

The agenda paper broadly gives the background of the problem, need for policy and alternatives for the proposed policy.

The agenda paper is a comprehensive paper on the subject on which the policy is being formulated, drawing evidence from various sources, i.e., government reports, commission reports (if any), books, research articles, etc.

It also provides the broad outline of the type of measures to be taken which forms the basis for policy formulation.

## POLICY MAKING PROCESS-B

### Inter-Ministerial and Inter-State Consultation

Consultation with ministries closely related to the problem.

On the basis of these discussions a paper is prepared by the sponsoring ministry providing a preliminary summary of the proposed policy.

This draft summary is prepared by the senior civil servants of the Ministry and usually it is to be approved by the concerned minister.

Consultation with the states- a note is circulated to various state governments to seek their views and concurrence on the proposed policy.

A draft agenda paper is prepared based on the discussions with the inter departmental/ministerial or State team of senior civil servants and is submitted to Cabinet for approval.

## POLICY MAKING

After cabinet approval, the concerned ministry has to work with law ministry with regard to minute details of the bill/legislation

In a parliamentary form of government, one of the functions of the Parliament is to legislate.

The role of the executive is to propose legislation and policies - necessary to achieve socio-economic objectives.

The Parliament gives its approval after the necessary deliberation and debate.

As such, the Indian-Parliament serves as a clearing house on all major questions of policy and legislation.

Legislative Proposal - A bill is the draft of a legislative proposal.

The legislative process starts with the introduction of the bill in either House of the Parliament, Lok Sabha or Rajya Sabha.

### *First Reading of the bill*

It is necessary to ask for leave from members of the house to introduce the bill. If leave is granted by the House, the bill is introduced.

After a bill has been introduced in either House of the Parliament, it is published in the Official Gazette

### *Second Reading of the Bill*

This step consists of consideration of the bill in two stages.

The first stage consists of a general discussion on the bill, as a whole when the principle underlying the bill' is discussed.

The second stage of the second reading consists of the clause by clause consideration of the bill as introduced.

Discussion takes place on each clause of the bill and amendments to clauses can be moved at this stage. Each amendment and each clause is put to the vote of the House.

### *Third Reading of the bill*

Thereafter, the member-in-charge can move that the bill be passed.

At this stage, the debate is confined to arguments either in support of the bill or its rejection, without referring to the details. In passing an ordinary bill a simple majority of the members present and voting is necessary.

## FINAL STEP

If the bill is passed by one House, it is sent to the other House for concurrence, and there also it goes through the three stages described above. The bill becomes an Act only after the President's assent has been given thereto.

**Ordinance:** The Constitution empowers the President to promulgate ordinances at any time when Parliament is not in session.

An ordinance is a special emergency measure, while in operation, it has the same force as an Act of Parliament but it must be laid before both the Houses within six weeks from the date on which it reassembles and ceases to operate at the end of six weeks from the date on which the Parliament reassembles, or earlier if both the Houses pass resolutions disapproving it.

**Residuary Powers:** The power to legislate with respect to any matter not enumerated in any one of three lists, viz., union, state and concurrent and the final determination as to whether a particular matter falls under residual power or not rests with the courts.

## HISTORICAL PERSPECTIVE ON POLICIES OF SCHEDULED CASTES

### INTRODUCTION

Caste system forms the essential component of stratification system in India. The Varna system constitutes a status-hierarchy with the Brahmins on the top followed by *Kshatriyas*, *Vaishyas* and *Shudras*. The scheduled fall out of the fourfold Varna System.

The Scheduled Caste is a politico-legal-term. It was first coined by the Simon Commission and then Government of India, Act, 1935. When India became independent this term was adopted by the Constitution for the purpose of providing them some special facilities and the constitutional guarantees.

Yet Untouchables or the Scheduled Castes do not constitute a homogeneous group. They are internally differentiated in terms of occupation, numerical segregated on the criteria of untouchability.

Another term used for the Scheduled Castes or Untouchables is “Harijans” (the children of God). This term was first used by Mahatma Gandhi, which refers to an aggregate of castes which may differ from each other and which have been reduced to the lowest ritual and social status in the caste hierarchy.

Another term which comes into currency almost at the same time is depressed class or classes. This term was used by Dr. Ambedkar and it referred to those classes of categories or people who were poor, exploited and socially and ritually or religiously degraded. They were treated as *pariah* or socially defiled.

In term which is currently popular and is preferred by the scheduled caste is the term *dalit*. The word *dalit* is inclusive, in the sense that it includes also those communities groups of people, who are marginalized and subjugated it is used in a generic sense to the untouchable or the scheduled caste.

Each Indian state has its own list of Scheduled Castes many of their names are synonymous. Some of the castes number several million members each.

The total population of the Scheduled Castes according to 1991 census was 138.22 million which constituted 16.5% of total population of the country. The largest of these castes are the Chamars who form – one quarter of the number of Scheduled Caste – *Banghi, the Adi-Dravida, Pasi, Madiga, DusadhiMali, Parayan, Koli Mahas, Adi-Karnataka, Namashudra* etc. almost half of the total number of Scheduled Caste people live in the five states of Hindi belt in U.P., Bihar, Madhya Pradesh, Rajasthan and Haryana. In the south they are concentrated mainly in Tamil Nadu and Andhra Pradesh. In the East in West Bengal. The highest ratio of the Scheduled Caste is in Punjab 28.3. About 84% of the scheduled castes live in rural areas and are working as agricultural laborers, share-croppers, tenants and marginal farmers. Among the, Harijan the ratio of agricultural workers is particularly high in Bihar, Assam, Andhra Pradesh, Tamil Nadu, Punjab and Kerala. More, than one-third of the agricultural workers of India belong to the untouchable castes. A vast majority of the scheduled caste do not possess land, 32.2% have less than 1 hectare.

Almost all persons engaged in jobs like sweeping, scavenging and tanning are from Scheduled Castes. About 2/3rd of the bonded labour are from Scheduled Castes. Literacy among the Scheduled Castes is extremely low. Most of the Scheduled Castes live below the poverty line and are victims of social and economic exploitation.

## CONSTITUTION AND THE SCHEDULED CASTES

Before being scheduled and embodied in the Government of India Act 1935 and later in the constitution of free India in 1950, these castes were classified as “exterior” or “depressed” castes or classes. A caste was classified exterior or depressed if it was found subjected to a set of social disabilities or restrictions.

According to the 1931 census, these disabilities or restrictions were:

- (1) Inability to be served by clean-Brahmins;
- (2) Inability to be served by the barbers, water carriers, tailors, etc. who served the caste Hindus;
- (3) Inability to serve water to caste Hindus;
- (4) Inability to enter Hindu temples;
- (5) Inability to use public convenience such as roads, ferries, wells or schools; and
- (6) Inability to dissociate oneself from despised occupation.

Ambedkar played key role in the fight to give Scheduled Caste a dignity and their rights. He among others championed the cause of Scheduled Caste. During independent India certain reforms were undertaken to remove the discriminatory practices of untouchability.

With the coming into force of the Constitution of India the Scheduled Castes were guaranteed certain essential rights and benefits. Under Article 341(1), the Constitution after consultation with the governor of a State may specify,

“The castes, races, tribes or, parts of groups within castes or races, tribes which shall be deemed to be scheduled castes for the purpose of the constitution.”

However, according to the Article 341 (2) the Parliament of India, can include or exclude any group from the list of Scheduled Castes through an enactment of law.

The Scheduled Castes are socially and economically backward groups and, therefore, the constitution gives special protection to them. Under Article 46 of the constitution, it is the responsibility of the State to promote with special care the educational and -economic interests of the weaker sections of people and the Scheduled Castes and Scheduled Tribes in particular, and to protect them from social injustices and all forms of exploitation. The Preamble reflects the basic philosophy of the Indian constitution which stands by the Scheduled Castes.

There are a number of articles included in Part-III of the constitution which provides fundamental rights to the citizens, Article 14, 15, 16 and 17 provide rights to equality. Article 14 of the constitution provides right to equality before law that means, every citizen in the country is equal before law. Article 15 prohibits social and educational discrimination on grounds of religion, race, caste, sex or place of birth. This article provides that no citizen shall be prevented from access to shops, public restaurants, hotels, place of entertainment, use of public facilities like wells, tanks, bathing ghats, roads, places of public resort, etc. This also empowers the State to make special provision for advancement of the socially and educationally backward classes of the citizens.

Article 16 prescribes the equality of opportunity in matters of public appointment. It provides that the State can reserve posts in public services for members of Scheduled Castes and Scheduled Tribes. Then, finally Article 17 of this part of Constitution legally abolishes the practice of untouchability in any form against the Scheduled Castes. This article treats practice of untouchability as a legal offence and the offender is to be punished in accordance with the law. The offender may be imprisoned and or be subjected to fine.

Later the provisions made under this article of the Constitution were strengthened and made more stringent under the Untouchability Offences Act in 1955.

Article 46 mentions specifically that the State must endeavour to promote the educational and economic interests of the Scheduled Castes and Scheduled Tribes among the weaker sections of the society.

More precisely, the State shall reserve the public jobs for the members of the Scheduled Caste and Tribes. Two Articles, 330 and 332, lay down that there shall be reservation of seats in the Lok Sabha (Article 330) and State Legislative Assembly (Article 332) in proportion to the number of the Scheduled Castes in various states. And finally, according to Article 340, the President can appoint a commission to investigate the difficulties of the socially and educationally backward classes of the citizens and to make recommendations to remove such difficulties. The commission is also empowered to take stock of the progress made by these



classes of citizens due to provisions made under various articles for their welfare, protection and development.

To effectively implement the various safeguards built into the Constitution and other legislations, the Constitution, under Articles 338 and 338A, provides for two statutory commissions - the National Commission for Scheduled Castes, and National Commission for Scheduled Tribes.

#### Reservation Policy for the Scheduled Castes

The aim of the reservation policy is to help Scheduled Castes to come up, within specified time, at par with others in the society. The reservation policy has three major components.

These are:

- 1) Reservation in government appointments,
- 2) Reservation in admission to educational institutions and
- 3) Reservation of seats in the House of People (Lok Sabha) and the Legislative Assemblies of the States.

There are other progressive measures to boost employment and steps are taken to eliminate poverty. Further, 15% and 7.5% posts are reserved for the Scheduled Caste and Tribe candidates in government jobs. Such reservations of posts are applicable in all the categories of jobs both in the Central and State Government services. In the recent years, such reservation has been extended to the services in the public undertaking units.

In addition to these, the State Governments have also adopted other measures for school children of the Scheduled Castes. These are:

- a) Provision of books;
- b) Provision of educational equipment;
- c) Provision of mid-day meals;
- d) Provision of stipends;

e) Provision of school uniforms etc.

Besides, 15% seats are reserved for Scheduled Castes and 7.5% for tribes' in admission in public schools. Similar provisions are also available for the SC/ST students in their admission to colleges, universities and other educational institutions. Then equal percentage of hostel seats are also reserved for them. There are post-matric scholarships by the various state governments to the students belonging to these castes and tribes.

Out of 542 Lok Sabha seats 79 seats are reserved for the Scheduled Castes. Similarly, out of 3997 seats 541 seats in the State Legislatures are reserved for Scheduled Castes.

The bulk of the Scheduled Caste constituencies contain 10 to 30% of the Scheduled Castes population, and around 75% of the Scheduled Castes populations live in scattered fashion outside the constituencies reserved for them. This means, the elections of the Scheduled Caste candidates even from the reserved constituencies are largely dependent on the non-Scheduled Castes.

Besides, the Scheduled Castes in rural areas are politically less conscious and are influenced by caste politics. Many of them do not exercise their franchise or they are absent during the time of voting due to reasons of migration for employment. In the urban areas, the Scheduled Castes are relatively in a better position. But in spite of the reservation and other developmental measures the deprived sections who are less in number and who are uneducated continue to remain backward. The caste class nexus works strongly and allows only a few castes to be politically or socially mobile. This has defeated the very purpose of the reservation and the intention of the constitutional measures for development of the Scheduled Castes.

#### Developmental Programmes

Besides the above mentioned provisions and measures, a number of other developmental schemes have been adopted for the people in general and the Scheduled Castes in particular in the rural areas.

Some of these are:

Integrated Rural Development Programme (IRDP),

National Rural Employment Programme (NREP),

New 20 point programme etc.

But incidentally these programmes have not properly been implemented at the block level. A comprehensive strategy was worked out during the -6th Five Year Plan which had 3 aspects:

- 1) Special Component Plans (SCP) for the Central and the State Governments for monitoring various programmes for development of the Scheduled Castes.
- 2) Special Central Assistance (SCA) for Special Component Plans for the Scheduled Castes in the different states.
- 3) Scheduled Caste Development Corporations (SCDC) in the States.

The SCP identifies schemes for welfare and development of the Scheduled Castes and provides financial assistance to the State Governments to various programmes under these schemes; it acts as an interface between the Scheduled Caste families and financial institutions in respect of bankable schemes of economic development. The corporation provides subsidy loans and other kinds of assistance to these families, and thereby, helps to increase the flow of funds from financial institutions to the Scheduled Caste families. In the subsequent Five Year Plans also the Central and State Governments have set up a large portions of the plan outlays for the welfare and development of the Scheduled Castes under the special component programmes.

Current debate

While the constitution emphasizes on social and educational backwardness of certain castes and tribes for their being eligible for the benefits of the constitutional provisions, the present controversy centres around the definition of backwardness itself. According to this, the criteria for identifying those deprived sections of population who are eligible for the Government's privileges and concessions have not been clearly identified in the present reservation policy. There are many socially backward castes who are economically forward and are reaping the fruits of reservation while the majority of the needy population have no access whatsoever to these constitutional measures. The experience in the last fifty years or so has shown that the reservation policy has not delivered the desired results to the right people. The policy has generated conflicts and tensions between those who are beneficiaries of reservation and those who are out of the purview of the policy. We have to accept the fact that the opposition of the weaker sections by the stronger sections of the society has not ended. The benefits of development in every aspects of life have been appropriated by about 20% of the population who are at the top and are drawn more from the nonscheduled and less from the scheduled castes.

The intended benefits of the reservation policy as well as of the other developmental programmes are not, made available to those people who rightly deserve them. There are various infrastructural levels at which these benefits are appropriated as the caste and class politics works very strongly given the existing social circumstances. At the operational level, there are innumerable barriers, which have to be removed. Against this backdrop, it is realised that the Scheduled Castes have to organize themselves socially and politically in order to get their due share and rights and to fight against the dominant castes or class and remove the caste differences among themselves.

The attitudes of the upper castes towards the reservation policy and other developmental measures have also to be positively directed so that the goal of social progress, social justice and social equality can be achieved. The Government and the power elite have to understand the socio-economic factors which seem to make reservation necessary for those people who have been victims of social discrimination and social injustice for over centuries. Their attitudes and perception towards the lower castes have to undergo radical change for getting the above goals realized.

#### HISTORICAL PERSPECTIVE ON POLICIES OF SCHEDULED TRIBES

A universally acceptable or applicable definition is lacking. However the word tribe is widely used. Purely for the sake of classification, the British Government used the word tribe, along with prefixes like jungle and hill, aboriginal, indigenous to describe, the people who seemed to have little contact with the main culture. The word tribe has been used by European historians to refer to distinct groups like the Gauls and Anglo-Saxons and autonomous political groups such as Lichchavi, Mulla, Khasa, etc. in ancient India. *British social anthropologists like Radcliffe-Brown, Evans-Pritchard, Fortes and Nadel have used the word tribe to refer to autonomous political unit which lives in its own territory and possesses its own distinctive way of life.* Efforts have been made to look for some generalisation and common denominators if not a proper definition. In the Indian context the Commissioner for, Scheduled Castes and Scheduled Tribes in his report for the year 1952 has listed such common features.

These are that the tribes:

live away from the civilised world in the inaccessible parts lying in the forest hills,  
they belong to either one of the three stocks—Negrito, Australoid or Mongoloids,

they speak the same tribal dialect,

they profess 'primitive' religion known as 'Animism' in which the worship of ghosts and spirits is the most important element,

they follow 'primitive' occupations such as gleaning, hunting and gathering of forest products; and

they are largely meat eaters The list also includes their love for food and drink.

A.R. Desai commenting on the above features says that of 25 million people described as tribal only 5 millions possess these features. D.N. Majumdar states that, except for the tribes of Eastern India, everywhere else ethnic strains have crisscrossed in the sub-continent. Thus, it is very difficult to say with certainty what is tribal. Yet, in spite of the social and cultural differences that exist among the tribal people dispersed over India. In their social life kinship is the principal unit of organization. They are often the units for land ownership, economic production and consumption. In spite of the differences some common features do exist. In the subsistence economy very few tribal groups are still hunters and food gatherer but many of them practise shifting agriculture or cultivation. And still others are pastoral nomads. Tribes do not usually take to trading or financial transactions. Thus, the society is more or less homogeneous with little sense of hierarchy and subordination.

Politically, tribal societies are relatively simple and egalitarian. Lineage, clan and kinship tend to overlap with their political organizations. Tribal religion tends to be less systematized, less specialized and elaborated. These above mentioned characteristics are very general and preliminary and are often shared by non-tribals also. Keeping in mind the problem of definition, F.G. Bailey thus suggests that the definition of tribe should be seen in a continuum: the tribe at one end and caste at the other end.

We have discussed so far about the problem of conceptualizing the tribe. It still leaves us with the question as who are Scheduled Tribes. For ages, the tribes had little more than a casual contact with so called civilized or advanced cultures and societies. When the British consolidated their position in India, their expansionist operations necessitated the opening up of the entire country through an effective communication system. The British consolidated the money economy, acquired lands and introduced cash-cropping, land tenure, a new legal system, administration etc. All these measures opened the tribal land to outside influences. Though all these changes brought relief to the tribes these systems gradually became exploitative. Along with these the Christian missionaries in India exposed these communities of people to much quicker tempo of modern life by providing them formal education, making them conscious about health and so forth.

The social, cultural and economic exploitations, of the tribals prompted them to go on wars and agitations. With increasing feeling of deprivation their agitations, struggles and movements also increased. In the wake of tribal upheavals and for variety of other reasons, the British thought of protecting the tribes by having regulated areas for which normal rules were not applicable.

Along with the distinct and special arrangements made for areas populated by tribals, there also emerged the concept of tribe as a social category to differentiate them from the Hindus, Muslims and other distinct religious groups. The Government of India Act 1933 incorporated some provisions and the policy of reservation for the tribes notified in the Schedule.

The concept of Scheduled Tribe emerged henceforth and was included in the Constitution of independent India. A list of tribes was incorporated in the Eighth Schedule of the constitution. In 1971, the list contained names of 527 tribes. The reservation policy or the policy of protective discrimination for the notified or Scheduled Tribes has been made a constitutional obligation.

#### Constitutional Safeguards

Under Article 15(4) special provisions are made for educational advancement of the Scheduled Tribes. These provisions are like reservation of seats and relaxation in marks in admission to educational institutions, scholarships, etc.

Under Article 46 the State is enjoined upon to promote with special care to education and economic interests of SC and ST and protect them from social injustice and all forms of exploitation.

Articles 330 and 332 seats are reserved for SC and ST in Lok Sabha State Vidhan Sabhas. Under Article 339(1) the President may at anytime appoint a Commission to report on the administration of the Scheduled Area and the welfare of the Scheduled Castes and Tribes in the State.

To effectively implement the various safeguards built into the Constitution and other legislations, the Constitution, under Articles 338 and 338A, provides for two statutory commissions - the National Commission for Scheduled Castes, and National Commission for Scheduled Tribes.

#### Policies

Under the British rule the policy of maintaining the status quo was followed. Hutton and others condemned too much of isolation as also of complete assimilation of tribals. V. Elwin wanted a revivalist policy to be adopted. His scheme of “National parks” pleaded for the complete non-interference of the British rule and its withdrawal from the tribal areas. In reaction to these conservative or revivalist views, G.S. Ghurye, a senior sociologist, made a case for the complete assimilation of tribals with the rest of the people in India. He said that it was misleading to call the tribes aborigines as they were actually only backward Hindus and the solution of all their problems cultural as well as economic and social, lay in their complete assimilation into the Hindu society. In fact, the tribal folks have distinct cultures and their complete assimilation with Hindus may not be possible without disruption to their culture, customs, traditions etc. Tribal culture has many happy and useful facets and the same must be preserved. *D.N. Majumdar opines that the best policy for tribes would be for their controlled (planned) and limited assimilation. By limited assimilation he implied; the need and desirability of preserving their useful institutions, customs, practices etc. though these are to be tribal in origin and character.*

The transcultural borrowing should be encouraged. For example, instead of forcing child marriage upon the tribal folk Hindus should adopt the tribal practice of marrying late. It would not only improve average health but also put a check on the alarming rise in India’s population.

A plan for tribal development must be holistic. It should tackle all cultural, social, economic and political, problems of the tribals. Priorities must be fixed in terms of quick results. At the outset, the tribal support for planning has to be enlisted by demonstrating to them that an attempt is being made-to change their life for the better and not at destroying whatever they have. The first focal point on which to concentrate is to their health and hygiene besides their economic life. No plans for change can succeed without their proper education.

Instructions should be imparted in such knowledge as helps a person to be a better number of his / her own community much as possible the traditional system of imparting instruction should be retained. It is a human problem of immense magnitude for the solution of which administrators, social workers and social scientists must pool their resources together.

The informal approach towards development was laid down by Jawaharlal Nehru, the first Prime Minister of independent India. In his foreword to the second edition of ‘A Philosophy of NEFA’(NEFA – North East Frontier Agency) by Dr. Verrier Elwin, Nehru wrote

on 9th October, 1958:

“We cannot allow matters to drift in the tribal areas or just not take interest in them. In the world of today that is not possible or desirable. At the same time, we should avoid over-administering these areas and, in particular, sending too many outsiders into tribal territory. It is between these two extreme positions that we have to function. There has to be such developments as communication, medical facilities, education and better agriculture.”

Nehru added that these avenues of development should be pursued within the broad framework of the following five fundamental principles:

- 1) People should develop along the lines of their own genius and we should avoid imposing anything on them. We should try to encourage in every way their own traditional arts and cultures.
- 2) Tribal rights in land and forests should be respected.
- 3) We should try to train and build up a team of their own people to do the work of administration and development. Some technical personnel from outside will, no doubt, be needed, especially in the beginning. But we should avoid introducing too many outsiders into tribal territory.
- 4) We should not over-administer these areas or overwhelm them with a multiplicity of schemes. We should rather work through, and not in rivalry to their own social and cultural institutions.
- 5) We should judge results not by statistics or the amount of money spent but by the quality of human character that is evolved.

These five principles have since come to be known as Tribal Panchsheel. It is often, stated that the objective of tribal development is to enable the tribals to join the mainstream of national life. The word mainstream, however, is a nebulous expression. Similarly, the other commonly used expression of ‘integration’ is open to different interpretations. What is desirable on the part of non-tribals is not to make any conscious or deliberate efforts to assimilate or even acculturate the tribals. Let the non tribals acquire some of the good and healthy traits of the tribals cultures as relations is not possible in a system based on exploitation. The processes of socio-economic transformation have got to be duly regulated.

The tribal society has largely been egalitarian and democratic. The tribal elite today have the only model of larger national life comprising socially and economically structured society where there are the poor and the rich. In the tribal areas we still have an opportunity of strengthening an egalitarian society.

Development in the tribal areas should be so guided that deprivation processes do not set in. B.D. Sharma, the former Commissioner for the SC/ST has observed that the entire question of tribal development boils down to two basic issues:



Whether the traditional command of the community over resources can be preserved, and whether the egalitarian structure of the tribal communities can be retained and their social milieu can be taken advantage of to initiate a process so that their socio-economic transformation can be negotiated without deprivation.

This process cannot be superimposed but has to be stimulated by the tribal community itself which has a tradition of self governance.

## BACK WARD CLASSES

The Central Government of India classifies some of its citizens based on their social and economic condition as Scheduled Caste, Scheduled Tribe and Other Backward Class (OBC). The OBC list presented by the commission is dynamic (castes and communities can be added or removed) and will change from time to time depending on Social, Educational and Economic factors. In the constitution, OBCs are described as "socially and educationally backward classes", and government is enjoined to ensure their social and educational development.

Until 1985, the affairs of Backward Classes were looked after by the Backward Classes Cell (BCC) in the Ministry of Home Affairs. With the creation of a separate Ministry of Welfare in 1985 (renamed as Ministry of Social Justice and Empowerment on 25 May 1998) the matters relating to Scheduled Castes, Scheduled Tribes, Other Backward Classes (OBCs) and Minorities were transferred to the new Ministry.

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: *National Backward Classes Finance and Development Corporation (NBCFDC)* and the *National Commission for Backward Classes (NCBC)*.

Under Article 340 of the Indian Constitution, it is obligatory for the government to promote the welfare of the Other Backward Classes (OBC). Article 340(1) states, " The president may by 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 as to the steps that should be taken by the union or any state to remove such difficulties and as to improve 'their condition and as to the grants that should be made, and the order appointing such commission shall define the procedure to be followed by the commission."

Article 340(2) states, "A commission so appointed shall investigate the matters referred to them and present to the president a report setting out the facts as found by them and making such recommendations as they think proper."

The First Backward Classes Commission was set up by a presidential order on January 29, 1953 under the chairmanship of Kaka Kalelkar. The commission submitted its report on March 30,

1955. It had prepared a list of 2,399 backward castes or communities for the entire country and of which 837 had been classified as the "most backward". Some of the most notable recommendations of the commission were:

Undertaking caste-wise enumeration of population in the census of 1961;

Relating social backwardness of a class to its low position in the traditional caste hierarchy of Indian society;

Treating all women as a class as "backward";

Reservation of 70 per cent seats in all technical and professional institutions for qualified students of backward classes.

Reservation of vacancies in all government services and local bodies for other backward classes.

The commission in its final report recommended "caste as the criteria" to determine backwardness. But this report was not accepted by the government as it feared that the backward classes excluded from the caste and communities selected by the commission may not be considered and the really needy would be swamped by the multitude and would hardly receive special attention. However this report paved way for understanding complexities of problems faced by the backward classes.

Mandal Commission (1979) - 27 per cent of reservation was recommended owing to the legal constraint that the total quantum of reservation should not exceed 50 percent. States which have already introduced reservation for OBC exceeding 27 per cent will not be affected by this recommendation.

#### RESERVATION QUOTA AS ON DATE:

IN INDIA – 50% (OBC – 27.5%, SC – 15%, ST – 7.5%)

IN TAMILNADU – 69% (BC -30%, MBC – 20%, SC - 18% (15% + 3% EXCLUSIVELY FOR ARUNDHATHIYAR COMMUNITY) AND ST – 1%)

#### Supreme Court verdict

The Supreme Court of India on April 10, 2008, upheld the Government's move for initiating 27% OBC quotas in Government funded institutions. The Court has categorically reiterated its prior stand that "Creamy layer" should be excluded from the ambit of reservation policy and private institutions are also not to be included in. The verdict produced mixed reactions from supporting and opposing quarters. Several criteria to identify creamy layer has been recommended, which are as follows:<sup>[3]</sup>

Those with family income above Rs 250,000 a year (Now Rs 450,000 a year) should be in creamy layer, and excluded from the reservation quota. Also, children of doctors, engineers, chartered accountants, actors, consultants, media professionals, writers, bureaucrats, defence officers of colonel and equivalent rank or higher, high court and Supreme Court judges, all

central and state government Class A and B officials. The court has requested Parliament to exclude MPs' and MLAs' children, too.

Education:

Education forms the basis for the economic advancement of a society. The State, with the objective of providing educational advancement to Backward Classes, Most Backward Classes, Denotified Communities and Minorities, has formulated and implemented many schemes. The reservation policy followed by the State has provided the opportunity to get admission in higher educational institutions. The scholarship schemes provide financial support to the poor to pursue their education. Hostels run by State and Central departments of ministry of social justice and empowerment provide accommodation nearer to educational institutions. The students are motivated to study with interest through the award schemes.

Economic Development Schemes:-

For the economic upliftment of Backward Classes, Most Backward Classes and Denotified Communities, schemes like distribution of free Iron Boxes, Sewing Machines, and Job Oriented Training Schemes are given by this State and Central departments of ministry of social justice and empowerment.

**GRANT –CUM –LOAN SCHEME FOR SMALL AND MARGINAL FARMERS:**

For the upliftment of the small and marginal farmers of BC/ MBC / DNC Communities, the Government have introduced the scheme of grant – cum - loan for creating irrigation source

**DENOTIFIED COMMUNITIES**

Denotified tribes (DNTs) are the tribes that were originally listed under the Criminal Tribes Act of 1871, as Criminal Tribes and "addicted to the systematic commission of non-bailable offences." Once a tribe became "notified" as criminal, all its members were required to register with the local magistrate, failing which they would be charged with a crime under the Indian Penal Code. The Criminal Tribes Act of 1952 repealed the notification, i.e. 'de-notified' the tribal communities. This act, however, was replaced by a series of Habitual Offenders Acts that asked police to investigate a suspect's criminal tendencies and whether his occupation is "conducive to settled way of life." The denotified tribes were reclassified as habitual offenders in 1959.

The creation of these categories should be seen in the context of colonialism. The British authorities listed them separately by creating a category of castes or tribes labelled as criminal. A wide variety of ideological elements converged in the making of 'criminal tribe' ideology.

The British tradition also associated forests with crimes and outlaws. The hereditary-based theory of crimes that was popularized in Europe by *Cesare Lombroso* perceived the criminal man as a separate species with specific hereditary and anatomical features. This belief in the

professional and hereditary character of crime was commonly prevailing among the colonial administrators of 19th century. The Criminal Tribes Act (1871) provided for registration of all or any member of such tribes who were notified as 'criminal tribes.' The registered members had to report themselves to the local police authority at fixed interval of time and notify their place of residence or any intended change of residence. Any contraventions of these legal provisions invited severe punitive measures.

The construction of entire caste and communities by the British officials as 'criminal' was part of a larger discourse in which caste and community determined the occupational as well as social and moral profile of all its members. The 'criminal tribes' were branded simultaneously as typical and deviant. The Criminal Tribes Act (1871) listed over 150 tribes as 'criminal.' Most of these belonged to marginalized social groups outside settled domesticity. The colonial state defined these groups as criminal by reference to their caste identity and a legal characterization that rendered crime as an in-born trait of such selected communities. Such communities could not lay any claims to the protection and impartiality of law. Their criminality was represented as an inheritance and a profession, inextricably linked to their

forefathers. Even before the passing of Criminal Tribes Act (1871), colonial authorities adopted similar modes of surveillance. A Superintendent of Thugi and Dacoity Department referred to a 'predatory tribe' of Bawarias especially in the lower Doab region. Kanjars and Sansis were also treated in the same manner. Attempts were made by police and judicial authorities to register all Sansis, Harnis and Bawarias. Thanedars or head-constables were required to take security from village headmen where these tribes resided and were to be held responsible for reporting on their movements.

Gradually attributes generally given to the Thugs such as cruelty and violence were also ascribed to such groups. The authorities at district administration level, especially Magistrates, in Punjab and North Western Provinces maintained that the provisions of Indian Penal Code and the Code of Criminal Procedure were inadequate to suppress their criminal activities. Therefore, they emphasized special surveillance measures to deal with this peculiar and hereditary nature of their criminality. They were to be treated like wild dangerous animals- to be watched, tamed and hunted up. The chief mechanism of control was to start from the maintenance of their record and by maintaining a check on their mobility.

The Criminal Tribes Act of 1871 instituted a special set of laws, rules and procedures for dealing with the 'criminal classes'. The members of these classes and tribes were denied a right to appeal in an ordinary court of law. The Act was similar to the Habitual Criminal Act passed in England in the late 19th Century to exercise discipline and control over the criminal sections of the working class in order to construct moral subjects. Subsequently, a distinction was made between honest, industrious section of the working class and vagrant, criminal, dangerous

elements and a need for institutional segregation of the later was stressed in the period 1860-75 in England.

The legal enactment put restrictions on the movement of the members of 'criminal tribes' and provision of a regular attendance gave powers to the village patels and local police officials. They used such provisions to harass and exact forced labour from the members of such communities. Even when the repressive strategy was supplemented by a strategy of reclamation or reform, officials highlighted the failure of re-settling such tribes in terms of stereotype attitudes. It was claimed that the members of these communities were unwilling to accept hard moral life of domesticity. This attitude tended to reinforce the stereotype of innate criminality of such tribes.

The Amended Criminal Tribes Act (1908) provided for settling of convicted members of tribes in special settlements, to mould and reform them by enforcing work habits under the control of special settlement officers. These settlements acted as sanctified prisons providing captive labour at miserable wages and harsh working conditions to a number of factories, state forests and public works departments. The basic assumption of colonial sociology was that hereditary circumscribed communities that moved from place to place and shifted their identities committed most of the crimes. Such assumptions and enactments of the colonial state were in accord with the values of indigenous landed magnates and their notion of social order.

The name "Criminal Tribes" is itself a misnomer as no definition of tribe denotes occupation, but they were identified as tribes being their primary occupation. The first Census was in 1871 and at that time there was no consensus nor any definition of "tribe". The terms "Tribe" and "Caste" were used interchangeably for these communities. In this colonial context, the term "Tribe" connoted the notions of primitiveness and backwardness and hence the assumption that these tribes needed to be civilized or transformed.

#### Call for repeal

The UN's anti-discrimination body Committee on the Elimination of Racial Discrimination (CERD) asked India to repeal the Habitual Offenders Act (1952) and effectively rehabilitate the denotified and nomadic tribes on March 9, 2007.

#### Reservations

In 2008, The National Commission for Denotified, Nomadic and Semi-Nomadic Tribes (NCDNSNT) of Ministry of Social Justice and Empowerment recommended equal reservations, as available to Scheduled Castes and Scheduled Tribes, for around 11 crore people belonging to the denotified, nomadic or semi-nomadic tribes in India

Denotified Communities Welfare Board:-

The Members registered in the Denotified Communities Welfare Board are provided with various welfare assistance as provided to the members of the un-organized Labour Welfare Boards as detailed below:-

Welfare Assistance	
1. Accident Relief Schemes	
a) Assistance for accidental Death	Rs. 1,00,000/-
b) Assistance for disability due to accidents( depending upon disability )	Rs. 10,000 to 1,00,000/-
2. Natural death assistance	Rs. 15,000/-
3. Assistance for Funeral expenses	Rs. 2,000/-
4. Financial Assistance for Education	
a) Girls Studying in X STD	Rs. 1,000/- per annum
b) Girls who passed X STD	Rs. 1,000/- per annum
c) Girls studying in XI STD	Rs. 1,000/- per annum
d) Girls studying in XII STD	Rs. 1,500/- per annum
e) Girls who passed XII STD	Rs. 1,500/- per annum
f) For Regular Degree	Rs. 1,500/- per annum
g) For Regular Degree with hostel facility	Rs. 1,750/- per annum
h) For Regular P.G Degree	Rs. 2,000/- per annum
i) For Regular P.G Degree with hostel facility	Rs. 3,000/- per annum
j) Professional Degree. course	Rs. 2,000/- per annum
k) Professional Degree Course with hostel facility	Rs. 3,000/- per annum
L) Professional P.G Degree	Rs. 4,000/- per annum
m) Professional P.G Degree with hostel facility	Rs. 6,000/- per annum
n) ITI or Vocational Training	Rs. 1,000/- per annum
o)ITI or Vocational Training with hostel facility	Rs. 1,200/- per annum
5. Marriage assistance	Rs. 2,000/-
6. Financial Assistance to pregnant Women	
a. Pregnancy for 6 months	at the rate of Rs. 1,000/- per month.
b. Abortion / Dressing Nursing and Cleaning	Rs.6,000/- Rs. 3,000/-

7. Reimbursement of Spectacle expenses	Rs. 500/-
8. Old age pension ( O.A.P ) per month	Rs. 400/-
For getting the above assistance, filled in applications should be submitted with relevant evidences to the respective District Backward Classes and Minority Welfare Officers.	

## HISTORICAL PERSPECTIVE ON POLICIES SOCIAL POLICY - WOMEN

The status of women in India has been undergoing a sea-change. Supported by Constitutional guarantees to ensure dignity and equal opportunities, their active participation in all walks of life including education, politics, sport etc., has been growing. Taking note of women's role in the nation-building activities, the Government had declared 2001 as the year of Women's Empowerment by adopting a National Policy to offer "Swashakti" to women. Several laws have also been adopted to empower women socially, economically, legally and politically. Considering the role of rural India, the country's backbone, the Government had taken several measures to strengthen Pachayanti Raj system with the active participation of women. This gave a boost to increase the number of women being elected to the Lok Sabha and State Assemblies, an indication to suggest their political empowerment.

### National Policy for the Empowerment of Women – 2001

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles of State Policy. The Constitution not only guarantees equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Since the Fifth Five Year Plan (1974-78), India has been making a marked shift in its approach to women's issues from welfare to development while keeping the empowerment of women as the central issue in determining their status in the society. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. The 73rd and 74th Amendments to the Constitution in 1993 have provided for reservation of seats in the local bodies of Panchayats and Municipalities for women, laying a strong foundation for their participation in decision-making at the local levels. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993.

### Goals and Objectives

The goals of the National Policy is to bring about the advancement, development and empowerment of women. The objectives include creating an environment through positive economic and social policies for development of women to enable them to realise their full potential, access to health care, quality education, employment, equal remuneration and social

security. They also include elimination of discrimination and all forms of violence against women and the girl child and changing societal attitudes.

#### National Mission for Empowerment of Women

The Government has set up a National Mission for Empowerment of Women early this year and the same has been notified on 8th of March, 2010. The Mission aims at implementing the women-centric programmes in a mission mode to achieve better coordination. The Ministry of Women and Child Development is administering the Support to Training and Employment Programme of Women (STEP) scheme with a view to help assetless and marginalised women become economically self-reliant. The scheme also aims at providing training for skill upgradation, development of entrepreneurial skills, asset creation, mobilisation into small viable groups to enable beneficiaries to take up employment-cum-income generation activities. The Ministry has also launched the “Priyadarshini” scheme to empower vulnerable groups of women in a holistic and sustainable manner by addressing their social, political, legal, health related and economic problems through vigorous capacity-building by organising them into Self-Help Groups (SHGs).

#### Swarjjayanti Gram Swarozgar Yojana (SGSY)

The Ministry is also implementing the Centrally sponsored scheme. The scheme is designed to promote self-employment oriented income generating activities for the BPL households in the rural areas. Special safeguards have been provided for vulnerable sections by way of reserving 50 per cent benefits to Scheduled Castes and Scheduled Tribes, 40 per cent for women, 15 per cent for minorities and 3 per cent for disabled persons. Since its inception, about 37 lakh SHGs have been formed and 134 lakh swarozgaris assisted, out of which, approximately 70 lakh (52 per cent) are women. The Rashtriya Mahila Kosh (RMK) scheme extends micro-credit support for income generation to poor women grouped into SHGs in unorganised sector.

#### India Vision 2020

India Vision 2020 document, while discussing about women in the labour force has, inter alia, mentioned that secure child care support services are necessary for working women. The 11th Five Year Plan document of the Planning Commission incorporated various schemes and programmes for women and child development. It also mentions about the setting up of creches in unorganised sector and restructuring and revamping of the existing Rajiv Gandhi National Creche Scheme for the children of working mothers.

#### Helplines for Women

As per 2001 census, there are 34.3 million widows and 2.34 million divorced and separated women in the country. The Ministry of Women and Child Development is implementing shelter-based schemes namely “Swadhar” and “Short Stay Homes” under which financial assistance is provided to the implementing agencies for providing support services to women in difficult circumstances. Under the scheme of Integrated Programme for Older persons implemented by the Ministry of Social Justice and Empowerment, financial assistance is provided to NGOs for running and maintenance of Multi Facility Care Centre for older widowed women. The Ministry



of Rural Development is implementing Indira Gandhi National Widow Pension Scheme (IGNWPS) and Indira Gandhi National Old Age Pension Scheme (IGNOAPS), under which central assistance is given towards a monthly pension of Rs.200 to widows below the poverty line in the age group of 40 to 64.

### Women's Leadership Summit 2010

The Ministry has organised a Women's Leadership Summit in New Delhi on 6th of March this year as part of the celebrations for the International Women's Day. The objective of the Summit, inaugurated by the Prime Minister Dr. Manmohan Singh, was to showcase empowered women, those who had excelled in different fields. The central theme of the Summit was Inclusive Growth and Empowering Women of Rural India. Several women achievers spoke on challenges and opportunities for women in diverse fields such as corporate sector, financial services, agriculture, science, media, panchayati raj, sports, culture, education and law. Government's 100 Days Action Plan

As part of the 100 days Action Plan, the government had proposed several measures to increase the representation of women. It has also proposed Constitutional amendment to provide 50 percent reservation for women in Panchayats and in urban local bodies and to increase the representation of women in government jobs.

### India's Tirade Against Anti-Woman Activities

The Government has been adopting several stringent measures to uphold the status of women in India by launching a tirade against injustices done to them. They included protection against domestic violence, stopping crime against child and women, human trafficking, sexual harassment at work place, eliminating beggary among women and street children, child marriages, harassment in dowry related matters, malnutrition among women and children, providing relief and rehabilitation to rape victims. The Centre has allocated Rs.11,000 crore to the Ministry of Women and Child Development for the year 2010-11, an increase of around 50 per cent over last year's Budget Estimates of Rs.7,350 crore. (PIB Features).

### STATUS OF WIDOW, DIVORCED AND DESERTED WOMEN

Implementation of Protection of Women from Domestic Violence Act was reviewed in the meeting of the State Ministers and Secretaries in-charge of Women and Child Development, on 16-17th June, 2010. The main issues that emerged were the need for appointment of Protection Officers with independent charge, registration of service providers and display of names and contact details of Protection Officers in Police Stations.

The State Governments are required to appoint Protection Officers, register Service Providers and notify shelter homes and medical facilities for implementation of the Act. All States/Union Territories have appointed Protection Officers. No financial assistance is being provided to the State Governments for implementation of the Act.

The Protection of Women from Domestic Violence Act is implemented by the States/Union Territories. The Government of India reviews with the State Governments/UT Administrations from time to time the cases filed as well as progress with regard to appointment of Protection Officers, notification of Service Providers and sensitization of implementing agencies.

#### Status of Widow, Divorced and Deserted Women

As per the 2001 census, there are 34.3 million widows and 2.34 million divorced / separated women in the country.

- i. Swadhar and Short Stay Homes for relief and rehabilitation of women in difficult circumstances.
- ii. Support for Training & Employment Programme (STEP), Skill Upgradation Training is provided to assetless and Below Poverty Line women.

Apart from these, Ministry of Rural Development is also administering the following three schemes

- (i) Indira Gandhi National Widow Pension Scheme (IGNWPS) under which pension is provided to a widow in the age group of 40-64 years and living below poverty line @ Rs.200/- per month;
- (ii) *Indira Gandhi National Old Age Pension Scheme* under which a pension of Rs.200/- per month is provided to the persons above sixty five years of age belonging to BPL including women; and
- (iii) MGNREGA, under which willing persons including women are entitled to guaranteed 100 days employment during a year.

Ministry of Social Justice & Empowerment is also administering an Integrated Programme for Older Persons (IPOP) which is being implemented since 1992 with the objective of improving the quality of life of senior citizens including women by providing basic amenities like shelter, food medical care etc.

The Integrated Child Development Services (ICDS) Scheme provides a package of six services namely supplementary nutrition, pre-school non-formal education, nutrition & health education, immunization, health check-up and referral services for women and children. Under the ICDS, pregnant and lactating women are eligible for supplementary nutrition, nutrition and health education and health services as envisaged.

National Rural Health Mission has interventions such as the Reproductive & Child Health Programme which include Janani Suraksha Yojana (JSY) to promote institutional deliveries, Immunization, Specific Programmes to prevent and combat micronutrient deficiencies including Iron & Folic Acid supplementation etc. The National Iodine Deficiency Disorders Control programme focuses on consumption of Iodised salt to prevent iodine deficiency.

Nutrition Programme for Adolescent Girls and Kishori Shakti Yojna of Ministry of Women and Child Development.

Availability of essential food items at subsidized cost through Targeted Public Distribution System, Antodaya Anna Yojna

Provision of safe water supply and sanitation under the Total Sanitation Campaign and

Other employment and income generation schemes such as Mahatama Gandhi National Rural Employment Guarantee Scheme (MNREGS), Swaranjayanti Gram Swarajgar Yojna (SGSY) etc.

Most of the above schemes are implemented by the State/UT administration. The system for monitoring and coordination is inbuilt in the various schemes at all levels with Inter-Ministerial/ Inter-Departmental Coordination Committees having representation of different Ministries/Departments. Further, efforts are continuously made to bring about convergence between different schemes through the mechanism of joint letters, consultative meetings and through advisories.

#### RAJIV GANDHI SCHEME FOR EMPOWERMENT OF ADOLESCENT GIRLS (SABLA)

Empowerment of adolescent girls is one of the top most priorities of the Government. The Cabinet approval for the expansion of the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG) is another move in this direction. The scheme is being implemented through Integrated Child Development Scheme (ICDS) projects and Anganwadi Centers in 200 select districts across the country for empowering adolescent girls in the age group of 11 to 18. The Cabinet approval followed the recommendation of a Group of Ministers (GoM) aiming at enhancing their nutritional and economic status. Under the scheme, adolescent girls will be provided Take Home Ration. There is also a provision in the scheme that if any state insists on providing hot cooked meal, standards should be set for the same. In addition, the Women and Child Development Ministry will explore feasibility for implementing Conditional Cash Transfer scheme as an alternative of adolescent girls in 100 more districts. Around 92 lakh to 1.15 crore adolescent girls of 11 to 18 years per annum are expected to be covered under the scheme during the Eleventh Plan.

#### HISTORICAL PERSPECTIVE ON POLICIES SOCIAL POLICIES - CHILD

While children's rights are human rights, the need to focus on the child and the rights of the child specially, and more specifically, has been recognised the world over. In today's circumstances, growing violence against children, lack of spaces and platforms for children to seek justice, inadequate infrastructure to cater to their needs, the whole perception of children as extensions of parents and their treatment as parent's property are some of the critical child protection issues that call for utmost and immediate attention.

The Constitution of India recognises the vulnerable position of children and their right to protection. Therefore, following the doctrine of protective discrimination, it guarantees in Article 15 special attention to children through necessary and special laws and policies that safeguard their rights. The right to equality, protection of life and personal liberty and the right against exploitation enshrined in Articles 14, 15, 16, 17, 21, 23 and 24 further reiterate India's commitment to the protection, safety, security and well-being of all its people, including children.

The Chapter on Directive Principles of State Policy in the Constitution of India enjoins that the State shall, in particular, direct its policy towards securing:

- that the health and strength of workers, men and women, and the tender age of children are not abused and the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and childhood and youth are protected against exploitation and against moral and material abandonment;
- that the State shall endeavour to provide early childhood care and education to all children until they complete the age of six years.

India's National Policy for Children 1974 provides a framework for policy and planning for children. In 1992 India acceded to the United Nations Convention on the Rights of the Child (UNCRC), committing itself to take measures to ensure the survival, protection, participation and development of its children. At the World Summit for Children in 1990 India adopted the World Declaration for Survival, Protection and Development of children. Additionally, India adopted the Optional Protocols on the Involvement of Children in Armed Conflict and the Sale of Children, Child Prostitution, and Child Pornography. It also reaffirmed its commitment to children by adopting the Millennium Development Goals and the objectives of A World Fit for Children. Moving towards its commitments, the

Government of India introduced the National Charter for Children 2004, which stipulates the duties for the State and community, followed by a National Plan of Action for Children in 2005, which ensures collective commitment and action for the survival, development, protection and participation of children by all sectors and levels of government and civil society.

Several major policies and legislations have been announced and implemented in the country so far to ensure children's protection and improvement in their status includes

The Guardianship and Wards Act, 1890;

Factories Act, 1954;

Hindu Adoption and Maintenance Act, 1956;

Probation of Offenders Act, 1958;

Bombay Prevention of Begging Act, 1959;

Orphanages and Other Charitable Homes (Supervision and Control) Act, 1960;

Bonded Labour System (Abolition) Act, 1976;

Child Marriage Restraint Act, 1979;

Immoral Traffic Prevention Act, 1986;

Child Labour (Prohibition and Regulation) Act, 1986;

Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1987;

Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992;

Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994;

Persons with Disabilities (Equal Protection of Rights and Full Participation) Act, 2000;

Juvenile Justice (Care and Protection of Children) Act, 2000;

National Policy on Education, 1986;

National Policy on Child Labour, 1987;

National Nutrition Policy, 1993;

National Health Policy, 2002;

National Charter for Children, 2004; and

National Plan of Action for Children, 2005.

The ongoing child protection schemes and programmes and the nodal ministries responsible for them are:

Sl. No.	Schemes/Programmes	Implementing Ministry
1.	Improvement in Working Conditions of Child/Women Labour	Ministry of Labour
2.	Initiative to Develop Skills, ITIs and Elimination of Child Labour in 10th Plan	Ministry of Labour
3.	A Programme for Juvenile Justice	Ministry of Women and Child Development
4.	Integrated Programme for street children including CHILDLINE Service	Ministry of Women and Child Development
5.	Shishu Greha Scheme for promoting in-country and inter-country adoption through CARA	Ministry of Women and Child Development
6.	Scheme for welfare of working children and children in need for care and protection	Ministry of Women and Child Development

7.	Rajiv Gandhi National Crèche Scheme for Children of Working Mothers	Ministry of Women and Child Development
8.	Integrated Child Development Scheme (ICDS)	Ministry of Women and Child Development
9.	Three Pilot Projects on Trafficking in source areas, destination point and an area where traditional practices prevail	Ministry of Women and Child Development
10.	Kishori Shakti Yojana	Ministry of Women and Child Development
11.	Swadhar, Short Stay Home and Working Women's Hostel	Ministry of Women and Child Development

#### National Plan of Action for Children, 2005

##### Guiding principles of the National Plan of Action for Children, 2005

- To regard the child as an asset and a person with human rights.
- To address issues of discrimination emanating from biases of gender, class, caste, race, religion and legal status in order to ensure equality.
- To accord utmost priority to the most disadvantaged, poorest of the poor and least served child in all policy and programmatic interventions.
- To recognise the diverse stages and settings of childhood, and address the needs of each, providing to all children the entitlements that fulfil [1] their rights and meet their needs in each situation.

The National Plan of Action for Children, 2005 recognises that UNCRC shall be the guiding instrument for implementing all rights for all children up to the age of 18 years. It advocates that the rights of the child as articulated in the Constitution of India and the UNCRC should work in synchrony to ensure all rights to all children. In line with the four sets of rights provided by the UN Convention on the Rights of the Child, the National Plan of Action for Children, 2005 has been divided into four sections, namely, Child Survival, Child Development, Child Protection and Child Participation. The National Plan of Action for Children, 2005 also states that all categories of rights apply to all age groups of children including unborn children.

The National Plan of Action for Children, 2005 mandates the Government of India to ensure all measures and an enabling environment for survival, growth, development and protection of all children, so that each child can realise his or her inherent potential and grow up to be a

healthy and productive citizen. This calls for collective commitment and action by all sectors and levels of governments and partnership with families, communities, voluntary sector, civil society and children themselves.

The Plan has identified 12 key areas keeping in mind priorities and the intensity of the challenges that require utmost and sustained attention in terms of outreach, programme interventions and resource allocation, so as to achieve the necessary targets and ensure the rights and entitlements of children at each stage of childhood. These are:

- Reducing Infant Mortality Rate;
- Reducing Maternal Mortality Rate;
- Reducing malnutrition among children;
- Achieving 100% civil registration of births;
- Universalisation of early childhood care and development and quality education for all children achieving 100% access and retention in schools, including pre-schools;
- Complete abolition of female foeticide, female infanticide and child marriage and ensuring the survival, development and protection of the girl child;
- Improving water and sanitation coverage both in rural and urban areas;
- Addressing and upholding the rights of children in difficult circumstances;
- Securing for all children all legal and social protection from all kinds of abuse, exploitation and neglect;
- Complete abolition of child labour with the aim of progressively eliminating all forms of economic exploitation of children;
- Monitoring, review and reform of policies, programmes and laws to ensure protection of children's interests and rights;
- Ensuring child participation and choice in matters and decisions affecting their lives.

#### Offences against Children Bill, 2006

In order to deal with the incidence of abuse, exploitation and neglect of children in the country, the Ministry of Women and Child Development, Government of India has considered enactment of a separate law. The Ministry has prepared a draft Bill, which aims at identifying incidence of offences against children and protecting them from offences; punishing persons who have committed offences against children; and setting up rules to fulfil its objectives<sup>1</sup>. All kinds of abuse including sexual and physical abuse, violence and other forms of physical and mental torture against children have been made a punishable offence under the proposed Bill.

The draft Bill seeks to:

- consolidate and define the different offences against the child and to provide a legal remedy for such violation of;
- make the laws uniformly applicable to both boys and girls;
- bring the existing laws and procedures in conformity with international, regional and national standards;
- set forth good practices based on the consensus of contemporary knowledge and relevant norms and principles for the administration of justice to a child;
- provide stringent penalties for any person who violates the provisions of this Bill, creating a deterrence and thereby emphasising the country's commitment to protect its children;
- ensure that criminal justice machinery functions, keeping the best interests of the child as the focal point at all stages;
- ensure the speedy disposal of cases, with a view to avoiding delays, which can result in intimidation, retaliation and secondary victimisation of the Child.

The Bill provides exclusive chapters to deal with different forms of offences against children including sexual abuse, neglect, exploitation, torture, or any form of cruelty. Chapter III of the draft Bill deals with sexual offences and provides for punishment for sexual assault/abuse of any child, using a child for commercial sexual exploitation, child pornography or even grooming for sexual purposes. The next chapter deals with offences relating to trafficking and prostitution and provides for punishment for physically abusing a child, sale/transfer of a child, trafficking in children, corporal punishment, bullying, economic exploitation of children and other forms of child abuse. The Bill also provides for enhanced punishment on repeated offences. It also provides for punishment for attempt to commit an offence, abetment of offences against children and punishment for false complaints.

The proposed Bill makes reporting of offences mandatory and fixes individual responsibility on different categories of people including persons in position of trust or in position of authority, studio/photographer, tourist resorts and hotels, airports and airline staff. It also provides for punishment in the event of failure to report offences against children.

The other procedure and provisions of the Bill include information, jurisdiction, in-camera proceedings, summary trials, counselling, cognizability of offences, bail, compounding, prohibition of remission, release on probation and fines.

The Bill proposes to address the legitimate rights of children against sexual abuse, neglect, exploitation, torture, or any form of cruelty; and aims at:

- Identifying offences against children and protecting children from offences;
- Providing for punishment against persons who have committed offences against children;
- Setting the rules to fulfil the objectives of the proposed Bill.



In order to ensure that procedures and practices prescribed are child-friendly, the draft Bill is based on eight principles, including:

1. Principle of Best Interest of the Child.
2. Principle of 'Protection' of the Child.
3. Principle of Equality and Non- Discrimination - "Leave no Child behind".
4. Principle of Individuality and Participation.
5. Principle of Privacy and Confidentiality.
6. Principle of Non-stigmatising Semantics, Decisions and Actions.
7. Principle of Avoidance of Harm.
8. Principle of Non-criminalisation of the Child.

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES – YOUTH

### National Youth Policy 2003

#### PREAMBLE

The National Youth Policy, 2003 reiterates the commitment of the entire nation to the composite and all-round development of the young sons and daughters of India and seeks to establish an All-India perspective to fulfill their legitimate aspirations so that they are all strong of heart and strong of body and mind in successfully accomplishing the challenging tasks of national reconstruction and social changes that lie ahead.

The earlier National Youth Policy was formulated in 1988. The socio-economic conditions in the country have since undergone a significant change and have been shaped by wide-ranging technological advancement. The National Youth Policy - 2003 is designed to galvanize the youth to rise up to the new challenges, keeping in view the global scenario, and aims at motivating them to be active and committed participants in the exciting task of National Development.

The Policy is based on recognition of the contribution that the youth can, and should, make to the growth and well-being of the community and endeavours to ensure effective co-ordination between the policies, programmes and delivery systems of the various Ministries, Departments and other Agencies. The thrust of the Policy centres on "Youth Empowerment" in different spheres of national life.

#### THE DEFINITION OF YOUTH

This Policy will cover all the youth in the country in the age group of 13 to 35 years. It is acknowledged that since all the persons within this age group are unlikely to be one homogenous group, but rather a conglomeration of sub-groups with differing social roles and requirements,

the age group may, therefore, be divided into two broad sub-groups viz. 13-19 years and 20-35 years. The youth belonging to the age group 13-19, which is a major part of the adolescent age group, will be regarded as a separate constituency.

The number of youth in the age group of 13-35 years, as per the 1991 Census, was estimated at about 34 crores, and about 38 crores in 1997, which is anticipated to increase to about 51 crores by the year 2016. The percentage of youth in the total population, which, according to the 1996 Census projections, is estimated to be about 37% in 1997, is also likely to increase to about 40% by the year 2016. The availability of a human resource of such magnitude for achieving socio-economic change and technological excellence needs commensurate infrastructure and suitable priorities to maximize its contribution to National Development.

#### OBJECTIVES :

The objectives of the National Youth Policy are:

- To instil in the youth, at large, an abiding awareness of, and adherence to, the secular principles and values enshrined in the Constitution of India, with unswerving commitment to Patriotism, National Security, National Integration, Non-violence and Social Justice;
- To develop Qualities of Citizenship and dedication to Community Service amongst all sections of the youth;
- To promote awareness, amongst the youth, in the fields of Indian history and heritage, arts and culture;
- To provide the youth with proper educational and training opportunities and to facilitate access to information in respect of employment opportunities and to other services, including entrepreneurial guidance and financial credit;
- To facilitate access, for all sections of the youth, to health information and services and to promote a social environment which strongly inhibits the use of drugs and other forms of substance abuse, wards off disease (like HIV/AIDS), ensures measures for de-addiction and mainstreaming of the affected persons and enhances the availability of sports and recreational facilities as constructive outlets for the abundant energy of the youthl;
- To sustain and reinforce the spirit of volunteerism amongst the youth in order to build up individual character and generate a sense of commitment to the goals of developmental programmes;
- To create an international perspective in the youth and to involve them in promoting peace and understanding and the establishment of a just global economic order;
- To develop youth leadership in various socio-economic and cultural spheres and to encourage the involvement of Non-Governmental Organizations, Co-operatives and Non-formal groups of young people; and
- To promote a major participatory role for the youth in the protection and preservation of nature, including natural resources, to channelise their abundant energies in community service so as to

improve the environment and foster a scientific, inquisitive reasoning and rational attitude in the younger generation and to encourage the youth to undertake such travel excursions as would better acquaint them with cultural harmony, amidst diversity, in India, and overseas

#### THURST AREAS OF THE POLICY :

**Youth empowerment:** The Policy recognizes that in order for the youth to effectively participate in decision making processes, it is essential that they are better equipped with requisite knowledge, skills and capabilities. Towards this end, the Policy envisions the following:

Attainment of higher educational levels and expertise by the youth, in line with their abilities and aptitudes, and access to employment opportunities accordingly;

Adequate nutrition for the full development of physical and mental potential and the creation of an environment which promotes good health, and ensures protection from disease and unwholesome habits;

Development of youth leadership and its involvement in programmes and activities pertaining to National Development;

Equality of opportunity and respect for Human and Fundamental Rights without distinction of race, caste, creed, sex, language, religion or geographic location and access to facilities relating to Sports, Cultural, Recreational and Adventure activities.

**Gender Justice:** The Policy recognizes the prevailing gender bias to be the main factor responsible for the poor status of health and economic well-being of women in our society and that any discrimination on grounds of sex violates the basic rights of the individual concerned and it, therefore, stands for the elimination of gender discrimination in every sphere. The Policy enunciates that:

- a. Every girl child and young woman will have access to education and would also be a primary target of efforts to spread literacy.
- b. Women will have access to adequate health services (including reproductive health programmes) and will have full say in defining the size of the family.
- c. Domestic violence will be viewed not only as violation of women's freedom but also as that of human rights.
- d. All necessary steps should be taken for women's access to decision-making process, to professional positions and to productive resources and economic opportunities.
- e. Young men, particularly the male adolescents shall be properly oriented, through education and counseling to respect the status and rights of women.

The Policy further enunciates that:

- a. Action would be pursued to eliminate all forms of discrimination in respect of the girl child, negative cultural attitudes and practices against women, discrimination against women in

education, skill development and training, and the socio-economic exploitation of women, particularly young women;

b. Concerted efforts will be made to promote a family value system that nurtures a closer bond between men and women, and ensures equality, mutual respect and sharing of responsibility between the sexes.

**Inter-Sectoral Approach:** The Policy recognizes that an inter-sectoral approach is a pre-requisite for dealing with youth-related issues. It, therefore, advocates the establishment of a coordinating mechanism among the various Central Government Ministries and Departments and between the Central and State Governments, and the community based organisations and youth bodies for facilitating convergence in youth related schemes, developing integrated policy initiatives for youth programmes and for reviewing on-going activities / schemes to fill in gaps and remove unnecessary duplication and overlap.

**Information & Research Network:** Youth development efforts in India have been hampered by lack of adequate information and research base. The Policy, therefore, suggests the establishment of a well organized Information & Research Network in regard to various areas of concern to the youth to facilitate the formulation of focused youth development schemes and programmes. The Rajiv Gandhi National Institute of Youth Development (RGNIYD) will serve as the apex Information and Research Centre on youth development issues. The National Youth Centre and the State Youth Centres will also serve as store houses of information for the youth. At the micro level, the Youth Development Centres under the NYKs will be equipped to serve as information centres for the local youth.

#### **PRIORITY TARGET GROUPS**

1. Rural and Tribal Youth;
2. Out-of-school Youth;
3. Adolescents particularly female adolescents;
4. Youth with disabilities;
5. Youth under specially difficult circumstances like victims of trafficking; orphans and street children.

#### **IMPLEMENTATION MECHANISM**

The Policy envisions the following implementation mechanism:

- a. All Ministries/Departments of the Union Government and the State Governments, particularly in the social sector will strive to make identifiable allocations in their budgets for youth development programmes;
- b. A broad based National Committee on Youth Policy and Programmes is contemplated to review and assess various programmes and schemes focusing on youth. It will also advise the Government on measures for implementation of the Plan of Action of the National Youth Policy;

- c. The Union Ministry of Youth Affairs & Sports (with the guidance of this Committee) will be the Nodal Ministry for all such programmes and schemes and will oversee the implementation of the provisions of this Policy;
- d. An effective mechanism to coordinate the activities of the Central Ministries/Departments, the State Governments and Community and Youth Organisations, would be evolved in order to facilitate timely execution of youth development programmes; and
- e. A National Youth Development Fund will be created through contributions, including from Non-Governmental Organisations, which would be utilised for youth development activities. Income Tax exemption would be sought for contribution to the Fund.

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES – DISABLED

### Historical Background

Since the initiation of rehabilitation services, the urban persons with disabilities have been the main beneficiaries. The evolution of welfare programmes started in cities and grew from strength to strength in urban settings.

With the passage of time, experts all over the world realized that concentrating services in cities had resulted in lop-sided development with persons in rural areas being deprived of facilities. With the advancement of services, secondary data started becoming available that proved that nearly 84 percent of persons with disabilities in developing countries lived in rural areas. Facts also came to light that the majority of such persons were aged and were thus not eligible to avail training in the urban training institutions.

Experts started feeling that it was a wrong policy to attract the rural persons with disabilities to the cities where the cost of living was high and cheap accommodation was impossible to get.

Moreover, urban-based training would be of no use to such persons on their return to his home. It was also increasingly felt that westernized urban industrial training was not suitable. Millions of persons with disabilities in rural areas cannot be rehabilitated by a few hundred urban institutions. A few rural programmes were started by St. Dunstons, the Vocational Rehabilitation Office in the U.S.A. and the Sight Savers International in Africa. The turning point came when the Uganda Foundation for the Blind started a rural centre in 1954.

### Asian Conference: Work for the Blind

The first Asian Conference on Work for the Blind held in Tokyo, Japan, 1955 endorsed the above approach and passed the following resolution:

“The conference, recognizing that the majority of the visually impaired in this region come from agricultural communities, recommends that increased attention be paid by Governmental and other agencies to the location of suitable avenues of employment of the visually impaired who reside in rural areas and introduction of educational and vocational and training services geared towards the resettlement of the visually impaired in such areas.”

These resolutions helped to start a chain of rural training centers for the visually impaired.

#### International Year for the Disabled Persons

More and more world opinion was being galvanized regarding setting up of rural mobile teams for rehabilitation. The United Nations General Assembly declared 1981 as the International Year of Disabled Persons (IYDP). Its plan of action also concentrated on rural resettlement and issued the following guidelines:

“To review the services and benefits to ensure that these assist and encourage disabled people to remain and/or become an integral part of the society wherein they live, rather than bring about segregation and isolation”.

#### United Nations’ Concern for Persons with Disabilities

The World Programme of Action Concerning Disabled Persons adopted by the UN General Assembly by resolution 37/52 on 3 December 1982 encourages Member States, within the context of available resources, to initiate whatever special measures may be necessary to ensure the provision and full use of services needed by disabled persons living in rural areas, urban slums, and shanty towns. Regarding employment, it emphasizes:

“Member States should adopt a policy and supporting structure of services to ensure that disabled persons in both urban and rural areas have equal opportunities of productive and gainful employment in the open labor market. Rural employment and the development of appropriate tools and equipment should be given particular attention”.

#### Indian Initiative

A large number of leading NGOs realized during the early 1980s that non-institutional rural projects for persons with disabilities were indispensable. A large number of NGOs developed, presented, implemented and perfected nation-wide programme on promotion of CBR. The major Indian initiatives include:

#### District Rehabilitation Centers Scheme

The Government of India launched District Rehabilitation Centre (DRC) Scheme during January 1985 on pilot basis. The pilot project, started in collaboration with the National Institute of Disability and Rehabilitation Research (NIDRR), US Department of Education and UNICEF, aimed at providing a package of model comprehensive rehabilitation services to the rural visually impaired.

The objectives of the Scheme were to:

Create awareness that the disabled could be productive if given opportunities and support;

Help the disabled persons cope with problems of daily living and relieve family members of the burden of constantly looking after him;

Establish a comprehensive model of rehabilitation services including Medical intervention, Education, Vocational training, Employment, etc.

Promotion of voluntary efforts in the area of rehabilitation, and,

Creation of a cadre of multi-disciplinary professionals.

This scheme was launched in eleven different districts in India

National Program on Rehabilitation of Persons with Disabilities (NPRPD)

The Ministry of Social Justice & Empowerment has introduced the National Programme for the Rehabilitation of Persons with Disabilities (NPRPD) as a model for State Governments for providing rehabilitation services to such persons. To begin with, this

Programme will be launched in 100 districts all over the country.

Objectives:

The objective of this programme is to promote comprehensive rehabilitation for all persons with disabilities at their doorstep. For this purpose, the programme will have a delivery system right from the State level to the Gram Panchayat level.

The envisaged infra structure has the following salient features:

- a. To develop and maintain minimum level of services at each level of service delivery, from State to village level
- b. To provide guidelines to States for assisting them to initiate and strengthen services
- c. To provide appropriate information about most cost effective, efficient and economical models in the field of rehabilitation
- d. The service delivery system should have at least at each level infrastructure for service delivery, provision of assistive devices and availability of trained manpower.
- e. As far as possible, services should be provided at the doorstep of the individuals.

As community based services are cost effective, efforts should be made to provide services using community and family resources.

- g. The State should make efforts to use existing institutions, both in Government as well as Non-government sectors and the local authorities for delivery of rehabilitation services

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES - AGED

A man's life is normally divided into five main stages namely infancy, childhood, adolescence, adulthood and old age. In each of these stages an individual has to find himself in different situations and face different problems. The old age is not without problems. In old age physical strength deteriorates, mental stability diminishes; money power becomes bleak coupled with negligence from the younger generation.

There are 81 million older people in India-11 lakh in Delhi itself. According to an estimate nearly 40% of senior citizens living with their families are reportedly facing abuse of one kind or another, but only 1 in 6 cases actually comes to light. Although the President has given her assent to the Maintenance and Welfare of Parents and Senior Citizens Act which punishes children who abandon parents with a prison term of three months or a fine, situation is grim for elderly people in India.

According to NGOs incidences of elderly couples being forced to sell their houses are very high. Some elderly people have also complained that in case of a property dispute they feel more helpless when their wives side with their children. Many of them suffer in silence as they fear humiliation or are too scared to speak up. According to them a phenomenon called 'grand dumping' is becoming common in urban areas these days as children are being increasingly intolerant of their parents' health problems.

After a certain age health problems begin to crop up leading to losing control over one's body, even not recognizing own family owing to Alzheimer are common in old age. It is then children began to see their parents as burden. It is these parents who at times wander out of their homes or are thrown out. Some dump their old parents or grand parents in old-age homes and don't even come to visit them anymore.

Over the years, the government has launched various schemes and policies for older persons. These schemes and policies are meant to promote the health, well-being and independence of senior citizens around the country. Some of these programmes have been enumerated below.

The central government came out with the National Policy for Older Persons in 1999 to promote the health and welfare of senior citizens in India. This policy aims to encourage individuals to make provision for their own as well as their spouse's old age. It also strives to encourage families to take care of their older family members. The policy enables and supports voluntary and non-governmental organizations to supplement the care provided by the family and provide care and protection to vulnerable elderly people. Health care, research, creation of awareness and training facilities to geriatric caregivers have also been enumerated under this policy. The main objective of this policy is to make older people fully independent citizens.

This policy has resulted in the launch of new schemes such as-

Strengthening of primary health care system to enable it to meet the health care needs of older persons



Training and orientation to medical and paramedical personnel in health care of the elderly.

Promotion of the concept of healthy ageing.

Assistance to societies for production and distribution of material on geriatric care.

Provision of separate queues and reservation of beds for elderly patients in hospitals.

Extended coverage under the Antyodaya Scheme with emphasis on provision of food at subsidized rates for the benefit of older persons especially the destitute and marginalized sections.

The Integrated Programme for Older Persons is a scheme that provides financial assistance up to 90 per cent of the project cost to non-governmental organizations or NGOs as on March 31, 2007. This money is used to establish and maintain old age homes, day care centres, mobile Medicare units and to provide non-institutional services to older persons. The scheme also works towards other needs of older persons such as reinforcing and strengthening the family, generation of awareness on related issues and facilitating productive ageing.

Another programme of the government is the Scheme of Assistance to Panchayati Raj Institutions (External website that opens in a new window) voluntary organisations and self help groups for the construction of old age homes and multi service centres for older persons This scheme provides a onetime construction grant.

Central Government Health Scheme provides pensioners of central government offices the facility to obtain medicines for chronic ailments up to three months at a stretch. The National Mental Health Programme focuses on the needs of senior citizens who are affected with Alzheimer's and other dementias, Parkinson's disease, depression and psycho geriatric disorders.

#### New Schemes

The Central Government is in the process of developing newer plans and schemes to benefit senior citizens. In the 2007-08 Budget the Finance Ministry ratified a proposal to provide monthly income to seniors and develop new health insurance schemes.

For the benefit of senior citizens it has been proposed that-

The National Housing Bank will introduce a 'reverse mortgage' scheme under which a senior citizen who owns a house can avail of a monthly stream of income against mortgage of the house. The senior citizen remains the owner and occupies the house throughout his or her lifetime, without repayment or servicing of the loan. Regulations are to be put in place to allow creation of mortgage guarantee companies.

An exclusive health insurance scheme for senior citizens is to be offered by the National Insurance Company. Three other public sector insurance companies as mentioned in the Medical Insurance section, are to offer a similar product to senior citizens.

The Maintenance of Parents and Senior Citizens Bill of 2007 - This bill has been recently introduced in Parliament. It provides for the maintenance of parents, establishment of old homes, provision of medical care and protection of life and property of senior citizens.

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES - FAMILY WELFARE

India has already crossed one billion mark in its population and may soon become the first country in the world to have such huge population. This will greatly strain the resources available in all spheres of daily life.

The population of the world is increasing in an exponential manner. India is the second most populous country in the world next to China and seventh in land area. India has only 2.4% of world's population with annual growth of 2.1%. About 16 million people are being added every year to the already grown population.

High birth rate and declining death rate leads to population explosion resulting in low standard of living, shortage of food supply and malnutrition. India with its high birth rate and low death rate is facing the above problems of population explosion.

### Demographic Trends in India

With the population of 944.5 million in 1996 India is the 2nd most populous country in the world. India's population has been steadily increasing since 1921. The year 1921 is called the "big Divide" because the absolute number of people added to the population during each decade has been on the increase since 1921. India's population is currently increasing at the rate of 20 million each year. At the time of Independence in 1947, the population of India stood at 344 million and within 34 years it doubled and in 2000 India's population had already crossed one billion mark.

### National Family Welfare Programme

India launched a nationwide family planning programme in 1952, though record show that birth control clinics have been functioning in the country since 1930.

### Maternal Health and Nursing Intervention

An expert committee of WHO (1971) defined family planning as a way of thinking and living that is adopted voluntarily upon the basis of knowledge, attitudes and responsible decision by

individuals and couples, in order to promote the health and welfare of the family group and thus contribute effectively to the social development of a country.

The Objectives of Family Welfare Programmes are to:

avoid unwanted births

bring about wanted births

regulate the interval between pregnancies

control the time at which births occur in relation to the ages of parents

determine the number of children in the family.

Scope of Family Welfare Services

They are as follows:

- i) Proper spacing and limitation of birth
- ii) Advice on sterility
- iii) Education for parenthood
- iv) Sex Education
- v) Screening for pathological conditions related to the reproductive system
- vi) Genetic Counselling
- vii) Carrying out pregnancy tests
- viii) Premarital consultation and examination
- ix) Marriage Counselling
- x) Preparation of parents for arrival of the baby
- xi) Providing services to unmarried mothers
- xii) Teaching home economics and nutrition
- xiii) Provision for adoption services

Family planning has a direct effect on the health of mother and children. Contraception helps mother to regain health in between the pregnancies which in turn will help in better health during fetal life and hence a healthy infancy and childhood.

### Historical Background of Family Planning Programme in India

India is the first country to recognize the importance of family planning in the world. The developments in the family planning programme are:

1877 :It was Dr. Annie Besant, Secretary of Malhusian League, who raised the issue of population problem and the need to introduce family planning service before the public.

1912-1923 :Margeret Sanger, a Health Nurse of USA headed the birth control programme. In 1923, Dr. Stopes popularized birth control movement in UK.

1925 :Prof. Karve of Bombay started propaganda on birth control.

1930 :Mysore Govt. started the Birth control clinic.

1935 :Indian congress favoured the family planning programme.

1949 :Smt. Rama Rao founded Family Planning Association of India in Bombay.

1951 :Planning Commission started to formulate the comprehensive programmes to check rapid population growth.

1953 :India became the first country in the world to start birth control programme and started 147 family planning clinics.

1956 :A Central Family Planning Board was established.

1962 :A Central Family Planning Institute was established during third five year plan. Local leaders and voluntary organisations were included to propagate the programme.

1965 :A separate Department of Family Planning was established in Ministry of Health and Family Planning.

1969 :During fourth five year Plan the Government of India gave “top priority” to the Family Planning Programme.

1970 :All India Post Partum programme introduced.

1972 :Medical Termination of Pregnancy (MTP) Act was passed.

1977 :Family Planning programme was renamed as Family Welfare programme. 1978 : India was signatory to Alma Ata declaration.

1983 :Approval of National Health Policy in the Parliament

## ORGANIZATION OF FAMILY WELFARE PROGRAMME

The primary responsibility for delivery of services lies with the Government. The delivery of Family Planning services is through:

### i) Central Government

The Family Welfare Programme is 100% centrally sponsored programme. Central Government controls, plans and manages financial matters. There is separate department of Family Welfare which was created in 1966. The secretary to the Government of India in Ministry of Health and Family Welfare is overall in charge of Department of Family Welfare. Special Secretary and Joint Secretary assist him. There is an Advisor (Mass Media and Communication) at the rank of additional secretary. For technical expertise and advice there is an apex institute i.e., National Institute of Health and Family Welfare to promote health and family welfare through education, research, training and evaluation.

### ii) State Level

In the states there is State Family Welfare Bureau, which is part of the State Health and Family Welfare Directorate.

### iii) District Authorities

There are District Family Welfare Bureau consisting of three divisions headed by District Family Welfare Officer, Mass Education and Media Division Incharge and District Mass Education and Media Officer.

### iv) Primary Health Centre

There are three medical officers at PHC level to provide essential health care and family planning services. The work of sub-centre is supervised by Health Assistant (M) and Health Assistant (F). The activities in the sub-centre are managed by the Health Worker (F) and Health Worker (M). Family planning services to the women is the responsibility of Health Worker (F) whereas the services to male population is of Health Worker (M).

### v) Village Level

There is one Village health Guide for every 1000 population. They are responsible for educating and informing the people about family planning and also to supply Nirodh and Oral pills. Trained *Dais* also work for 1000 population, who act as a counsellor for family planning and motivate mothers to adopt family planning methods.

### vi) Role of Non-Government Agencies

The role of NGO and private practitioner is well organized and Government has created a Nationwide social market for condoms through them.

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES – URBAN DEVELOPMENT

India is part of a global trend that is advancing towards an increasing urbanisation, according to which more than half of the world's population is living in towns and cities. India has a total population of 1,027 million as accounted by the 2001 census, out of which 27.8 percent live in urban areas. The span of ten years between 1991 and 2001 has showed a steady increase of 2.1 percent in the proportion of urban population in the country.

It is noteworthy that the contribution of urban sector to Gross Domestic Product (GDP) is currently expected to be in the range of 50-60 percent. In this context, enhancing the productivity of urban areas is now central to the policy pronouncements of the Ministry of Urban Development. Cities hold tremendous potential as engines of economic and social development, creating jobs and generating wealth through economies of considerable scale. They need to be sustained and augmented through high urban productivity for a country's economic growth. National economic growth and poverty reduction efforts will be increasingly determined by the productivity of these cities and towns. For Indian cities to become growth oriented and productive, it is essential to achieve a world class urban system, which in turn depends on attaining efficiency and equity in the delivery and financing of urban infrastructure.

After 1950, the Government of India formulated ten five year plans aimed towards housing and urban development, which led to the launch of Urban Poverty and Alleviation Programme of Nehru Rojgar Yojana (NRY). These plans laid emphasis on institution building and on construction of houses for government employees and weaker sections. The Industrial Housing Scheme was widened to cover all workers. As a follow-up of the Global Shelter Strategy (GSS), National Housing Policy (NHP) was announced in 1988, whose long term goal was to eradicate the problem of lack of housing, improve the housing conditions of the inadequately housed, and provide a minimum level of basic services and amenities to all. The role of Government was conceived, as a provider for the poorest and vulnerable sections, and as a facilitator for other income groups and private sector by the removal of constraints and the increased supply of land and services.

The Ministry of Urban Development has the responsibility of broad policy formulation and monitoring of programmes in the areas of urban development, urban water supply and sanitation. These are essentially State subjects but the Government of India plays a coordinating and monitoring role and also supports these programmes through Central and Centrally Sponsored Schemes. The Ministry addresses various issues of urban sector through policy guidelines, legislative guidance and sectoral programmes. In the Eleventh Plan period, it was estimated that urban water supply alone would require investment of Rs 53666 crore, and sanitation including sewerage treatment, drainage and solid waste management investment of another Rs 75553 crore. With increased population in urban areas, urban transportation needs in the Eleventh Plan would require investment of Rs 132590 crore. There is a wider appreciation that the size and nature of the urban problems that cities and towns face needs partnership between the public and private sectors and that the existing policies and statutes relating to land, housing and rent need to be reviewed and modified in tune with the emerging challenges.

In recent years, the urban sector in India has undergone a major change following the country's transition towards a market-based economy and the spirit of decentralization embodied in the Constitution (Seventy Fourth) Amendment Act, 1992. The role of local self government becomes central in the issues of urban services management. The Constitution (Seventy Fourth) Amendment Act, 1992 is a revolutionary piece of legislation by which Constitution of India was amended to incorporate a separate Chapter on urban local bodies, which seeks to redefine their role, power, function and finances in all the areas of town planning and urban management/services.

The decade of the 1990s and 2000s had also witnessed important changes in the thinking about cities and their role in economic growth and reduction in poverty.

The Jawaharlal Nehru National Urban Renewal Mission (JNNURM), which was launched on 3rd December, 2005 is expected to give focused attention to integrated development of urban infrastructure and services in select 65 Mission cities with emphasis on provision of basic services to the urban poor including housing, water supply, sanitation, slum improvement, community toilets etc. The Mission makes available reform linked Central Assistance over the Mission period of seven years beginning from 2005-06. There are also subcomponents under JNNURM to cater to similar needs of the small towns and cities.

The objective of the Mission (JNNURM) is to encourage the city governments to initiate measures that would bring about improvements in the existing service levels in a financially sustainable manner. The Mission calls upon states/cities to undertake fiscal, financial and institutional changes that are required to create efficient and equitable urban centers, and the Mission is reforms-driven, which would largely meet the challenges of urban governance. The erstwhile Centrally Sponsored Schemes for Infrastructure Development in Mega Cities, Integrated Development of Small and Medium Towns (IDSMT), Accelerated Urban Water Supply Programme (AUWSP) and Urban Reforms Incentive Fund (URIF)(administered by Ministry of Housing and Poverty Alleviation) were subsumed in the Mission.

The Ministry of Urban Development laid down a National Urban Sanitation Policy in 2008 and also prescribed service level benchmarks for municipal services. The Ministry is supporting capacity building at various levels, including of the urban local bodies and the State personnel in areas related to governance, financial management, and service delivery.

The Ministry of Urban Development has also been entrusted with the responsibility of planning and co-ordination of urban transport matters. The Ministry had prescribed a National Urban Transport Policy in 2006. The objective of the policy is to ensure easily accessible, safe, affordable, quick, comfortable, reliable and sustainable mobility for all, and the Ministry has

been extending support and guidance to the States for implementation of the Policy, as well as monitoring the progress.

## HISTORICAL PERSPECTIVE ON SOCIAL POLICIES – RURAL DEVELOPMENT/POVERTY ALLIEVATION

Rural development has been one of the important objectives of planning in India since

Independence). Intervention of the Government in rural development is considered necessary in view of the fact that a sizeable population continues to reside in rural areas despite growing urbanization. It is also required; as the market forces are not always able to improve the welfare of the rural masses because of certain structural rigidities and institutional deficiencies existing in these areas. As a result, there is a danger of large sections of the rural population to remain outside the ambit of market driven growth processes. To enable the poorer sections of the rural population to participate more effectively in the economic activities has, therefore, remained the prime objective of Indian planning and the basic underlying theme of rural development programmes.

In the post-independence era, India has achieved commendable success on many fronts. In the case of agriculture, being importers at one time, we are now not only net exporters but also one of the largest donors of food in the world. In the field of science and technology, we are on the frontiers of many areas like space, communication and information technology. In spite of all this, our country has the largest number of the poor in the world and therefore rural development and poverty alleviation continues to be one of the major focus areas of the national development policy.

Rural development in India is identified largely with the poverty alleviation policies. Perhaps no country in the world has invested so much time and resources on poverty alleviation and achieved so little as India. Over the 25 year period, 1973-74 to 1999-2000, the poverty ratio, i.e. the percentage of the poor in the total population, has been halved from 55 per cent to 27 per cent.

What is rural development?

Rural development is utilization, protection and enhancement of the natural, physical and human resources needed to make long-term improvements in rural living conditions. It involves provision of jobs and income opportunities while maintaining and protecting the environment of rural areas.



The first major rural development programme launched by the Government was the Community Development Programme (CDP). This programme approached the problem of rural development from a holistic perspective of bringing about overall economic and social change in the community at large. The programme created the necessary administrative infrastructure and institutions for the implementation of future rural development schemes but could not tackle the problem of stagnating agricultural yields and merging food shortages.

Responding to the problem of food shortages in the mid-sixties the emphasis of rural development shifted to area intensive programmes for implementing new technology in agriculture to enhance crop production. The Green Revolution technology supported by agricultural price policy and input subsidies, both explicit and implicit, succeeded in not only overcoming food shortages but in generating food-grain surplus as well.

The benefits of both CDP and the Green Revolution, however, were far from equitable. Rural poverty continued to persist and increase in absolute numbers. This led to the formulation of target/beneficiary oriented schemes in the seventies and the eighties with the objective of creating self-employment opportunities for those below the poverty line. Attention was also given to wasteland development, creation of community assets and rural infrastructure through area based and infrastructure development programmes which generated wage employment as well.

The sustainability of some of the rural development strategies including the price and subsidy policy for agriculture came to be doubted in the early nineties when the country faced an acute resource crunch and embarked on new economic reforms. By the turn of the millennium, most of the rural development schemes were reviewed and modified in order to make them more effective.

There is now growing evidence of significant reduction in rural poverty that took place during the eighties and the nineties. It can be attributed in no small measure to rural development interventions of the Government. New challenges, however, have emerged demanding further attention. This only confirms that rural development is an on-going process requiring new approaches to be evolved in tune with the changing requirements. By now you must have a fair idea of the major issues in implementing rural development strategies and the areas that require further attention.

Poverty Alleviation Programmes

The rural poor can be divided into three main categories:

those with land,

those with skills and

those without land and skills. During the initial stages of rural development through the *community development program* (CDP), a holistic approach to develop agriculture, infrastructure and basic facilities in the villages was adopted. It was assumed that as the process of development progresses, it would take care of each and every category of the rural population. During the 1960s, when the CDP was gaining momentum, the country was faced with food crisis and, therefore, the entire rural development effort was directed to the development of agriculture. As a result, we achieved green revolution towards the end of that decade and the country gained self-sufficiency in food production. While this event was most welcome, it was not without side-effects. The farmers with small and marginal holdings did not gain from the green revolution and they remained poor. The benefits of agricultural development did not percolate to the large numbers of agricultural labourers either. Introduction of modern farm technology and use of modern factory made equipment rendered a large proportion of rural artisans jobless. The overall situation was that visible disparity between the rich and the poor emerged. There were many reasons for this situation.

Some of the important ones are as follows:

- 1) Modern farming being cost intensive, the small and the marginal farmers couldnot adopt modern farm technologies due to the lack of credit facilities and thus remained poor.
- 2) The green revolution was confined to agro-climatically rich areas, while the other regions remained backward.
- 3) Intensive farming did increase the absorption of labour, but it was proportionately too low as compared to the supply of manpower in the labour market due to population explosion.
- 4) There was no appreciable growth in the non-farm sector to absorb surplus labour from the farm sector.
- 5) There was no attempt for upgrading the skills of artisans for them to stay in the job market. This resulted in vast unemployment among them.

In order to counter these maladies of the development process, a series of special rural development programs as corrective measures were introduced during the early seventies. The most important among them, which was directly focused on the small and marginal farmers, agricultural labourers and rural artisans, was *Small FarmersDevelopment Agency* (SFDA), introduced in 1973-74. In 1974-75, *Marginal Farmers and Agriculture Labourers* (MFAL) Agency Program was also introduced to take specific care of the marginal farmers, the rural

artisans and the agriculture labourers. The MFAL, which was similar to SFDA, was merged with SFDA in 1976. Though SFDA was supposed to take care of all categories of the rural poor, it mainly concentrated on those with land assets and neglected labourers, causing serious problems of unemployment among them. Unemployment was severe among the asset less and the skill-less poor in the villages.

To provide relief to the rural poor, who mainly depended on daily wages, a *Crash Employment Programme* was introduced in 1974-75 in selected districts followed by another wage employment programme called *Pilot Intensive Rural Employment Programme* (PIREP). It was introduced during 1975-76 in the blocks which had chronic unemployment problem. These programs emerged with two distinct characteristics: (a) programs for self-employment, mainly focused on those with assets and/or skills; and (b) programs for wage employment targeting those who did not have any source of income other than their physical labour. During 1978-79, SFDA and the beneficiary oriented element of all other programs were merged into one and a new programme for self-employment, called *Integrated Rural Development Programme* (IRDP) was introduced in 2000 blocks, initially with a provision to bring 300 blocks under the programme every year. Similarly, all programmes aimed at wage employment were merged and brought together under the Food for Work Programme. In 1980, IRDP was expanded to all the blocks in the country and simultaneously the Food for Work Programme was also reorganized as the *National Rural Employment Programme* (NREP) and extended to all the blocks of the country.

In order to upgrade the skills of the rural artisans and also develop skills among those without any skill, a sub-programme of IRDP called *Training of Rural Youth for Self-Employment* (TRYSEM) was introduced in 1981. Though the provision of covering 40 per cent of women under IRDP and TRYSEM was already there, a new programme called *Development of Women and Children in Rural Areas* (DWCRA) was introduced on a pilot basis in 50 selected districts, again as a sub-programme of IRDP. Towards the end of the eighties, DWCRA covered all the districts of the country. The main purpose of DWCRA was to organize the poor women into groups and help them in self-employment by providing them income generating activities.

In the case of wage employment, it was realized that NREP was not able to provide the minimum guaranteed wage employment to the rural labourers and therefore a programme fully financed by the Ministry of Rural Development, Government of India, called *Rural Labour Employment Guarantee Programme* (RLEGP) was launched in 1983 with universal coverage. The NREP and RLEGP, with similar objectives, caused overlapping and therefore the Ministry of Rural Development, Government of India, decided to merge these two into one programme in 1989. It was named *Jawahar Rozgar Yojana* (JRY) and the Village Panchayats were assigned the task to implement it. Again, to supplement the wage employment efforts, a new programme called *Employment Assurance Scheme* (EAS) was introduced in about 1700 blocks with chronic unemployment problems during 1992-93. Later EAS was extended to cover all the blocks of the country during 1996-97. The ministry of rural development has brought about the Mahatma

Gandhi Rural employment guarantee Act,2005 that provides each BPL family in the rural area with 100 days of employment.

The year 1987 was the worst drought year of the century and the small and the marginal farmers suffered most. For relieving them from the vagaries of the monsoon, a programme called Jeevan Dhara (later named *Million Wells Scheme* – MWS) with hundred per cent subsidy to the small and the marginal farmers, belonging to Scheduled Castes and Scheduled Tribes mainly, was introduced.

During 1991-92, another programme for self-employment with specific focus on rural artisans was introduced. It was called *Supply of Improved Tool-Kit to Rural Artisans* (SITRA). In 1994-95, a minor irrigation programme called *Ganga Kalyan Yojana* (GKY) was introduced for those small and marginal farmers who were not eligible under MWS. While MWS was a fully subsidized programme, GKY was only partly subsidized.

Towards the end of nineties there were six programs for self-employment and two programs of wage employment being implemented by the Ministry of Rural Development (see the boxes).

Since the target group for all the self-employment programmes was the same and the procedure of selection of beneficiaries was also more or less the same, the multiplicity of the programmes created a number of problems in their execution. The more troublesome ones were as follows:

- 1) Due to multiplicity, many influential persons were able to get the benefit of more than one programme at the cost of many poor families.
- 2) Since considerable amount of subsidy was involved, in some cases hundred percent subsidy (MWS & SITRA), it encouraged the involvement of middlemen and local leaders and even senior politicians in the selection of beneficiaries resulting in considerable number of non-eligible families taking the benefits of these programmes.
- 3) Lack of proper planning was another cause of low performance.
- 4) Poor recovery of loans made banks reluctant to advance loans causing significant set-back to these programmes.
- 5) Marketing of the produce by the beneficiaries was also a major problem which led to the failure of a large number of income generating schemes taken up by the beneficiaries.

Keeping the above factors in mind, the Ministry of Rural Development, Government of India, decided to restructure the self-employment and wage employment programmes. Accordingly, all the six self-employment programmes namely, IRDP, TRYSEM, DWCRA, SITRA, MWS and GKY were merged into a single programme called Swarnjayanti Gram Swarozgar Yojana (SGSY) made operative on the first April, 1999

Box 1  
 Programmes for Self-Employment (IRDP and its sub-programmes)  
 i) IRDP (Integrated Rural Development Programme)  
 ii) TRYSEM (Training of Rural Youth for Self-Employment)  
 iii) DWCRA (Development of Women and Children in Rural Areas)  
 iv) MWS (Million Wells Scheme)  
 v) SITRA (Supply of Improved Tool-Kit for Rural Artisans)  
 vi) Ganga Kalyan YOJNA

Box 2  
 Wage Employment Programmes  
 i) JRY (Jawahar Rojgar Yojana)  
 ii) EAS (Employment Assurance Scheme)

Also, JRY was redesigned and named Jawahar Gramin Rozgar Yojana (JGSY) on April, 1999. In 2001, however, JGSY and EAS were also merged into a single programme called *Sampoorna Grameen Rojgar Yojana* (SGRY).

Limitations of the policies

The main reasons for the poor performance of the poverty alleviation programmes were:

- a) While the programmes were well designed, the implementation was not effective.
- b) Lack of area specific and integrated planning which was essential to sustain the benefits of the poverty alleviation programmes.
- c) Most of the income generating schemes provided to the poor families did not match their capabilities and therefore the beneficiaries were not able to sustain them.
- d) Lack of supporting infrastructure including marketing facilities also caused problems for the beneficiaries.
- e) In majority of the cases, the size of investment on the beneficiary projects was not adequate.
- f) In some of the programmes, the participation of the people was very poor.
- g) Corrupt practices in identifying, selecting and funding the beneficiaries have also had adverse effect on the programmes.

#### HISTORICAL PERSPECTIVE ON SOCIAL POLICIES - EDUCATION

The present educational system of India is an implantation of British rulers. Wood's Dispatch of 1854 laid the foundation of present system of education in India. Before the advent of British in India, education system was private one. With the introduction of Wood's Dispatch known as Magna Carta of Indian education, the whole scenario changed. The main purpose of it was to prepare Indian Clerks for running local administration. Under it the means of school educations were the vernacular languages while the higher education was granted in English only. British government started giving funds to indigenous schools in need of help and thus slowly some of the schools became government-aided.

#### Elementary Education

According to the Constitution of India, elementary education is a fundamental right of children in the age group of 6-14 years. India has about 688,000 primary schools and 110,000 secondary schools. According to statistics two third of school going age children of India are enrolled in schools but the figures are deceptive as many don't attend schools regularly. At least half of all students from rural area drop out before completing school. The government has rolled out many plans to increase the percentage of elementary education. The plans such as 'Sarva Siksha Abhiyan (SSA), District Primary Education Program (DPEP), Operation Blackboard, Mid Day Meal have been successful to great extent.

#### Sarva Siksha Abhiyan (SSA)

The main goal of this program is that all children of 6-11 years of age should complete primary education by the year 2007 and all children of 6-14 years of age should complete eight years of

schooling by 2010. This plan covers the whole country with special emphasis on girl education and education of Schedule Caste (SC) and Schedule Tribe (ST) children and children with special needs. The SSA centers are mainly opened in those areas, which do not have any school or where schools are very far off. Special girl oriented programs include:

Girl education at elementary level.

National Program for Education of Girls at Elementary Level (NPEGEL)

Kasturba Gandhi Balika Vidyalaya (KGBV)

Mahila Samakhya Scheme

District Primary Education Program

This program was launched in 1994 with the objective of universalization of primary education. Its main features are Universal Access, Universal Retention and Universal Achievement. It aims that the primary education should be accessible to each and every child of school going age, once a child is enrolled in school he/ she should be retained there. The final step is achievement of the goal of education. The main components of this program are:

Construction of classrooms and new schools

Opening of non-formal schooling centers

Setting up early childhood education centers.

Appointment of teachers.

Providing education to disabled children.

The program has been successful to the large extent as 1,60,000 schools and 84,000 alternative schools have been opened under this program. And work is going on for the construction of new buildings of 52,758 schools. 4,20,203 disabled students have been successfully enrolled into the schools.

Operation Blackboard

It was started in 1987-88. The aim of this program is to improve human and physical resource availability in primary schools of India. According to this program every primary school should have at least two rooms, two teachers and essential teaching aids like blackboard, chalk, duster etc.

National Bal Bhavan

The National Bal Bhavan was opened with the aim of developing overall personalities of children of all strata of society irrespective of their caste, creed, religion and gender. It supplements school education by helping children to learn in play way and natural environment.

Other important endeavors taken up by Indian government for the development of education in India includes:

Navodaya Vidyalaya Samiti

Kendriya Vidyalaya Sangathan

Integrated Education for disabled children

National Council of Educational Research and Training

Secondary Education

The enrollment at secondary school throughout the country was close to 28 million in 1998-99. Efforts are being made to increase this figure through the implementation of proposed new educational strategies.

University

Education

This massive system of higher education in India constitutes of 342 universities (211 State, 18 Central, 95 deemed universities) 13 institutes of national importance, 17,000 colleges and 887 polytechnics. University Grant Commission (UGC), a national body, coordinates and looks after the maintenance of standard of university education in India. The university education in India starts with undergraduate courses. Depending upon the nature of course pursued its duration may vary from three to five and a half years.

Education Policy

The national policy of education (1986) and program of action (1992) lay down the objectives and features of Indian education policy. It includes:

Development of International cooperation and peaceful coexistence through education.

Promotion of equality. It could be achieved by providing equal access and equal condition of success to children.

A common educational structure (10+2+3) for the whole of India.

Education for women's equality. The Indian education should be used as a tool to change the status of women in the society.

Equalization of SC population with others in the matter of education. This is ensured by giving incentives to parents who send their children to schools, providing scholarship to SC students for higher studies, reservation of seats in institution of higher studies in India, recruitment of SC teachers.

Opening of primary schools in tribal area for promotion of education in ST people.

Development of curriculum and study material in the language of tribal people.

Emphasis on the education of minorities.



Adult education - Initiation of National Literacy Mission, for teaching illiterate people of age group 15-35. And making them aware of the day-to-day realities of their surroundings.

Special emphasis on early childhood care and education by opening up of day care centers, promotion of child focused programs.

Increasing the scope of Operation Blackboard for upliftment of standard of primary education in India.

Secondary education curriculum should expose the students to differentiated roles of science, the humanities, and social science.

Redesigning of courses of higher education to meet the increasing demand of professionalism.

Providing enhanced support to the research work in Universities. Efforts to relate ancient Indian knowledge with the contemporary reality.

Setting up of Open Universities and Distance Learning centers to promote the goal of education as a life long process.

A combined perspective of technical and management education.

Minimum exposure to computers and training in their use to be the part of professional education.

The All India Council for Technical Education will be responsible for maintenance of norms and standards, accreditation, funding, and monitoring of technical and management education in India.

Multiple task performance for teachers such as teaching, research, development of learning resource material, extension and management of the institution.

Providing teachers a better deal to make education system in India work in proper way, as teachers are the backbone of the system. Providing better facilities to institutions and improved services to students.

Development of languages in great deal.

Measures to be taken for easy accessibility of books at minimum costs to all sections of students.

Strengthening of science education for the development of spirit of inquiry and objectivity in the minds of students.

The purpose of examination to be to bring about qualitative improvement in education. It should discourage memorization.

Methods of teacher recruitment to be recognized one to ensure merit and objectivity in the system.

Overhauling of the system of teacher education and establishment of District Institutes of Education and Training (DIET) to organize courses for elementary school teachers.

Reviewing of educational developments by the Central Advisory Board of Education (CABE)

Involvement of local communities for school improvement programmes.

Review of the implementation of the parameters of the policy every five years,

Strengthening the base of pyramid of Indian population for proper development of education system in India.

National Policy of Education (1992) laid down many objectives for the development of education system in India but it has not been successful in achieving all of them. It has specified that the examination system should discourage the memorizing but it is what is going on. The education in India seems to encourage rote learning instead of experimentation and questioning. There is some disparity in assessment as all the State Boards have different standards of evaluation.

The reservation on the basis of caste and religion is also a negative point in Indian education. Corruption is visible in the allocation of seats of institutions of higher studies and student politics is another sore point. These are some of the issues, which need to be worked upon.

Though there are disparities between the objectives and their implementation in education but still education system in India has come a long way and will continue to improve in the future.

## FIVE YEAR PLANS

### Introduction:

In the Second World War almost all the countries of the world faced a lot of destruction. They had to face the ravage of many new problems coming out of war. So, just before the war was over, the Government thought of post-war reconstruction in their respective countries. The British Government of India also had such a plan for India. Moreover, India was an undeveloped country. After the freedom, the national Government of India wanted to uplift it through proper planning. So, the Government of India introduced five-year plans. The first five-year plan included almost all the recommendations of the post-war reconstruction scheme. These five-year plans are approved by the National Planning Commission. The Planning Commission was set up in March, 1950. The draft of the first five-year plan was published in July 1951 and it was approved in December 1951.

### The first five-year plan: (1951-1956)

The first five-year plan laid stress on agricultural development and multipurpose projects. This plan completed its course on 21st march 1956. The over all result of the plan was an increase of about 18 percent in the national income of India. The output of food-grains increased by 20 percent, that of cotton by 45 percent and major oil-seeds by 8 percent. More than sixteen million

acres were added to the irrigated land. The output of electricity rose from 6,575 kwh. in 1945-51 to 11 thousand millions in 1955-56.

Objectives:

The standard of living

Community agriculture development

Energy and irrigation

Communications and transport

Industry

Land rehabilitation

Social services

Target of GDP growth 2.1% per year

Achievements:

GDP 3.6% per year

Evolution of good irrigation system

Improvement in roads, civil aviation, railways, telegraphs, posts, manufacture of fertilizers and electrical equipment.

Disadvantages:

Development of only few industries

Private industry had not developed

The second five-year plan: (1956-1961)

The third five-year plan: (1961-1966)

The fourth five year plan: (1969-1974)

The fifth five year plan: (1974-1979)

The sixth five year plan: (1980-1985)

The seventh five year plan: (1985-1990)

The eighth five year plan: (1992-1997)

Ninth Plan (1997 - 2002)

Tenth plan (2002-2007)

Eleventh plan (2007-2012).

### Unit 3

#### Introduction

#### Policy and Planning:

Policy means government enactment that affects the well-being of people, including laws, regulations, executive orders, and court decisions, is a policy

Policies affect society and human behavior, and their importance for social-work practice.

Social planning as a local, democratic system for setting priorities, arriving at equitable compromises and taking action. It supports community needs and interests in social, cultural, economic, and environmental affairs.

#### Aim:

To acquaint the students about the Policy and Planning

#### Preview

This Unit will be conducted in following Parts:

Part I - Concept, Scope, linkages between social policy and planning

Part II - Social work and social planning; Planning – historical perspective. Political systems. Political process, co-ordination of center and state, Panchayati Raj, Peoples participation. Political judiciary, social movement and voluntary action, legal aid and public interest litigation.

Part III Planning Machinery and Monitoring, process of social planning in India; Implementation at various levels, Monitoring and evaluation.

#### Concept of Social Development Planning:-

##### The Concept

Planning has been defined in many ways. Planning involves the formulation of a national program of action for achieving development objectives. A. Waterson defines that planning is, in essence, an organized, conscious and continual attempt to select the best available alternatives to achieve specific goals Social development is new development thinking

In post war time the development means accumulation of wealth and growth in economy

Social development is broader than human development

Social development includes

Process of social change

Diagnosis(identification, analysis)

Social tensions

Development

The agencies of social change in global scene- IMF, WTP, World Bank.

A development plan contains, among others, the following features

a survey of the current economic situation;

objectives, targets, strategies and programs for accelerating economic growth and development

a list of proposed government expenditures

a macro economic projection for the whole economy etc.

Social development planning:

Social Planning/Social Development focuses on people, community and the factors that influence quality of life. Social Planning/Development differs from urban planning in that urban planning has a focus on land use, buildings and streets.

In Mission, Social Planning/Development involves working with a Municipally appointed Social Development Commission and its related working groups to effect positive change, education and awareness in the community. Social Planning/Development also involves working with a variety of community groups and needs, building and encouraging community cooperation and providing support to community groups working towards social issues and community development. The terms Social Planning, Social Development and Community Development are often interchangeable, the District of Mission uses the term Social Development to encompass them all.

Definition of Development:-

It is the process of growth and social change in the modernity especially toward the national building and socio- economic progress

It is empowering the society and improving the quality of life of people

Enabling people to achieve their aspirations

Multidimensional

It is enabling rather than providing

Models of development:-

Economical development model

Social development model

Western development model

Gandhian model

Human need centered development model

### Economical development model

economic development strategies to improve their quality of life. However, development economics has lacked viable planning models, and thus the rationale for this paper. This paper describes three complementary approaches to economic development to meet the needs of economists and developmental planners:

To determine the consequence of changes in consumer preferences affecting a firm demand within an industry, or consumers' behavioral changes or economic performance , (with or without any growth in the total market);

To estimate the impact of growth or dynamic change of one industry on the entire economy, whether such growth is uniform or skewed due to technology, capital injection, productivity, etc; and

To predict the need for resources and prescribe the manner by which these resources should be allocated to each economic sector or programs so that the overall economic development objective (social welfare function) can be maximized.

### Social development model

a social development practice model useful to community development. The model was initially developed in an attempt to rationalize practice with relationship to the value and policy writings in social development. It was anticipated that the model could be useful in planning, implementation and evaluation processes of community development practice. The model suggests the intensification of the processes of participation, empowerment, cooperation and institutionalization. It may extend the boundaries of community practice. A composite case study developed from an evaluative research project was used to provide material illustrative of the process usefulness of the model. The illustration demonstrated the model's usefulness as an evaluative device, while the presentation of the model focuses upon its utility as a community practice framework. It appears that the model could be useful in a variety of community projects.

### Western development model

Western development model through the evolution of modernization theory and foreign aid. It explores general critiques of this model offered by scholars, focusing on unequal power

relations, the high cost of aid, and problems with 'cookie cutter' style development projects that don't take into account disparate environments.

#### Social Planning:-

Planning is a program aimed at social cultural change in a particular direction with a given aim or goal in mind- Kimball Yong

A specific aim of our planning is to promote social welfare and efforts have been made towards the development of social services

According to Dr.Sachdeva Planning "planning involves appraisal of current conditions, Identification of problems and need of the society, determination of objectives and goals to be achieved on short term or long term basis and describes programmes to be implemented to reach the desired ends.

Planning is deciding in advance what to do, how to do it, when to do it, and who is to do it. Planning bridges the gap from where we are to aware we must want to go. It makes it possible for things to occur which would not otherwise happen.

#### Meaning of Planning:-

Planning is a method

planning is an approach

Planning means decide exactly

Planning means think carefully

planning is one of the processes of administration

Planning is an intellectual process

→Planning means looking ahead and prepare of future

#### Aspects of planning:-

Now let us see the various aspects of planning.

To lay down objectives

To identify problems

Together facts

To create a working method

To analyze facts

To formulate plan

To implement the plan and evaluate achievements and revise methods

Principles of planning:-

Planning is a continuous process

Planning should not come from the top, it should be done at all levels

Objectives of planning must be laid down

Planning process should ensure participation of all

Planning should grow out of the needs of the people

Planning requires skills, professional leadership and thinking of laypersons

Planning requires education of the people for proper thinking

Planning must take in consideration the needs and resources of the community

Planning requires effective methods evaluation of results.

Make plans broad and practical

Plans must be flexible

Time consciousness is necessary

Build support and understanding

Provide sufficient funds

Scope of social Planning:

To manipulate the social structure that will change some designated value.

Physical values- food, clothing, shelter, relaxation and sexual satisfaction

Cultural values- procreation, education, recreation, artistic and technology advancement.

Social Value- protection and security co-operation and competition.

Social planning and social policy:-

Planning is concerned with proper production and distribution of wealth. Social policy:- creation of equal opportunity for different sections of populations and a full for all the citizens and these can be precise only over a period of effort and struggle.



Four areas of planning:-

Development of basic social services- such as education, health and housing

Social welfare- provision of minimum amenities

Welfare of the weaker

Social security

Kinds of planning:-

International planning:

It relates to the reduction of tariffs, the administration of the postal services, the prevention of war, a balanced economic development of various geographical regions.

Economic planning:

Planning for economic development implies direction or regulation of national economy by the state, National economic planning, for increased production and better distribution is undertaken because the state intervention is sometimes considered necessary to increase the Peace of economic development of the better distribution of wealth. To meet the needs of the growing population and rapid expansion, it has been felt necessary that the cities should be planned and properly built.

Administrative planning:

Administrative planning is the means by which the administrator takes account of past experience to properly implement his programme into the future. Administrative planning is based upon research and fact-finding. After collecting facts and data, a plan of action is prepared and the way to proceed to accomplish the objectives is arrived.

Objectives of planning:

To achieve sizeable increase in national income and perceptual income

To improve agricultural productions

To achieve industrialization

To provide more employment opportunities

To reduce inequalities in income and wealth and distributions

To achieve economic growth and maintain price stability

Prerequisites of successful planning:

It needs a strong and efficient government and a clean administration

The economic organization of the country should also be sound

The objective of planning should be well defined and co-ordinate

The wholehearted co-operation of people is necessary

The necessary statistical data should be available

Reasonable and appropriate targets should be fixed

Need of Social welfare planning:

As there is need of planning for the total economy of the country to achieve certain objectives and to utilize the scarce sources, in such a way that there is balanced development in all spheres, there is no wastage or duplication of services and priorities to be fixed in accordance with objectives. According to Frienlander the three main objectives of community welfare organizations are

To determine the social needs

To arrange for careful and conscientious planning to meet the need of population

To mobilize the forces of the community in the best way to achieve this goal

Types of planning:-

Short range planning(tactic planning) Vs Long range planning(strategic planning)

Authoritarian Vs Democratic Planning

1. Long range planning covers a long period of future Eg- 5 years plan for the welfare program

Short range planning covers a short period of 1 year Eg- any rehabilitation program, earth quick, Tsunami etc.

2. Authoritarian Vs Democratic Planning:

The type of planning that has been done in socialistic countries is authoritarian planning and other democratic countries are democratic planning. In authoritarian planning the government is the sole centralized agency which draws the plan and implements. It is more comprehensive, systematic and rigid-is more efficient. In democratic planning the plan is prepared by an expert body called the planning commission, which is outside the government or the executive and is finally approved by the legislature which represents the people. It is based on the system of free enterprise.

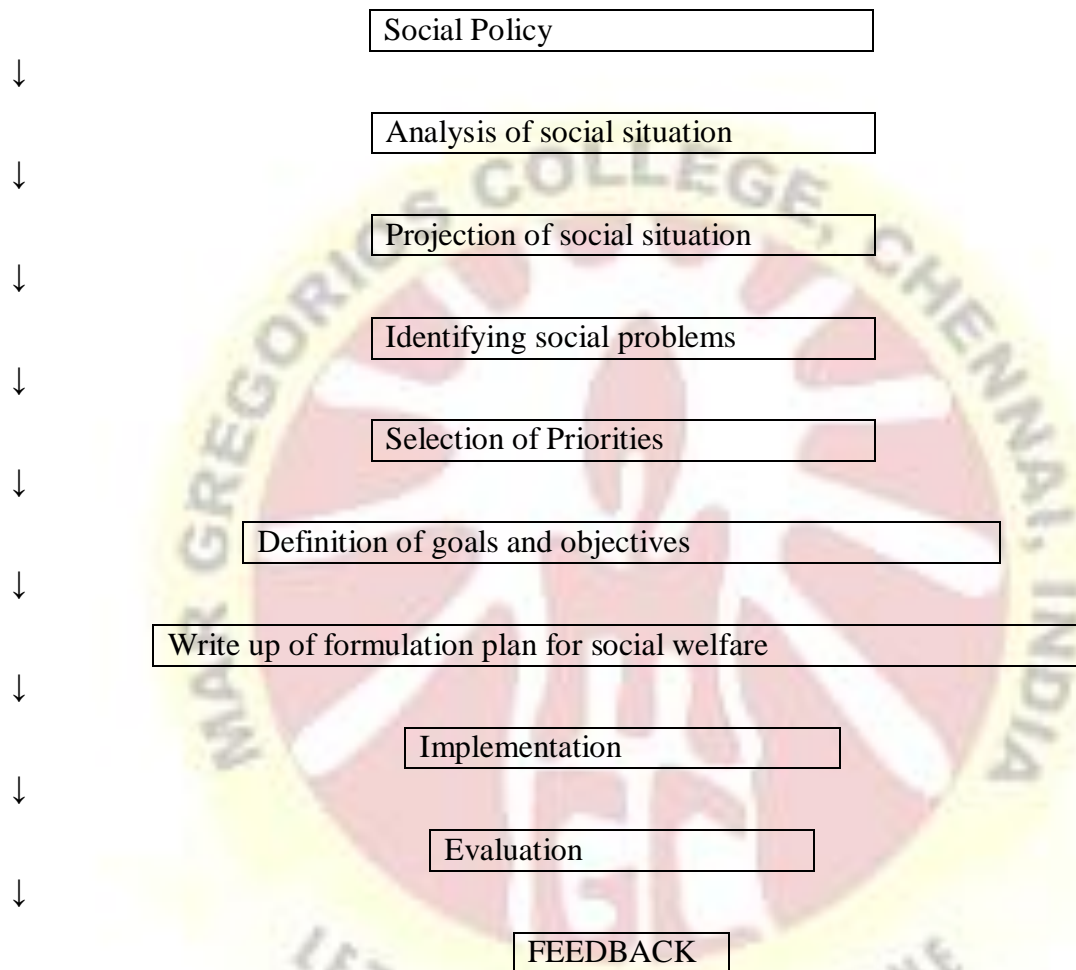
3. Financial planning Vs Physical Planning:

In physical planning the planning authority has to work out how much land, labour, materials and capital equipment will be required to implement the plan and achieve the targets

set out for it. In physical planning we make an overall assessment of the available real resources sufficient to achieve the various targets of production.

Financial planning is to ensure that the demands and supplies are matched in a manner. Here the planners how much money will have to be invested in order to achieve the targets.

### PLANNING FOR SOCIAL WELFARE



Social welfare planning some writers have used the term community organization. According to Friedlander the three main objectives of community welfare organization are:

To determine the social needs

To arrange for careful and conscientious planning to meet the need of population

To mobilize the force of the community in the best way to achieve this goal

Organization of Economic planning in India :

Some of the major objectives of economic planning as far as India is concerned as follows

A sizable increase in national income so as to raise the standard of living in the country

Rapid Industrialization with particular emphasis on the development of basic and heavy industries.

A large expansion of employment opportunities

Reduction of inequalities in income and wealth and amore ever distribution of economic power.

The core development is thus rapid industrialization and diversification of the economy. The five year plan also emphasizes the same objectives

Progress towards socialism

Provision of quality of opportunity

Equal distribution of economic power

Bridging the gap between disparities in income and

Economic and social integration

### Ideology:

A set of ideas than an economic or political system is based on or a set belief especially held by one particular group that influences the way people behave.

Ideologies are clearly spelt out in India constitution, fundamental rights preamble of constitution and Directive principles of state policy give the ideology of India.

### Role of Ideology:

Ideology is nothing but a set of believes or principles especially held by one particular individual or group that has influence over the lives of the people.

Policies are made on the basis of ideologies

Both individual ideology and group ideology influence the policy

Thinker promotes the policies.

Eg:- political party will have the stand point and function accordingly

Political revolutions

### Planning Commission:-

Established in the year 1950

Chair person - PM

Deputy chair person - minister of planning commission

Members (Ex-officio) - Ministers of Finance

- Ministers of Home Welfare

- Ministers of Food and Agriculture

- Minister of Planning

Besides this there will be six members appointed by the government

Secretary – the cabinet secretary

National forum for planning – representatives from various states

Social policy and Social Planning:-

Planning is concerned with proper production and distribution of wealth but policy is made to give equal opportunity to all sections. But both are aiming at development both are for social change planning is basis for the social policy. Planning is micro level process but policy is macro level.

“Planning is the process of systematic utilization of the available resources at a progressive rate so as to secure and increase in output with regard to social welfare of the people”.

Planning is the process of preparing a blue print of actions to attain stated objectives with in a time frame.

It is a thinking process organized foresight the vision based on figures, experience that is required of intelligent action.

First concept of Management

Focuses on Objectives

It is continues process

It is dynamic process

Levels of Planning:-

Planning Level	Political Administrative Territorial Equivalent	Planning Concept
Macro-Level	Nation	Central planning / policy planning / Sectoral Planning.
Meso – Level	State	State plan/ Sectoral Budgetary Planning/ Regional Planning

Micro – Level	District Block Village	District planning area development Block Level Planning Village production plan & planning for target group
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Need of Planning for social Development:-

Achievement of Economic Growth in terms of development

Distribution of resources which is important in the development

To have ways and means to achieve the targets

Main objective of the economic planning is to achieve a higher growth rate of per capita income

Planning is also essential for an equitable of resources, keeping in view the State and National Priorities

Only through a process of proper development planning can the existing inequalities of income, wealth and opportunity be narrowed.

Planning Institutions

Planning functions at the central level are widely scattered over a number of institutions. At least, five institutions/agencies are directly involved in the planning process. These are;

The Cabinet

The National Development Council which is sometimes referred to as "Development Parliament" (NDC)

The National Planning Commission (NPC)

Development Ministries, and

The Regional/Zonal Offices of Ministries/Departments<sup>2</sup>

Each of these institutions does play a varying role at different stages of the planning process.

Political systems

A political system defines the process for making official government decisions. It is usually compared to the legal system, economic system, cultural system and other social systems.

The official name of India is Republic of India. New Delhi is the capital of India. The Republic of India has three principal short names, in both official and popular English usage, each of which is historically significant.

These names are India, Bharat and Hindustan. It is the 17th largest country by area, the second largest country with population of 1.2 billion and the most populous democracy in the world.

India is the home of world religions- Hinduism, Islam, Buddhism, and Christianity.

### Political structure of India

Federal system of India is governed in terms of the constitution of India.

India is also referred to as the Sovereign, Secular, and Democratic and has a Parliamentary form of Government.

The nation is basically the union of 29 states and 7 Union territories.

President is the head of the Executive union.

The Prime Minister is the head of the council of ministers.

The real political and social power resides in the hands of the Prime Minister.

### Three pillars of political system

PARLIAMENT/LEGISLATURE

EXECUTIVE BRANCH

JUDICIARY

**PARLIAMENT:** In all democracies, an assembly of elected representatives exercise supreme political authority on behalf of people. In India such as such as national assembly called Parliament.

**LEGISLATURE:** The body of elected representatives at the state level is called Legislature or Legislative assembly.

In India, the parliament consists of two houses Rajya Sabha (Council of States) and Lok Sabha (House of the people)

**EXECUTIVES** who are elected by the people for a specific period are called Political Executives.

The executive branch has sole authority & responsibility for daily administration of state bureaucracy

The executive power is vested mainly in president of India

The president is act in accordance with advise tendered by prime minister & his council of ministers

The council of ministers in office only so long as they command the confidence of the majority members of the parliament

Council of ministers is the collective decision making body of Government of India

At present there are total 45 ministers in council of ministers.

**JUDICIARY** All the courts at different levels in the Country are collectively called the Judiciary.

It is independent and powerful institution and is considered essential for democracies.

The Indian Judiciary consists of a Supreme Court for the entire nation, High Court in the States, District Courts at local level

The judiciary in India is also one of the most powerful in the World.

The Supreme Court of India comprises of the Chief Justice and not more than 25 other Judges appointed by the President.

Judges hold office till 65 years of age.

There are 24 High Courts in the country.



## Panchayati Raj

A three-tier structure of the Indian administration for rural development is called Panchayati Raj. The aim of the Panchayati Raj is to develop local self-governments in districts, zones, and villages.

### Introduction to Panchayati Raj

Rural development is one of the main objectives of Panchayati Raj and this has been established in all states of India except Nagaland, Meghalaya and Mizoram, in all Union Territories except Delhi, and certain other areas. These areas include:

- a. The scheduled areas and the tribal areas in the states
- b. The hill area of Manipur for which a district council exists and
- c. Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists

### Evolution of Panchayati Raj

The Panchayati system in India is not purely a post-independence phenomenon. In fact, the dominant political institution in rural India has been the village panchayat for centuries. In ancient India, panchayats were usually elected councils with executive and judicial powers. Foreign domination, especially Mughal and British, and the natural and forced socio-economic changes had undermined the importance of the village panchayats. In the pre-independence period, however, the panchayats were instruments for the dominance of the upper castes over the rest of the village which furthered the divide based on either the socio-economic status or the caste hierarchy.

The evolution of the Panchayati Raj System, however, got a fillip after the attainment of independence after the drafting of the Constitution. The Constitution of India in Article 40 enjoined: "The state shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government".

There were a number of committees appointed by the government of India to study the implementation of self-government at the rural level and also recommend steps in achieving this goal.

The committees appointed are as follows:

Balwant Rai Mehta Committee

Ashok Mehta Committee

G V K Rao Committee

L M Singhvi Committee

73rd Constitutional Amendment Act of 1992

Significance of the Act

The Act added Part IX to the Constitution, “The Panchayats” and also added the Eleventh Schedule which consists of the 29 functional items of the panchayats.

Part IX of the Constitution contains Article 243 to Article 243 O.

The Amendment Act provides shape to Article 40 of the Constitution, (directive principles of state policy), which directs the state to organise the village panchayats and provide them powers and authority so that they can function as self-government.

With the Act, Panchayati Raj systems come under the purview of the justiciable part of the Constitution and mandates states to adopt the system. Further, the election process in the Panchayati Raj institutions will be held independent of the state government's will.

The Act has two parts: compulsory and voluntary. Compulsory provisions must be added to state laws, which includes the creation of the new Panchayati Raj systems. Voluntary provisions, on the other hand, is the discretion of the state government.

The Act is a very significant step in creating democratic institutions at the grassroots level in the country. The Act has transformed the representative democracy into participatory democracy.

Salient Features of the Act

1. Gram Sabha: Gram Sabha is the primary body of the Panchayati Raj system. It is a village assembly consisting of all the registered voters within the area of the panchayat. It will exercise powers and perform such functions as determined by the state legislature. Candidates can refer to the functions of gram panchayat and gram panchayat work, on the government official website - <https://grammanchitra.gov.in/>.

2. Three-tier system: The Act provides for the establishment of the three-tier system of Panchayati Raj in the states (village, intermediate and district level). States with a population of less than 20 lakhs may not constitute the intermediate level.

3. Election of members and chairperson: The members to all the levels of the Panchayati Raj are elected directly and the chairpersons to the intermediate and the district level are elected

indirectly from the elected members and at the village level the Chairperson is elected as determined by the state government.

4. Reservation of seats: oFor SC and ST: Reservation to be provided at all the three tiers in accordance with their population percentage.

For women: Not less than one-third of the total number of seats to be reserved for women, further not less than one-third of the total number of offices for chairperson at all levels of the panchayat to be reserved for women.

The state legislatures are also given the provision to decide on the reservation of seats in any level of panchayat or office of chairperson in favour of backward classes.

5. Duration of Panchayat: The Act provides for a five-year term of office to all the levels of the panchayat. However, the panchayat can be dissolved before the completion of its term. But fresh elections to constitute the new panchayat shall be completed –

- a. before the expiry of its five-year duration.
- b. in case of dissolution, before the expiry of a period of six months from the date of its dissolution.

6. Disqualification: A person shall be disqualified for being chosen as or for being a member of panchayat if he is so disqualified - . Under any law for the time being in force for the purpose of elections to the legislature of the state concerned.

- a. Under any law made by the state legislature. However, no person shall be disqualified on the ground that he is less than 25 years of age if he has attained the age of 21 years.
- b. Further, all questions relating to disqualification shall be referred to an authority determined by the state legislatures.

7. State election commission: The commission is responsible for superintendence, direction and control of the preparation of electoral rolls and conducting elections for the panchayat.

The state legislature may make provisions with respect to all matters relating to elections to the panchayats.

8. Powers and Functions: The state legislature may endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government. Such a scheme may contain provisions related to Gram Panchayat work with respect to:

- a. the preparation of plans for economic development and social justice.
- b. the implementation of schemes for economic development and social justice as may be entrusted to them, including those in relation to the 29 matters listed in the Eleventh Schedule.

9. Finances: The state legislature may –

- a. Authorize a panchayat to levy, collect and appropriate taxes, duties, tolls and fees.
- b. Assign to a panchayat taxes, duties, tolls and fees levied and collected by the state government.
- c. Provide for making grants-in-aid to the panchayats from the consolidated fund of the state.
- d. Provide for the constitution of funds for crediting all money of the panchayats.

10. Finance Commission: The state finance commission reviews the financial position of the panchayats and provides recommendations for the necessary steps to be taken to supplement resources to the panchayat.

11. Audit of Accounts: State legislature may make provisions for the maintenance and audit of panchayat accounts.

12. Application to Union Territories: The President may direct the provisions of the Act to be applied on any union territory subject to exceptions and modifications he specifies.

13. Exempted states and areas: The Act does not apply to the states of Nagaland, Meghalaya and Mizoram and certain other areas. These areas include, a. The scheduled areas and the tribal areas in the states

b. The hill area of Manipur for which a district council exists and

c. Darjeeling district of West Bengal for which Darjeeling Gorkha Hill Council exists. However, Parliament can extend this part to these areas subject to the exception and modification it specifies. Thus the PESA Act was enacted.

14. Continuance of existing law: All the state laws relating to panchayats shall continue to be in force until the expiry of one year from the commencement of this Act. In other words, the states have to adopt the new Panchayati raj system based on this Act within the maximum period of one year from 24 April 1993, which was the date of the commencement of this Act. However, all the Panchayats existing immediately before the commencement of the Act shall continue till the expiry of their term, unless dissolved by the state legislature sooner.

15. Bar to interference by courts: The Act bars the courts from interfering in the electoral matters of panchayats. It declares that the validity of any law relating to the delimitation of constituencies or the allotment of seats to such constituencies cannot be questioned in any court. It further lays down that no election to any panchayat is to be questioned except by an election petition presented to such authority and in such manner as provided by the state legislature.

## PESA Act of 1996

The provisions of Part IX are not applicable to the Fifth Schedule areas. The Parliament can extend this Part to such areas with modifications and exceptions as it may specify. Under these provisions, Parliament enacted Provisions of the Panchayats (Extension to the Scheduled Areas) Act, popularly known as PESA Act or the extension act.

Objectives of the PESA Act:

1. To extend the provisions of Part IX to the scheduled areas.
2. To provide self-rule for the tribal population.
3. To have village governance with participatory democracy.
4. To evolve participatory governance consistent with the traditional practices.
5. To preserve and safeguard traditions and customs of tribal population.
6. To empower panchayats with powers conducive to tribal requirements.
7. To prevent panchayats at a higher level from assuming powers and authority of panchayats at a lower level.

As a result of these constitutional steps taken by the union and state governments, India has moved towards what has been described as 'multi-level federalism', and more significantly, it has widened the democratic base of the Indian polity. Before the amendments, the Indian democratic structure through elected representatives was restricted to the two houses of Parliament, state assemblies and certain union territories. The system has brought governance and issue redressal to the grassroots levels in the country but there are other issues too. These issues if addressed will go a long way in creating an environment where some of the basic human rights are respected.

After the new generation of panchayats had started functioning, several issues have come to the fore, which have a bearing on human rights. The important factor which has contributed to the human rights situation vis-a-vis the panchayat system is the nature of Indian society which of course determines the nature of the state. Indian society is known for its inequality, social hierarchy and the rich and poor divide. The social

hierarchy is the result of the caste system, which is unique to India. Therefore, caste and class are the two factors, which deserve attention in this context.

Thus, the local governance system has challenged the age old practices of hierarchy in the rural areas of the country particularly those related to caste, religion and discrimination against women.

UPSC Questions related to Panchayati Raj

Who is the father of Panchayati Raj?

Balwant Rai Mehta was a parliamentarian who is credited for pioneering the concept of the Panchayati Raj in India and was also known as the 'Father of Panchayati Raj'.

What is the importance of Panchayati Raj?

Panchayati Raj institutes village local government that plays a significant role in the development of villages especially in areas like primary education, health, agricultural developments, women and child development and women participation in local government, etc.

Which state in India has no Panchayati Raj institution?

All states of India have Panchayati Raj systems except Nagaland, Meghalaya and Mizoram, in all Union Territories except Delhi; and certain other areas.

What are the features of Panchayati Raj?

1. Gram Sabha: Gram Sabha is the primary body of the Panchayati Raj system. It is a village assembly consisting of all the registered voters within the area of the panchayat.
2. Three Tier System: village, intermediate and district levels.
3. Election of members and chairperson: The members to all the levels of the Panchayati Raj are elected directly and the chairpersons to the intermediate and the district levels are elected indirectly.

Legal aid

It is the provision of assistance to people who are unable to afford legal representation and access to the court system. Legal aid is regarded as central in providing access to justice by ensuring equality before the law. The right to counsel and the right to a fair trial. Legal aid is essential to guaranteeing equal access to justice for all.

Public interest litigation (PIL)

It refers to litigation undertaken to secure public interest and demonstrates the availability of justice to socially-disadvantaged parties and was introduced by Justice P. N. Bhagwati.

**OBJECTIVES OF PIL**

According to Justice V.R. Krishna Iyer, PIL is a process, of obtaining justice for the people, of voicing people's grievances through the legal process. The aim of PIL is to give to the common people of this country access to the courts to obtain legal redress.

**PROCEDURE TO FILE A PIL IN THE HIGH COURT**

Any public spirited citizen can move/approach the court for the public cause (in the interests of the public or public welfare) by filing a petition:

In Supreme Court under Art.32 of the Constitution;

In High Court under Art.226 of the Constitution; and

In the Court of Magistrate under Sec.133, Cr. P.C.

With the view to regulate the abuse of PIL the apex court it has framed certain guidelines (to govern the management and disposal of PILs.) The court must be careful to see that the petitioner who approaches it is acting bona fide and not for personal gain, private profit or political or other oblique considerations. The court should not allow its process to be abused by politicians and others to delay legitimate administrative action or to gain political objectives.

At present, the court can treat a letter as a writ petition and take action upon it. But, it is not every letter which may be treated as a writ petition by the court. The court would be justified in treating the letter as a writ petition only in the following cases-

- (i) It is only where the letter is addressed by an aggrieved person or
- (ii) A public spirited individual or
- (iii) A social action group for enforcement of the constitutional or the legal rights of a person in custody or of a class or group of persons who by reason of poverty, disability or socially or economically disadvantaged position find it difficult to approach the court for redress.

Even though it is very much essential to curb the misuse and abuse of PIL, any move by the government to regulate the PIL results in widespread protests from those who are not aware of its abuse and equate any form of regulation with erosion of their fundamental rights. Under these circumstances the Supreme Court of India is required to step in by incorporating safe guards provided by the Civil Procedure Code in matters of stay orders /injunctions in the arena of PIL.

PIL is a tool in hands of public spirited citizens who have a good motive behind the PIL and to prevent it from becoming a weapon in the hands of those litigants who want to either misuse this concept for either commercial gain or publicity the apex court has time and again laid down various guidelines and by imposing costs on the frivolous public interest litigation the courts have only strengthened their stance.

#### Implementation of Social Planning at Various levels:-

Planning:

A set of formulating a program for a definite course of action.

The act or process of drawing up, plans or layouts for some project or enterprise.

Appropriate Levels of Social Planning:

Appropriate levels of social planning should be taken into consideration the possibility of facilitating direct and indirect participation of local people in the process of social development.

The levels of planning can be identified as follows

Planning level	Nature of Goals	Planning Approach	Planning Methodology	Indicators of Development	Role of People
National	Economic , Growth	Top Down	Sectoral and long time frame	Financial & Physical targets	Minimal indirect
State	Economic , Growth	Coordinative	Sectoral & long time frame	Financial & Physical targets	Indirect
District	Social & District level	Bottom up	Sectoral and Shorter time	Quantitative & Qualitative	Serai-participatory
Block	Area Specific	Bottom up	Spatial & Shorter time	Qualitative & Output oriented	Direct
Village	Community	Bottom up	Shorter time	Qualitative	Directs

### MONITORING AND EVALUATION OF PLANNING

Monitoring is an important instrument in the implementation of a program to ensure its completion with budgetary allocation and time schedule. Monitoring includes not only the quantitative of the performance but also qualitative assessment as whether the objectives social welfare programmes are fulfilled.

“It is the process of supervising or checking the implementation of the plans, programs and projects formulated for the people. It is also the process in which frequent assessment is made on the planned work and the result of the work”.

It is a process which helps in detecting of mistakes, assists in decision and in giving direction to the programmes.

#### Objectives of Monitoring:-

- To make the planning and project more effective
- To make use of the resources at maximum level.
- To check the misuse of the resources.
- To examine the effectiveness of the project.
- To meet the information needed for the current program and program management.
- To check the quality and quantity of inputs and outputs of the project.
- To keep an eye on the action and time use in implementation.
- To assess the performance of the project.
- To analysis the organizational performance
- To examine the features and process of the scheme.

#### Need of Monitoring:-



The policies and programs are formulated in view of helping the people. There are many setbacks which disturb the implementation of the project. There is danger of misusing the project. There are factors either direct or indirect which affects the effectiveness of the project. So the project implementation needs monitoring. The supervision of the project makes it more effective and to realize the expected effective results. To ensure this the planning commission has come up with a comprehensive system of monitoring.

#### Methods of Monitoring:-

Surveys

Spot checks and observations

Informal interviews

Case studies

#### Conditions involved in monitoring Social Welfare programmes:-

Identifying the different units involved in the planning and implementation

Identifying items on which feedback is required

Identifying the personnel at different levels

Determining the periodicity of reporting to the decision making

Storing data and developing facilities for their retrieval when needs

#### Techniques of Monitoring:

**Design of an efficient information system:** A properly designed management information system will provide the necessary physical schedule and information data.

**Use of performance Budgeting:**

It is obvious that the organization of the budget and the supporting accounting item can be an important source of management information.

**Network Techniques:**

These techniques of project management are to ensure active planning, scheduling and control.

**Work Study:**

Work study is a means of raising the productive efficiency of a social welfare organization. It is systematic, it is most accurate means on which the effective planning.

### Organizational Analysis:

Organizational analysis is technique to ensure the achievement of maximum results with minimum costs in terms of human and material resources.

### Statistical Analysis:

Statistics plays a vital role in plan formulation, implementation of schemes and assessment of results. It provides the required database for all development and non developmental functions.

### Evaluation

Evaluation is a process which ensures objective assessment of the performance. Careful evaluation is the backbone of all social programmes. Evaluation is also intended to add to the theoretical knowledge base relating social change and social action and provide invaluable insights for social policy.

“Policy evaluation is the process in which the policy makers get the relevant information and knowledge regarding the policy problem, about the purposefulness and effectiveness of the strategies in order to reduce or to eliminate the problem and to make the program effective”.

#### Purpose and scope:

To determine social change , growth and social progress

To determine the physical and financial requirements in a given time towards the achievement of the plans

To determine the shortfall and reasons therefore

To provide guidance in the execution of social welfare programme

To provide an satisfaction and sense of security

#### Types of Evaluation:-

**Process Evaluation:** it is concerned whether the policy implemented go along with the policy guidelines issued at the time of policy making or not. It is concerned with whether the project is directed to the specified target group and area.

**Impact Evaluation:** the impact of the policy is evaluated. The changes or the outcome both positive and negative are evaluated. The condition before the implementation and after is evaluated.

**Comprehensive Evaluation:** it comprises of both process and impact evaluation. The objective evaluation is possible when process and impact evaluation is considered. Both combined together bring new light. It does not mean that exclusively process or impact evaluation does not have utility.

#### Kind of Evaluation:

**En ante:** that is before the incidence has taken place, or it is appraisal

Concurrent : when programmes are in operation to provide continuous feed

Ex Post Facto : that is after the incidence has taken place

Terminal: work is complete. Findings are arrived at.

Steps to improve Evaluations:

Devising Areas of Evaluation

Developing quantitative parameters

Imparting training to the personnel engaged in evaluation

Making use of modern electronic tools

Criteria for Evaluation:

Effectiveness: whether the given course of action results in the attainment of objective.

Efficiency: it is very important to evaluate the efficiency in the social planning. It refers to the amount of effort required to produce expected effectiveness. The time and the cost needed to make it effective.

Adequacy: it refers to the sufficiency to make the project effective.

Equity: it refers to impartiality. Whether the affects are distributed equally to all the sections in the society.

Responsiveness: whether the plan satisfies the needs or values of that particular group.

Appropriateness: whether the work is carried according to the objectives of the program.

#### Unit 4

##### Overview of Major Social Legislation in India

Hindu law: legislation pertaining to marriage divorce and succession:

Hindu marriage act 1955:

It was intended to secure the rights of marriage for the bride and groom who are Hindu and are bound under the sacred bond of marriage under any ceremony. The law does not define the kind of ceremony since there are several ways a man and a woman may carry out this religious act. This act was floated after several cases were seen where both man and woman were petrified or

humiliated under a fraud case in the name of marriage. This act is binding to any person who is Hindu, Jain, Sikh and Buddhists and is not a Muslim, Christian, Parsi or Jew and is governed by some other law. This law is binding to any person who is Hindu by Birth or Hindu by Religion. There is a complete definition of Hindu under Section 2 of Hindu Marriage Act. This law was enacted to avoid the various consequences which were prevalent due to immature Hindu law for marriage under British Rule.

Below are some important components to make you aware of this Hindu Marriage law

- Section 5 of Hindu Marriage Act, 1955:

As per Section 5(ii) and (iii) of Hindu Marriage Act, 1955, the Hindu marriage is not so much of a religion and is more of a result of mutual consent.

- Section 2 of Hindu Marriage Act, 1955:

As per Section 2 of Hindu Marriage Act, 1955, marriage amongst Hindus in any form irrespective of caste or creed or amongst any person who is bound under Hindu Marriage Act, 1955 like Buddhists, Sikhs, Jains and so called Hindus is a Hindu Marriage.

- Section 3 of Hindu Marriage Act, 1955:

Section 3 of Hindu Marriage Act, 1955 revoked the prohibited degrees of relationships which was defined in Smritis and have defined certain new prohibited degree of relationships e.g. A person cannot marry his brother's wife. However, this provision shall not apply in case of divorcee and widow women.

- Provisions under Section 5 and Section 17 of Hindu Marriage Act:

Hindu Marriage Act, 1955 incorporated Monogamy and strictly prohibits a Hindu from getting involved in a marital relationship with more than one person. Bigamy and Polygamy, if proved is strictly punishable under the Indian Penal Code as per provisions under Section 5 and Section 17 of Hindu Marriage Act, 1955. • There are no restrictions imposed under the Hindu Marriage Act, 1955 in terms of caste and communities. Hence Inter-caste and inter-communal marriages are completely lawful under this act. • Hindu Marriage Act, 1955 removed any distinction under law of a marriage of a maiden and a widow and both are treated equally under this law. • Section 5 of Hindu Marriage Act, 1955 makes a marriage lawful only if the groom has attained the age of 21 years at the time of marriage and bride has attained the age of 18 years at the time of marriage. • Section 5 defines various conditions when a marriage is considered valid under the Hindu Marriage Act, 1955.

- Section 8 of the Hindu Marriage Act, 1955:

Section 8 of Hindu Marriage Act, 1955 have introduced the provision of registering the marriage under this Act.

- Section 9 of the Hindu Marriage Act:

Section 9 of Hindu Marriage Act, 1955 defined the restitution of conjugal rights of husband and wife, bound under this Act.

- Section 15 of Hindu Marriage Act:

Section 15 of Hindu Marriage Act, 1955 states that after a valid divorce either party is eligible to re-marry.

- Section 6 of Marriage Act, 1955:

Section 16 of Hindu Marriage Act, 1955 defines the legitimacy of children born out the alliance and can be subsequently declared annulled or void or voidable.

- Section 24 of Hindu Act, 1955:

Section 24 of Hindu Marriage Act, 1955 defines the provision of maintenance pendent lite and for expenses of legal proceedings of a divorce.

- Hindu Marriage Act Section 25:

Section 25 of Hindu Marriage Act, 1955 defines complete provision of permanent alimony and maintenance for the alliances under this Act.

- Section 26 of Hindu Marriage Act, 1955:

Section 26 of Hindu Marriage Act, 1955 defines the provisions for custody, maintenance, and education of minor children during and after legal proceedings of divorce

## Hindu Adoptions & Maintenance Act 1956

### Introduction

The Hindu Adoptions and Maintenance Act was enacted in the year 1956 in India. It was enacted as a part of the Hindu Code Bills. There were other legislations (like [The Hindu Marriage Act \(1955\)](#), [The Hindu Succession Act \(1956\)](#), and The Hindu Minority and Guardianship Act (1956).) These were enacted during the same period under the prime ministership of Pandit Jawaharlal Nehru to codify and standardize the current Hindu legal traditions.

The Hindu Adoptions and Maintenance Act (1956), deals with the legal procedure for adoption of a child by Hindu adults and their legal obligations to provide maintenance to various family members.

#### Applicability of Hindu Adoptions & Maintenance Act 1956

The act applies to all persons who are Hindu. There are also other persons who fall under this category but do not follow Hinduism, they are- Jains, Buddhists, Sikhs, Virashaiva, Lingayat, followers of Brahma and Prarthana or members of Arya Samaj. In other words, the act is applicable to all citizens of India who are not Muslim, Christian, Parsi or Jew. The act does not apply to adoptions that were made before the day of enactment. However, that is not the case with marriages. It applies to all marriages irrespective of whenever they happened. Moreover, if a wife is not Hindu then the husband is not bound to provide maintenance for her under this Act.

#### Meaning of Adoption

Even though the act has not specified any definition of the word 'adoption' but Manusmriti describes it as "taking someone else's son and raising him like their own." However, according to Hindu Adoptions and Maintenance Act (1956), the concept of adoption became wider as the word 'son' was replaced with 'child' which includes both a girl and a boy child. Any adoption made neglecting this act is considered to be void.

#### Who can adopt?

Under this act only the persons who fall under the category of Hindu can adopt on fulfilment of certain criteria.

The adopter should be a person falling under the category of Hindu.

They should be capable enough to be able to provide for the adoptee.

Men can adopt with the consent of his wife or all of the wives. The only way of getting around this is if the wife is of unsound mind, if she has died, if she has renounced the world or has ceased to be a Hindu. Unmarried men can also adopt as long as they have attained the age of majority. But, a man who wants to adopt a daughter is required to attain the age of 24 years or older.

Women can also adopt with the consent of their husband. The only way of getting around obtaining the consent or permission of the husband is if he is of unsound mind, has died, has renounced the world or has ceased to be a Hindu. Unmarried women can also adopt once they have attained the age of majority. However, if a woman wants to adopt a son then she is required to be at least 24 years of age.

Who is capable of giving an adoption?

No person except the father, mother or guardian of the child is capable of giving adoption.

If the father of the child is alive then he alone has the right to give in adoption with consent of the mother unless she has died, renounced the world, ceased to be a Hindu or is of unsound mind.

The mother of the child can give in adoption if the father has died, renounced the world, ceased to be a Hindu or is of unsound mind.

Where both the father and mother have died, renounced the world, abandoned the child, an unsound mind or the parentage of the child is not known, the guardian of the child may give him/her in for adoption.

Before granting permission to the guardian, the court shall be satisfied that the adoption is merely for the welfare of the child and there are no other hidden motives.

Who can be adopted?

The adoptee can be either male or female

The adoptee must be a Hindu

The adoptee has not been already adopted

The adoptee should be unmarried (unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption)

The child cannot be 16 years or more (unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption)

If a son were to be adopted then the adoptive father or mother must not have a legitimate or adopted son in the house.

What are the legal implications for an adopted child?

Once the child has been adopted, he/she enjoys all the benefits from those family ties.

The child is cut off from all legal benefits from the family who had given him or her up for adoption.

Adoption is recognized by Hindus and not by Muslims, Christian or Parsis. The procedure, conditions and legal implications of adoption are clearly stated in *Hindu Adoption and Maintenance Act (1956)*. *All the adoptions are to be made in compliance with this act else they are considered invalid. This act came into effect on 21<sup>st</sup> December, 1956. Prior to this act only male child could be adopted but now there are provisions for a female child too. This act extends to the whole of India except for those who do not fall under the category of Hindu.*

### Meaning of Maintenance

The concept of maintenance was introduced so that the partner who is not financially independent can get help from their spouse in order to have a comfortable lifestyle. The maintenance can be in a gross sum or on periodical or monthly basis. Under no conditions, the maintenance shall be owed beyond the life of the non-Applicant. The income and property of the non-Applicant is considered while determining the permanent alimony. Interim maintenance is to be paid and will be applicable till the final disposal of the main case.

### Maintenance of Hindu wife

A Hindu wife is entitled to be maintained by her husband throughout her lifetime irrespective whether the marriage was formed before or after the enactment of this act, the act still remains applicable. The only way a wife can null her maintenance under this act is if she ceases to be a Hindu or if she commits adultery. The wife is allowed to separate from her husband and still be provided for by him. The separation can be justified through various reasons such as if he has another living wife, he has converted to a different religion, if he has treated her cruelly, etc.

If the wife is widowed then it is the legal duty of the father in law to provide for her. But, this obligation only arises when the wife has no other means of income or no other means of providing for herself. If the wife has a land of her own or any other source of income then the father in law is free from his legal obligation. Also, if the widow marries some other man again then under such circumstances the legal obligation of the father in law comes to an end.

### Maintenance of children and aged parents

According to this act, a Hindu is legally obliged to maintain his/her legitimate or illegitimate children and his/her aged or infirm parents.

Maintenance may be claimed by children from his/her mother or father as long as they are minors.

The legal duty of a person to maintain his or her aged or infirm parent or a daughter who is unmarried extends insofar as the parent or the unmarried daughter, as the case may be, is unable to maintain himself or herself out of his or her own earnings or other property.

### Amount of Maintenance provided

(1) The amount of maintenance shall be on the discretion of the courts.



(2) In determining the amount of maintenance, if any, to be provided to a wife, children or aged or infirm parents under this Act, regard shall be given to-

the position and status of the claimant

the reasonable wants of the parties

if the claimant is living separately, whether the claimant is justified or legally right in doing so

the value of the claimant's property and any income derived from such property, or from the claimant's own earnings or from any other source

the number of people entitled to maintenance under this Act

*No party under this act can claim maintenance if he/ she has ceased to be a Hindu. This act is applicable only to the people who fall under the category of Hindu. The amount of maintenance, whether fixed by a decree of court or by agreement, either before or after the commencement of this Act, may be altered subsequently if there is a material change in the circumstances justifying such alteration. Basically, this act resolves the hardships of those persons who are dependant for a living. The Indian courts have also recognized the right of maintenance of working women and held that they can claim maintenance from their husband even if they earn a monthly income, which is not enough for them to maintain themselves.*

## Hindu Minority and Guardianship Act ,1956

### Introduction

In the premature stage of one's life, a child is incapable of taking care of himself,his/her own body and his/her property because of his minority. A child can not handle his/her own matters. A child is even unable to understand what is right and what is wrong. So, he requires the help of some other person to take care of himself. For the advantage of the minors, the lawmakers have made specific laws which allow some relaxation and support to the lives of the minors.

The modern laws on minority and guardianship are regulated by the [Hindu Minority and Guardianship Act, 1956](#). The father is the natural guardian of the child and after his death, the mother will take the responsibility of the guardianship of the child.

### Definitions of the Minor and the Guardian

According to [Section 4\(a\)](#), it is defined as a minor means who has not completed the age of 18 years.

According to [Section 4\(b\)](#), it is also defined that a guardian means a person who has completed the age of 18 and he is taking proper care of a minor and his property and as well as his own.

### Types of Guardian

There are 3 types of guardian who are in the following:

Natural Guardian

Testamentary Guardian

A Guardian appointed by the Court

Natural Guardian

According to [Section 4\(c\)](#) of the Act, the natural guardian assigns to the father and mother of the minor. For a minor wife, his husband is the guardian.

[Section 6](#) of the Act gives 3 types of natural guardian in the following:

Father– A father is the natural guardian of a boy or unmarried girl, the father is the first guardian and the mother is the next guardian of the minor. It is given in the Act that only up to 5 years the mother is the natural guardian of the child.

Case- [Essakkayal nadder Vs. Sreedharan Babu](#). In this case, the mother of the minor died and the father was also not living with the child, but the child was alive. the child was not declared to be a Hindu or renounced the world and he was also not declared unfit. These facts do not authorize that any other person adopts the child and be the natural guardian and transfer the property.

Mother– The mother is the first guardian of a minor illegitimate child, even if the father is existing.

Case- Jajabhai Vs. Pathakhan, in this case, the mother and father got separated for some reason and the minor daughter stayed under the guardianship of the mother. Here, it will be determined that the mother is the natural guardian of the minor girl.

Husband– For a minor wife his husband is the natural guardian.

Under Section 6, it is given that no person will be designated to perform like the natural guardian of a minor under this portion, which is in the following:

If he/she ceased to be a Hindu.

If he/she has completely renounced the world that they are becoming an ascetic (sayansi) or hermit (vanaprastha).

Note: In [Section 6](#), the terms “Father” and “Mother” do not include the step-father and the step-mother.

Powers of a natural guardian

As per [Section 8](#), the powers of the natural guardian to impose on the child are as follows:

The natural guardian of a Hindu minor has the power to do all work, which are compulsory and which are beneficial for the minor’s interest. Protection or benefits of the minor’s condition.

The natural guardian should bring the prior permission from the Court, for the use of the gift transferred to him, mortgage or any other valuable things of the minor.

For the lease of any part of minor's property for about exceeding 5 years or for a term of extending one year beyond the date on which the minor attains the majority. The prior permission from the Court is very much needed for doing so.

Violation of any disposal of the immovable property by a natural guardian, it will be voidable at the case of the minor or any other person claiming on the behalf of him.

No Court shall grant permission to the natural guardian to do any act which is not in the interest of the minor.

[The Guardians and Wards Act, 1890](#) shall apply to the application for getting the permission of the Court if the application is for getting the permission of the Court under [Section 29](#) of that Act and in these grounds:

The natural guardian requires permission from the District Court or under the Court which empowered by the Guardians and Wards Act, 1890.

Should submit the application to the Court within the local limits of whose jurisdiction, portion of the property of minor is placed.

An appeal would be declined, when the Court rejects the permission to the natural guardian to do any acts of property transfer and this remedy is usually the result of this Court decision.

#### Testamentary Guardian

Under [Section 9](#), of the Hindu Minority and Guardianship Act, 1956 testamentary guardian only authorized by a will. It is compulsory for the testamentary guardian to receive the guardianship adoption which may be expressed or implied. A testamentary guardian has the right to decline the appointment, but once he /she receives the guardianship then he/she can not decline to perform or resign without the permission of the Court.

According to the [Hindu Minority and Guardianship Act, 1956](#) testamentary power of choosing a guardian has been provided on both, father and mother. If the father chooses a testamentary guardian but the mother rejects him, then the chosen guardian of the father will be inefficient and the mother will be the natural guardian thereafter. If the mother chooses a testamentary guardian, her chosen guardian will become the testamentary guardian and father's appointment will be void. If the mother does not want to choose any guardian then father's appointee will become the guardian. It appears that a Hindu father can not choose a guardian of his minor illegitimate children even when he is allowed to perform as their natural guardian.

#### A Guardian appointed by the Court

In the earlier days of *Smritis*, the overall jurisdiction for the children was sanctioned over the king. The king had the power to choose a closet relation of the minor as guardian. Only priority was given to the relatives on the paternal side over the maternal side. Only for the security of the child, this type of laws was formulated by the ancient lawgivers.

Now, this type of powers are applied by the Courts under the Guardians and Wards Act, 1890.

The guardian who is appointed by the Courts, he/she will be known as a certified guardian.

Under [Section 13](#) of the Hindu Marriage and Guardianship Act, 1956, while the appointment of any person as guardian is going on by a Court, the advantage of the minor shall be the primary consideration.

Therefore, in both the ancient and modern times the king or the Court has been given the responsibilities to appoint a guardian for the defence of a minor.

Additional grounds where a guardian is appointed

Guardianship of Minor's property(De Facto guardian)

A minor, who is under the tender age may achieve some property which is given by inheritance, gift etc. because of child underage, he/she can not take proper care of the property.

The *Smritis* gave the opinion that the king has to guard the property of the minor. In this statement, *Manu* says that the king should protect the inheritance accepted by a child till his study is completed or till he attains majority.

Vasistha states that the king should guard the property of a person who is unfit to transact any business but in a minor's case when he attains majority, the property will be handed over to him.

In modern law, the natural guardian will take care of the minor. This statement is also used in the testamentary and certified guardian and in some cases the guardian will protect only those property for which they were appointed, but not for the excluded property of the minor and the guardian has no rights to claim for protecting that property.

Therefore, both the ancient and modern lawmakers are interested in the security of the person and his property. Nowadays there are many laws that are incorporated for the changing need of the society.

According to [Section 11](#), De Facto guardian is not allowed to dispose or deal with the property of the minor and it is given that the guardian does not have the rights to take any debt.

Case- [Smt. Beti Bai Vs. Jagdish Singh and Ors](#), in this case Aparbal Singh was the father of plaintiff, who is no more. Aparbal Singh had 2 wives because, during his lifetime his first wife died due to some problem, then his second wife came to his life who was the respondent. And the child of the second wife also died due to some reason. At last after the Aparbal Singh died, the second wife captured all the property then the son of the first wife filed a complaint.

It was held that, according to [Section 4](#), [Section 6](#), [Section 8](#), [Section 11](#) of the Hindu Minority and Guardianship Act, 1956, the answer was in the favour of the plaintiff and plaintiff enjoyed the property. The Court also held that, as the respondent was also had a relation with that person, therefore, she has the right to get one third of the property, when she will ask for the partition before the competent authority.

Hindu law tried to find a result from two difficult conditions: one, when a Hindu child has no legal guardian, there would be no person, who would manage his property under law and therefore, without a guardian the child would not receive any advantages for his property and second, a person having no designation could not be allowed to interfere with the child's

property as to cause loss to him. The Hindu law got a result of this difficult condition by an according to legal status to De Facto guardians.

Guardianship of a minor widow (guardianship by affinity)

Earlier days of the *Smritis* child marriage was very common. After the marriage happened of a minor girl with the husband, then the husband became the guardian of the girl. In any situation, if the husband died then the minor widow should not feel unsafe.

According to Narada, when a minor girl becomes a widow then the husband's relatives have the duty to protect and maintain her if in husband's family no one is there, then the father of the widow takes the responsibilities of the widow to protect her.

Before 1956, there was a guardian called guardianship by affinity. It was the guardian of a minor widow which was given by the [Guardianship and Wards Act, 1850](#).

No provision is given under the Hindu Minority and Guardianship Act, 1956 for the guardianship of a minor widow.

Case- In [Paras Ram Vs. State](#), it was held that the father-in-law of a minor widow vigorously took away the widow from her mother's control and married her to an improper person without the widow's consent. The Court held that the father-in-law guilty of displacing the girl without her consent.

The Allahabad High Court held that he was not guilty because he was lawfully a guardian of the widow.

A question has arisen in the Court, whether the nearest blood relatives of the husband undoubtedly becomes a guardian of the minor widow on the death of her spouse or whether he is simply as a choice get into the guardianship and therefore, he can not perform as guardian but he is appointed as such? Paras Ram seems to subscribe to the previous view.

Conclusion

Adoption of a child by any guardian is creating a relationship of the child and the guardian, it creates the subject matter of personal law and for a minor, it is mandatory to protect his property and for that reason, there is a guardian who will take care of him and his property. Special thanks to the lawmakers who invented these types of laws for protecting the minor and his property and for the unmarried girl and widow. In this way, no one can steal the property of anyone who is a minor.

Therefore, the guardian is very necessary for a minor to protect himself physically or mentally and secure from any danger.

THE HINDU SUCCESSION ACT 1956

Introduction to the act

The Hindu Succession Act 1956 deals with property rights and inheritance. This act gives a broad view of who can be given the property and the rights available for both males and females while acquiring a property.

Section 2 of Hindu Succession Act 1956 talks about the applicability of this law. This law is applicable to anyone who is a Hindu, Jain, Buddhist, Sikh by religion. Any person who is not a Muslim, Christian, Parsi or Jew by religion unless otherwise proven by law that this particular person does not come under the ambit of this law. This section is not applicable to the Schedule tribes covered under the meaning of section 366(25).

### KINDS OF PROPERTY UNDER HINDU SUCCESSION ACT 1956

According to Hindu Succession Act 1956 there are two kinds of property

Ancestral Property– This kind of property is passed down from by four generations of the male lineage and the property should be undivided during this time.

Self-acquired Property– These kind of properties are bought by an individual with his own earning and without the assistance of family funds. The property which is acquired through a will is also a self acquired property.

The scope of the Hindu Succession Act 1956 covers the division of ancestral property in a Hindu joint family. In a Hindu Joint family there are members and co-parceners. So what is the difference between the two?

### MEMBERS AND CO-PARCENERS

The basic structure of any Hindu joint family comprises of the Karta or the head of the family, his wife, his son, his daughter, daughter-in-law, son-in law, grandson etc. All of them are members of the family but not co-parceners.

Co-parceners are those individuals who can claim their right on the ancestral property. For example when a person, owning an ancestral property dies, the property, would by default pass down to his son, grandson, great-grandson and so on. Section 6 of the Hindu Succession Act 1956 deals with this aspect and was called as Survivorship rule.

### CRITICISM

The main criticism of section 6 of Hindu Succession Act 1956 was that the survivorship rule allowed only the male lineage to be co-parceners. The women were not given equal rights over the property and this was discriminatory in nature. Although the Hindu Succession Act 1956 did say that women would have equal rights over the property, the Mitakshara law of parcener did not allow females to be co-parceners of a property.

### TYPES OF SUCCESSION

There are two kinds of succession- Testamentary and Intestate Succession. These kinds of succession is applicable for only self- acquired property.

Testamentary Succession – When an individual’s property is divided on the basis of a will made before his death, this kind of succession is called testamentary succession. Under the will, the person is allowed to pass down his property to anyone he wishes.

Intestate Succession – When a person dies without creating a will. Then his property is passed down according to divided into classes-

#### IN CASE OF MALES

If a male dies intestate, the property would go to-

Class I heirs- this class basically consists of the deceased’s wife, son, daughter. They would have the very first claim on the property.

Class II heirs- in the absence of the class I heirs, the property can be claimed by the class II heirs which consist of the deceased’s father, sibling, sibling’s children, living children’s children.

Class III heirs- In the absence of class I and class II heirs the property can pass down to class III heirs which are called as Agnates or the distant blood relatives of the male lineage

Class IV heirs- In the absence of the class I, class II and agnates the property can be claimed by Cognates or the distant blood relative of the female lineage.

#### IN CASE OF FEMALES

If a female dies intestate, the property goes to-

The very first claim of the property would go to her husband, son, daughter.

In case of their absence, the property would go to the heirs of the husband.

The property would pass down to the parents of the deceased in absence of the above mentioned claimants.

The fourth claimants of the property will be the heirs of the father.

The fifth claimant of the property will be the heirs of the mother

#### THE 2005 AMENDMENT TO HINDU SUCCESSION ACT

The Hindu Succession (Amendment) Act 2005 was assented by the president on 5<sup>th</sup> September 2005 and came into effect from the 9<sup>th</sup> September 2005. This amendment was brought about to end the discrimination in the Hindu Succession Act 1956, section 6, thus abrogating the survivorship rule. Under this amendment of the section if a person dies intestate the property would be inherited to class I heirs which consist of the widow, son and daughter of the deceased and the property would be divided equally among them. In the absence of class I heirs due to any reason then the property would pass down to class II heirs and so on. This act also amended the section 4, section 23, section 24 and section 30 of the act.

This amendment was brought as a solution and it was declared that daughters also have an equal right and liability in the father's property just like the sons and daughters are entitled to this right since birth.

### CONFUSION BEHIND THIS ACT

Though this act was brought about as a solution, there were certain confusions surrounding this amendment. The enforcement date of this act was 9<sup>th</sup> September 2005. The main question was that ,will this law be applied retrospectively or is it applicable for future cases only? This meant that if a person died in 2002 that is before the enforcement of this amendment, would the daughter still be entitled to the property and would she be a co-parcener?

### CASES WHICH SOLVED THIS CONFUSION

The case of *Prakash & others vs Phulavati & others*, which came in 2016, dealt with the above question that whether this law will have a retrospective effect or no. This case was headed by a two judges bench Justice Anil Dave and Justice A K Goel in the Supreme Court and they held that the rights under this amendment would be available to those daughters whose fathers were living on the date of enforcement of this amendment. This has been declared as a landmark judgement for it held that only living daughters of living co-parceners are entitled to the property.

The second case regarding the same question came up in 2018. In the case of *Danamma vs Amar*, the Supreme Court was headed by a two judges bench- Justice AK Sikri and Justice Ashok Bhushan, this time held that the rights under the 2005 amendment would be applicable to the daughter even if the father is not alive on the enforcement date of the amendment, thus making both the daughters and sons equally liable for the property and this right is given to both of them since birth.

Even though in 2018, the judgement was passed in favor of daughters having equal rights over the father's property, there were still some confusions and confusions on whether to follow the 2016 judgement or the 2018 one. Finally, in 2020 the case of *Vineeta Sharma vs Rakesh Sharma* put an end to all the speculations surrounding the applicability of this amendment. The earlier cases were headed by a two judge bench but in this case it was headed by a three judge bench and they were Justice Arun Mishra, Justice Abdul Nazeer and Justice M.R Shah. The Supreme Court in this case clearly said that daughters and sons have an equal liability over a property and that this right is given to them since birth and whether the father is alive or dead, it doesn't affect the right of the daughter.

### CONCLUSION

The case of *Vineeta Sharma vs Rakesh Sharma* was declared a landmark case as it finally settled the confusions regarding property rights. The current status of the law is that both the son and daughter have an equal liability and right over the property irrespective of whether the father was alive in 2005 or not and there will be equal division of the property. This amendment was instrumental in bringing a change in society and women's right.



## Special Marriage Act, 1954

**INTRODUCTION:** The Special Marriage Act, 1954 was passed in the year 1954 and came into force from 1st January, 1955. It applies to the whole of India except the State of Jammu & Kashmir. It contains 51 Sections divided into 8 Chapters. The Act provides for a special form of marriage in certain cases; registration of marriage and divorce.

Under the Act, any two persons irrespective of their religion can get married. In other words, the Act provides for validity of marriage between men and women irrespective of caste and religious restrictions.

A marriage to be valid under the Act, the following conditions are to be satisfied:

1. **Monogamy:** Neither party should have a spouse living at the time of the marriage.
2. **Must not be of unsound mind:** Both the parties to the marriage must be of sound mind (sane mind).
3. **Age Limit:** The boy and girl must have completed the age of 21 years and 18 years respectively.
4. **Prohibited Relationship:** The parties to the marriage are not within the degree of prohibited relationship.

### PROCEDURE FOR SOLEMNIZATION OF MARRIAGE UNDER THE ACT:

**Notice (Sec. 5):** The parties to the marriage shall give a notice in Writing to the Marriage Officer of the District and at least one of the Parties has resided for a period not less than 30 days immediately preceding the date of such notice.

2. **Publication of Notice (Sec.6):** A true copy of the notice shall be filed in the “Marriage Notice Book”.

3. **Objection to marriage (Sec. 7 & 8) :** When the notice is published, any person can raise an objection to the proposed marriage. Then, the Marriage Officer has to make necessary enquiry and can pass appropriate orders. His powers are similar to the powers of a civil court. The parties can file an appeal before the District Court against the order within 30 days.

4. **Declaration (Sec. 11):** According to Section 11 of the Act, the marriage declaration shall be signed by the parties to the marriage and three witnesses and the same is countersigned by the Marriage Officer.

5. **Place and Form (Sec. 12):** The Marriage may be solemnized at the office of the Marriage Officer or within the reasonable distance from the office. If the marriage is to take place outside the office, the parties must be ready to pay additional fees. The parties shall say in the presence of Marriage Officer and three witnesses.

“I (A) take thee (B), to be my lawful wife (or husband)”

6. Certificate of Marriage (Sec. 13): After the marriage is solemnized, the Marriage Officer enters the marriage in the 'Marriage Certificate Book' and issues Marriage Certificate. The certificate is to be signed by the parties and the witnesses.

Other provisions of the Act:

1. Section 24 & 25 deals with Void and Voidable marriages.
2. Section 22 deals with Restitution of Conjugal Rights.
3. Section 23 deals with Judicial Separation.
4. Section 27 provides for the Grounds of Divorce.
5. Section 28 speaks about the divorce by Mutual Consent; and
6. The Law of Succession applicable to the parties (who got married) under the Act is Indian Succession Act, 1925.

#### Child Labour (Prohibition & Regulation) Act, 1986

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Child Labour (Prohibition & Regulation) Act, 1986 In India, a beginning in the regulation of child labour was made in 1881 when the Indian factories Act of that year prohibited the employment of children under 7 years of age in factories and fixed their maximum hours of work at 9 in a day. A series of factories Acts that were subsequently enacted gradually raised the minimum age of employment to 14 years, and progressively lowered their daily & weekly hours of work

Prior to the enactment of Child Labour Act, 1986, Labour laws dealing exclusively with child labour have been:

- CHILDREN (PLEDGING OF LABOUR) ACT, 1933
- EMPLOYMENT OF CHILDREN ACT, 1938
- ILO'S CONVENTIONS & RECOMMENDATIONS
- PROVISIONS OF CONSTITUTIONS
- NATIONAL POLICY FOR CHILDREN, 1974
- COMMITTEE ON CHILD LABOUR (GURUPADSWAMY COMMITTEE)
- ENACTMENT OF THE CHILD LABOUR (PROHIBITION & REGULATION) ACT, 1986

#### Some Important Definitions

- Child 'Child' means a person who has not completed his fourteenth year of age.

- Establishment 'Establishment' includes a shop, commercial establishment, workshop, farm, residential hotel, restaurant, eating house, theatre or other place of public amusement or entertainment.
- Workshop 'workshop' means any industrial process is carried on, but does not include any premises to which the provisions of the factories act, 1948 relating to prohibition of employment of children.
- Appropriate government 'Appropriate government' means in relation to an establishment under the control of central government & railway administration or a major port or a mine or oilfield the central govt & in all other cases, the state govt.

#### Child Labor (Prohibition & Regulation) Act, 1986

- Objectives The statements of objects & reasons of the bill reads:
  - There are a no. Of act which prohibit the employment of children below 14 years. However there is no procedure laid down in any law for deciding in which employment should be banned.
  - This Bill intends to-
    - Ban the employment of children that is those who have not completed their fourteenth year, in specified occupations & process.
    - Lay down a procedure to decide modifications to the schedule of banned occupations or from working
    - Regulate the conditions of work of children in employments where they are not prohibited from working.
    - To obtain uniformity in the definition of 'Child' in the related laws 3 the bills seeks to achieve the above objectives.

Child Labour Advisory Committee The central government is required to constitute the child labour technical committee to advise it for the purpose of addition of occupations & processes to the schedule of the Act. The Committee is to consist of a chairman & more than 10 other members appointed by the central govt.

#### Regulation Of Conditions of Work of Children

- Hours & Period of Work- No child is to be required or permitted to work in any establishment in excess of the number of hours prescribed under the Rules. The period of work on each day should be so fixed that no period exceeds 3 hours & that no child works for more than 3 hours before he has had an interval for rest of at least one hour.
- Weekly holiday- Every child in establishment is to be allowed in each week a holiday of one whole day.
- Notice to Inspector- The occupier of the establishment in which a child was employed immediately before the commencement of the Act is required to send to the inspector of

the area a written notice containing the following particulars within 30 days of the commencement of Act:

- The name & situation of the establishment; The name of person in actual management of the establishment;
- The address for communication
- The nature of the occupation or process carried on in the establishment

Regulation Of Conditions of Work of Children • Disputes as to Age- If dispute arises b/w an inspector and an occupier regarding the age of a child, it will be referred by the inspector For a decision to the medical authority prescribed under the rules. • Health & Safety- • Display of Notice- Other Provisions Inspectors Penalties & Procedure Repeal & Amendment of Other Acts Power to Make Rules

Certain Subsequent Developments • National Policy on child labour,1987 • National Commission on Rural Labour,1991 • International Programme on eliminating of child labour.

Juvenile Justice Act, 2001

CARE AND PROTECTION OF CHILDREN,ACT 2000 SUBMITTED BY:-MOHINI THE JUVENILE JUSTICE ACT

CHILD POPULATION IN INDIA. ® India has the highest number of children in the world. ® More than one third of country's population is below 18 years Approximately 40% of the population (around 440 million) is children

Children everywhere are vulnerable to abuse and exploitation by those in positions of power and trust...

INTRODUCTION

An Act to consolidate and amend the law relating to juveniles in conflict with law

- Protection and treatment.
- Child-friendly approach.
- Rehabilitation.
- Institutions established

5. JUVENILE JUSTICE ACT 1986: Was renamed and rewritten in 2000 to be called the Juvenile Justice (Care and Protection of children) Act.

6. JUVENILE JUSTICE ACT 1986 ESTABLISHMENT OF:- JUVENILE HOME Reception of neglected juvenile SPECIAL HOME Reception of delinquent juveniles OBSERVATIO N HOME Reception of neglected/delinquent juveniles pending enquiry AFTER CARE HOME Taking care of juveniles

7. THE OBJECTIVE OF THE ACT: To Lay Down A Legal Structure For The Juvenile Justice System In The Country. ∞ To Provide A Special Approach To The Protection And Treatment Of Juveniles. ∞ To outline the machinery and infrastructure required for the care, protection, treatment, development and rehabilitation of juveniles. ∞ To establish norms and standards for administration of juvenile justice. ∞ To establish linkages and co-ordination between the formal

system of juvenile justice and voluntary efforts in the welfare of juveniles. ⌘ To constitute special offences in relation to juveniles and provide punishment.

8. SILENT FEATURES OF THE ACT ⌘ Primary law for children in India. ⌘ It defines a juvenile/child as a person below the age of 18 years. ⌘ Rehabilitation and social reintegration are the primary aims of the Act. ⌘ To create a separate system of justice – dispensation. ⌘ Distinct from criminal justice system for adults. ⌘ Effective involvement of informal social arrangements – family, community. ⌘ Child friendly juvenile justice system

9. JUVENILE JUSTICE ACT The Act places children/juveniles in two categories – 1. Juvenile in ‘conflict with the law’ handled by State Governments/ ‘Juvenile Boards’ 2. Child in need of ‘care and protection’ to be looked after by State Governments/ ‘Child Welfare Committees’ Act to be implemented by the respective State Governments

10. CHILDREN IN CONFLICT WITH LAW ® Juvenile in conflict with law is a child who is alleged to have committed an offence and should be produced before Juvenile Justice Board (JJB) Children in need of care and protection are children who are: Neglected Orphaned Abused Abandoned Victims of any arm conflict or natural calamity and should be produced before Child Welfare Committee (CWC)

11. Appointed by the State Government. Panel of Metropolitan Magistrate or Judicial Magistrate of the first class. Two social workers of whom at least one shall be a woman. Magistrate to have special knowledge or training in child psychology or child JUVENILE JUSTICE BOARD :

12. JUVENILE JUSTICE BOARD (COMPOSITION) ® Principal Magistrate QUALIFICATION •Judicial magistrate -1st Class •Special knowledge or training In child psychology & child welfare Members Social Workers(2) QUALIFICATION •At least one to be a woman. •Post graduate degree in social work, Health education, psychology, child development or any other social science discipline • 7 Years experience in health, education or welfare activities pertaining to children • Not less than 35 Years of age • Not Holding any other occupation • Selected by Selection Committee

13. Juvenile in conflict with law to be produced before JJB/a member of JJB. When JJB not sitting JJB may act and pass orders in the absence of any member. At least two members including Magistrate to be present at time of final disposal of case Opinion of majority will prevail. In absence, opinion of magistrate will prevail. PROCEDURE, ETC. IN RELATION TO BOARD:

14. AGE DETERMINATION ® Relevant Date ® of juvenility Less than 18 years on date of offence Prima facie opinion Physical appearance or documents, if any Conclusive Inquiry Documentary Evidence - School certificate or - Municipal or Panchayat certificate Medical Evidence In the absence of above documents (benefit on lower side within margin of 1 year)

15. INSTITUTIONS CHILDREN IN CONFLICT WITH LAW OBSERVATION HOME SPECIAL HOMES AFTERCARE HOMES

16 They shall be placed under the charge of the special juvenile police unit The State Government may make rules consistent with this Act,- To provide for persons through whom (including registered voluntary organizations) any juvenile in conflict with law may be produced before the Board to provide the manner in which such juvenile may be sent to an observation home. APPREHENSION OF JUVENILE IN CONFLICT WITH LAW.-

17. ORDER THAT MAY NOT BE PASSED AGAINST JUVENILE A Juvenile Cannot be sentenced to death/life imprisonment/committed to prison.

## Unit 5

### Legislations

Scheduled caste and scheduled tribe (prevention of atrocities) act,1989

1. SOCIAL PROBLEMS AND S O C I A L L E G I S L A T I O N TOPIC PRESENTED  
Scheduled Caste and Scheduled Tribe (Prevention of Atrocities)Act,1989 PRESENTED BY  
M.RANJITH KUMAR

**SCHEDULED CASTE AND SCHEDULED TRIBE (PREVENTION OF ATROCITIES) ACT, 1989** The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 was enacted by the Parliament of India (Act 33 of 1989), to prevent atrocities against scheduled castes and scheduled tribes. The Act is popularly known as POA, the SC/ST Act, the Prevention of Atrocities Act, or simply the Atrocities Act. Various measures adopted to improve the socioeconomic conditions of the SCs and STs they remain vulnerable and are subject to various offences, indignities and humiliations and harassment. When they assert their rights and against the practice of Untouchability against them the vested interest try to cow them down and terrorize them. Atrocities against the SCs and STs, still continued.

**OBJECTIVES** The objectives of the Act, therefore, very clearly emphasis the intention of the Indian state to deliver justice to SC/ST communities through affirmative action in order to enable them to live in society with dignity and self-esteem and without fear, violence or suppression from the dominant castes. The Supreme Court of India too reiterated the significance and importance of the Act.

**DEFINING 'ATROCITY'** The term 'atrocities' was not defined until this Act was passed by the Parliament in 1989. In legal parlance, the Act understands the term to mean an offence punishable under sections 3(1) and 3(2). In specific terms: Atrocities is "an expression commonly used to refer to crimes against Scheduled Castes (SCs) and Scheduled Tribes (STs) in India".

**SPECIAL COURTS** For speedy trial, Section 14 of the Act provides for a Court of Session to be a Special Court to try offences under this Act in each district. Rule 13(i) mandates that the judge in a special court be sensitive with right aptitude and understanding of the problems of the SCs and STs.

**COMPENSATION** Atrocities often take place when persons belonging to the SC community do not fulfill their 'caste functions' by doing ritually prescribed 'unclean' work or break the caste

boundaries such as sitting in the bus or wearing a turban often the preserve of the dominant castes. Atrocities are often a form of 'collective' punishment for daring to have even some semblance of non-dependence which is termed as 'prosperous', and the atrocity is to bring them back into the situation of total dependence and servitude. The state therefore has the duty to help the community back on its feet.

DRAWBACKS AND LACUNAE ♣ Bias ♣ Legal system ♣ Rehabilitation ♣ Lack of awareness

Dowry prohibition Act 1961

1. THE DOWRY PROHIBITION ACT, 1961 (Act No. 28 of 1961)

2. An Act to prohibit the giving or taking of dowry Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

3. Short title, extent and commencement.- This Act may be called the Dowry Prohibition Act, 1961. It extends to the whole of India except the State of Jammu and Kashmir. It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

4. Definition of 'dowry'.- In this act, 'dowry' means any property or valuable security given or agreed to be given either directly or indirectly- (a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person; at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. Explanation II.-The expression 'valuable security' has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

5. Penalty for giving or taking dowry.- (1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more: Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years. \* Explanation I omitted by Sec.2 w.e.f 2nd October, 1985 (2) Nothing in sub-section (1) shall apply to or, in relation to,-presents which are given at the time of a marriage to the bride (without any demand having been made in that behalf):

6 Provided that such presents are entered in list maintained in accordance with rule made under this Act; presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf): Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

7. 4. Penalty for demanding dowry.- If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees: Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

8. Ban on advertisement.- If any person- (a) offers, through any advertisement in any newspaper, periodical, journal or through any other media any share in his property or of any money or both as a share in any business or other interest as consideration for the marriage of his son or daughter or any other relative, (b) prints or publishes or circulates any advertisement referred to Cl. (a), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend to five years, or with fine which may extend to fifteen thousand rupees: Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than six months.

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

10. Dowry to be for the benefit of the wife or heirs.- 1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman – (a) if the dowry was received before marriage, within three months after the date of marriage; or (b) if the dowry was received at the time of or after the marriage within three months after the date of its receipt; or (c) if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman. (2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified there for or as required by sub-section(3), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend two years or with fine which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.

11. (3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being: Provided that where such woman dies within seven years of her marriage, otherwise than due to natural causes, such property shall- if she has no children, be transferred to her parents, or if she has children, be transferred to such children and pending such transfer, be held in trust for such children. (3-A) Where a person convicted under sub-section (2) for failure to transfer any property as required by sub-section (1) or sub-section (3) has not, before his conviction under that subsection, transferred such property to the woman entitled thereto or, as the case may be, her heirs, parents or children, the Court shall, in addition to awarding punishment under that subsection, direct, by order in writing, that such person shall transfer the property to such woman, or as the case may be, her heirs, parents or children within such period as may be specified in the order, and if such person fails to comply with the direction within the period



12. so specified, an amount equal to the value of the property may be recovered from him as if it were a fine imposed by such Court and paid to such woman, as the case may be, her heirs, parents or children. 4) Nothing contained in this section shall affect provisions of Sec. 3 or Sec. 4.

13. Cognisance of offences.- (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974),- no Court inferior to that of a Metropolitan magistrate or a Judicial Magistrate of the first class shall try any offence under this Act; no Court shall take cognizance of an offence under this Act except upon – (i) its own knowledge or a police report of the facts which constitute such offence, or (ii) a complaint by the person aggrieved by offence or a parent or other relative of such person, or by any recognized welfare institution or organization: it shall be lawful for a Metropolitan Magistrate or a Judicial Magistrate of the first class to pass any sentence authorized by this Act on any person convicted of any offence under this Act. Explanation.- For the purposes of this sub-section, "recognised welfare institution or organization" means a social welfare institution or organization recognized in this behalf by the Central or State Government.

14. (2) Nothing in Chapter XXXVI of the Code of Criminal Procedure, 1973 (2 of 1974), shall apply to any offence punishable under this Act.) Notwithstanding anything contained in any law for the time being in force, a statement made by the person aggrieved by the offence shall not subject such person to a prosecution under this Act.

15. Offences to be cognizable for certain purposes and to be bailable and noncompoundable.- (1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as if they were cognizable offences- (a) for the purpose of investigation of such offences; and (b) for the purpose of matters other than- (i) matters referred to in Sec. 42 of that Code, and (ii) the arrest of person without a warrant or without an order of a Magistrate. (2) Every offence under this Act shall be non-bailable and non-compoundable.

16 8-A. Burden of proof in certain cases.- Where any person is prosecuted for taking or abetting the taking of any dowry under Sec. 3, or the demanding of dowry under Sec.4, the burden of proving that he had not committed an offence under those sections shall be on him.

17. 8-B. Dowry Prohibition Officers.- (1) The State Government may appoint as many Dowry Prohibition Officers as it thinks fit and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act. (2) Every Dowry Prohibition Officer shall exercise and perform the following powers and functions, namely, - (a) to see that the provisions of this Act are complied with; (b) to prevent, as far as possible, the taking or abetting the taking of, or the demanding of, dowry; (c) to collect such evidence as may be necessary for the prosecution of persons committing offences under the Act; and (d) to perform such additional functions as may be assigned to him by the State Government, or as may be specified in the rules made under this Act. (3) The State Government may, by notification in the official Gazette, confer such powers of a police officer as may be specified in the notification, the Dowry Prohibition Officer who shall exercise such powers subject to such limitations and conditions as may be specified by rules made under this Act.

18. (4) The State Government may, for the purpose of advising and assisting the Dowry Prohibition Officers in the efficient performance of their functions under this Act, appoint an advisory board consisting of not more than five social welfare workers (out of whom at least two shall be women) from the area in respect of which such Dowry Prohibition Officer exercises jurisdiction under sub-section (1).

19 Power to make rules.- (1)The Central Government may, by notification in the official Gazettee, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for- (a) the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of Sec. 3 shall be maintained and all other matters connected therewith; and

20. (b) the better co-ordination of policy and action with respect to the administration of this Act. (3)Every rules made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be; of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. 10. Power of the State Government to make rules.- The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act. (2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely: (a)the additional functions to be performed by the Dowry Prohibition Officers under subsection( 2) of Sec. 8-B; (b) limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of Sec. 8-B. (3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

22. THE DOWRY PROHIBITION (MAINTENANCE OF LISTS OF PRESENTS TO THE BRIDE AND BRIDEGROOM) RULES, 1985 G.S.R. 664 (E), dated 19th August, 1985.- In exercise of the powers conferred by Sec.9 of the Dowry Prohibition Act, 1961 (28 of 1961), the Central Government hereby makes the following rules, namely: 1. Short title and commencement.- (1) These rules may be called the Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985. (2) They shall come into force on the 2nd day of October, 1985, being the date appointed for the coming into force of the Dowry Prohibition (Amendment) Act, 1984 (63 of 1984).

The preventive immoral traffic act 1956

1. This act is applicable to the whole of India except J&K (1) Definitions: BROTHEL: Any house, room or a premises which is used for the purpose of sexual exploitation. PROSTITUTIONS: Sexual exploitation or abuse of persons for commercial purposes.

2. Punishments for keeping a brothel or allowing premises to be used as brothel: a) Any person who keeps or manages in keeping the management of a brothel shall be punishable for the term of 1st time- not less than 1 year not more than 3 years For the term of 2nd year – not less than 2 years & not more than 5 years Fine up to rs.2000
3. b) Any person who being a tenant/owner/ agent/ landlord/ person in charge of keeping the premises is intended to be used as brothel shall be punishable on 1st conviction for a term which may extend to 2yrs and the 2nd conviction for a term may extend to 5 yrs and the fine up to rs.2000
4. Punishments for living on the earnings of prostitutions: Any person earning from the prostitution of 18 yrs person, he/she shall be imprisonment for a term which may extend to 2 yrs or fine up to rs.1000 or both. if it is a child earning means that person shall be punishable for a term of not less than 7yrs & not more than 10yrs.
5. 4) Procuring, inducing/ taking person for the sake of prostitution: -causes or induces a person to carry on prostitution shall be punishable with rigorous imprisonments for a term of not less than 3yrs & not more than 7yrs (1st time) - for the 2nd time it shall extend to 14yrs. - in case of child it is not less than 7yrs but may extend to whole life - in case of minor, 7-14 yrs.
6. 5) Detaining a person in premises where prostitution is carried on: - If a person involves in sexual intercourse with a person other than spouse, such person shall be punishable with either for a description for a term which shall not be less than 7yrs or which may extend to 10yrs & shall also be liable to fine.
7. 6) Prostitution in/in the vicinity of public place: Any person who carries on prostitution & it is carried on: a) within a distance of 200mts of any place of public religious worship, educational institutions, hostel, hospital, nursing home or such other public place shall be punishable with imprisonment for a term which may extend to 3 months.
8. b) If an offence is committed in hotel, the license also be liable to be cancelled. The hotel should registered under the sec 2(6) of the Hotels- Receipts tax Act, 1980
9. 7) Special Police Officer & Advisory Body: -The special police officer shall not be below the rank of an inspector of police. - A retired police officer(unless such officer at the time of retirement) was holding a post not below the rank of inspector. - A retired military officer holding a post not below the rank of commissioned officer. - The special police officer of an area shall be assisted by such number of subordinates as the state government may think fit.
10. 8) Protective Homes: - state government may in its discretion establish as many protective homes & corrective institutions under this act as its thinks fit. - no person or no authority other than state government shall establish/maintain any protective home or corrective institutions.

### The Tamil Nadu Slum Clearance Act, 1971

The first and only piece of legislation for slum clearance, and to establish the Slum Clearance Board. Widely viewed as progressive. Stated the need and procedure to declare slums and intervene for their improvement. Slum Clearance was to be taken up for improving the lives of slum dwellers.

Declarations: Who can declare and what is the procedure? Based on the Tamil Nadu Slums Act, 1971, Government authorities identify slums, once they are satisfied that a certain area fits the

perceived definition of a “slum”. Areas identified as “slums” are then declared or recognized as slums. Further, these declared slums become the government’s responsibility to improve, through tenement construction or environmental improvements.

What rights and protections are given to declared slums? Based on the Tamil Nadu Slums Act, 1971, Protection from eviction (or due compensation through alternate accommodation in the event of one). Slums can be evicted ONLY if declared, and evictions are supposed to take place only if required to improve living conditions for slum dwellers. Tenure security: later GOs guaranteed “conditional pattas” for all residents in sites before a particular date. Access to improvements, benefits, and schemes for slums by the government.

1971: First round of declarations 1202 slums (on government, private and temple land) identified and declared by TNSCB – based on a comprehensive survey. 7.37 lakh slum dwellers in the city, representing 1/3 of the city’s population. Occupied only 6% of city area: 7.2 square kilometres. 17 slums added to the list by a GO in 1985.

Finding 1 The government is NOT following the procedure outlined in the Act. 1971/1985 1202 declared/17 (added) No new slums have been declared since 1985. Government has ‘improved’ all declared slums, but slum schemes can only be implemented in declared slums – undeclared slums left out. Lack of government recognition leads to gross underestimation of current slum population and the need for services. Access to basic services very poor in most unrecognized slums. No protection from eviction.

Key Finding 1 The government is NOT following the procedure outlined in the Act. By not declaring slums, government is able to exercise power over them without being bound by protections outlined in the Slum Clearance Act. Ad hoc procedure instead of the identify-declare-improve approach, not codified in law. Both declared and undeclared slums now evicted not for their improvement, but for infrastructure projects, waterways beautification, etc.

Key Finding 1 The government is NOT following the procedure outlined in the Act. Government begins to build large scale resettlement colonies on the outskirts of the city in 1999, a break from the in-situ tenement construction practices of the TNSCB. Both residents from undeclared and declared slums are evicted and moved to resettlement sites. Kannagi Nagar/Semmencheri/Perumbakkam 10 th Finance Commission and Flood Alleviation Programme Mainly JNNURM 12,0385,26023,864 (total planned units)

Key Finding 1 The government is NOT following the procedure outlined in the Act. Not everyone evicted gets resettled. Patterns? Those evicted for JNNURM, other central schemes and external agencies were usually resettled, but those evicted for city and state funded projects were not always resettled. Slums outside of Corporation boundaries received less access to resettlement and compensation compared to those inside. In any slum, not all residents received resettlement – tenants, those without paperwork, new migrants less likely to receive resettlement tokens. From 2005 to 2009, at least 20,000 households from 20 sites evicted, but not all were resettled.

Key Finding 2 Tenure papers have not been provided, despite the eligibility of all slum residents to “conditional patta” (GO 1979). “Conditional pattas” were supposed to be issued to those who

benefited from the MUDP and TNUDP schemes (funded by World bank) or lived in TNSCB tenements, but only a small percentage of eligible residents actually received patta.

Key Finding 3 No new slums have been declared since 1985, despite the city expanding and new slums cropping up. There is a gross underestimation of the number of slum dwellers in the city. The Second Master Plan stated that the city only had 819,872 slum dwellers in 2001. But the Slum Census 2001 found over a million slum dwellers, and even that was a very flawed count. In 2002, survey commissioned by TNSCB identified 242 unrecognised slums – 122 on so-called “objectionable” land and 120 on “unobjectionable” land. But no declaration followed, not even of slums on “unobjectionable” land.

Key Finding 3 No new slums have been declared since 1985, despite the city expanding and new slums cropping up. Since the government takes up improvements only in declared slums, this has led to very poor access to basic services in most slums in the city. The 2002 survey found that water and sanitation facilities available in the 242 slums was much lower than service standards. Also, undeclared slums face the constant threat of eviction due to the complete lack of tenure security.

Key Finding 4 Slums take up such a small part of the city. Why the reluctance to declare? Slums occupy a very small part of the city. The 1202 slums declared in 1971 occupied only 7.2 square kilometers, 6% of the city at the time. In today’s expanded city area, all declared slums only take up 1.7% of the city area (72% of current land use estimated to be residential). The 242 unrecognised slums identified within the old Chennai Corporation limits in the 2002 survey occupy only 0.4% of today’s expanded city area. Both the Corporation area unrecognized slums and the slums identified in the entire Chennai Metropolitan area identified in the survey take up only 1.1% of the whole Chennai Corporation area, a miniscule amount of land that should be declared immediately.

Key Finding 5 Slums are relocated to places far away from the city centre, when a lot of excess land is available within the city itself. The government cites the non-availability of land as the reason for relocation to distant parts. However, an RTI filed with urban land tax commissioners found: Total land acquired by the TN ULC Act = 11.5 sq. km. Of this, land allotted to govt. departments = 1.08 sq. km. Total excess land available = 10.42 sq. km. ULC Land in T. Nagar and Mylapore alone (central city) = 0.45 sq. km Madhavaram and Alandur area (partly central city) = 2.2 sq. km. More than enough land is available to relocate all undeclared slums identified in 2002 survey without far-away resettlement in ghettos.

Key Finding 6 Relocation is the primary focus of the government, even when low cost alternatives are available. Relocation involves huge costs: financial, social, economic. According to TNSCB policy note, cost per Perumbakkam/Okkiyum Thuraipakkam tenement = 4.5 lakhs. But in 2009, TNSCB only spent Rs. 5000 per family for environmental improvement of slums. By this estimate, relocation costs 90 times more than in situ environmental improvement.

Key Finding 6 Relocation is the primary focus of the government, even when low cost alternatives are available. Low cost improvement opportunities have been ignored. In 2004, consultants proposed a low cost sanitation plan for some slums along the waterway at only Rs.

27 crores. However, this was dismissed by the TNSCB in favour of relocation. By government estimates, relocation would cost 20 times more than the option of providing sanitation to these slum families.

## INDIAN MENTAL HEALTH ACT

MENTAL HEALTH ACT-1987 The mental health bill became the act 14 of 2nd may 1987

CHAPTER-1 PRELIMINARY INFORMATION & DEFINITIONS  
MENTALLY ILL PERSON MENTALLY ILL PRISONER COST OF  
MAINTENANCE DISTRICT COURT INSPECTING  
OFFICER LICENSE LICENSEE LICENSED PSY. HOSPITAL/NURSING HOME

CONTI.... LICENCING AUTHORITY MEDICAL OFFICER MEDICAL OFFICER  
IN CHARGE  
MEDICAL PRACTITIONER MINOR PSY. HOSPITAL/PSY. NURSING  
HOME PSYCHIATRIST RECEPTION ORDER TEMPORARY TREATMENT ORDER

CHAPTER-II MENTAL HEALTH AUTHORITY  
Establishment of central and state authority for regulation and co-ordination of mental health services

CHAPTER-III PSY. HOSPITALS/NSG HOME  
ADMISSION, TREATMENT AND CARE OF MENTALLY PERSONS Separate hospital  
facilities for those who- Under the age of 18 yrs- Addicted to alcohol or drugs- have been  
convicted for any offence

ADMISSION ON VOLUNTARY BASE  
By the patient's request, if he is a major By the guardian, if a minor

UNDER SPECIAL CIRCUMSTANCES  
This is an involuntary hospitalization when the mentally ill person does not or can not express  
his willingness for admission.

UNDER RECEPTION ORDER  
ON APPLICATION: Only a relative (husband, wife, close guardian, or a friend) can make out an  
application for the admission.

ON PRODUCTION BEFORE THE MAGISTRATE:  
patients exhibiting violent behavior, creating obscene scenes & dangerous to the society can be  
detained by the police officer & produced in court within 24 hours of such detention, supported  
by two medical certificates.

Admission in emergencies  
The medical officer in-charge may order the admission of a mentally ill patient if he thinks he is  
dangerous to himself or others

Temporary treatment order  
It is an order issued by the magistrate in cases where the risk is perceived to the patient's life or that of others.

Admission of mentally ill prisoners  
mentally ill prisoner may be admitted in to a mental hospital on the order of the presiding officer or a court.

Miscellaneous admission  
Humanitarian base (wanders) For observation purposes social worker can obtain an order from the magistrate.

CHAPTER V: DISCHARGE ADMITTED ON: VOLUNTARY BASIS  
psychiatrist can take decision about discharge.

SPECIAL CIRCUMSTANCES  
Relative or friend make an application to the medical officer for care & custody of the patient .

RECEPTION ORDER an applicant make an application  
for discharge to the magistrate. If the magistrate deems fit he may issue an order for discharge.

BY POLICE Family members agree in writing to take proper care Medical officer in-charge  
opines that he is fit to be discharged.

MENTALLY ILL PRISONER  
Hospital authority to report every 6 months If the person is fit for discharge, handed over to the  
prison officer for further legal action.

CHAPTER VI JUDICIAL INQUISITION  
A guardian may be appointed by the court of law on behalf of mentally ill person incapable of  
looking after self and property Every 6 months the manager gives an inventory of the immovable  
property of the mentally ill person

CHAPTER VII: COST OF MAINTENANCE OF MENTALLY ILL PERSONS DETAINED IN  
PSYCHIATRIC HOSPITAL

CHAPTER VIII: PROTECTION OF HUMAN RIGHTS OF MENTALLY ILL PERSON  
Mentally ill person under treatment shall not be subjected to mechanical restraint or other harsh  
measure

CHAPTER IX: PENALTY AND PROCEDURES  
Deals with penalties which can be relatively severe and explicit for contravening them

CHAPTER X: MISCELLANEOUS  
It deals with clarification pertaining to certain procedures to be followed by medical officer in-  
charge of the psyhospital / nsg home

Legal responsibilities of a mentally ill person  
 Responsibility in the legal sense means the liability of a person for his acts or omissions & if such be contrary to law, the liability to be punished for them.

LAW Civil Law – protects the private and property rights of individuals and businesses  
 Tort: it may be intentional or unintentional  
 Contracts :Failing to fulfill an obligation  
 Criminal law – provides protection from conduct deemed injurious to the public welfare

law comes in contact with psychiatry Admission  
 Crime committed by mentally ill person Validity of marriage Will Consent Right to vote

Criminal responsibility  
 McNaughten Rule Section 84 of the Indian penal code of 1860 provides that “nothing is an offence which is done by a person who, at the time of doing it by reason of unsoundness of mind, was incapable of knowing the nature of the act or that what he was doing was either wrong or contrary to law”.

Durham rule (1954) This rule is based on ‘Durham test’ or Product rule’. This test is based on a 1954 decision in the district of Columbia. The rule states that the accused is not criminally responsible if his act was the “product of mental disease”.

American Law Institutes Test (ALI)  
 “As per the ALI Test a person is lacking adequate capacity to realize the criminality of his act or conformity of his conduct to the provisions of law is not responsible for performing such an act.

Civil responsibility A person has no responsibility in the following conditions, if he is proved to be a lunatic.

Management of property & affairs  
 The court may direct an inquiry to ascertain whether a person is of unsound mind & incapable of managing his property, on an application from any relative.

In such a case a manager is appointed by the court of law to take care of his property, which may include sale or disposal of the property to settle his debits/ expenses.

Marriage As per the Hindu Marriage Act (1955), marriage between any two individuals one of whom was unsound mind at the time of marriage is considered null & void according to law. Unsoundness of mind for a continuous period can be sighted as a ground for obtaining divorce.

The other party can file for divorce when lunacy continues for a period of more than 2 years after marriage. If divorce filed after a 3 years period, divorce is granted with a precondition that the other party to pay maintenance charges for the mentally ill person.

Testamentary capacity

Indian succession Act 1925 Testamentary refers to the mental ability of a person to make a valid will.

A will must be in written form  
 The requirements of a valid will: 1. A will must be in written form 2. it must be signed by a



testator in the presence of at least two witnesses.3. an executor is appointed under the will by the testator to carry out its terms after his death

a will can be revoked or modified any time before the death of the testator<sup>5</sup>. The testator must be of sound mind and major

Under such circumstances the doctor tests the testator for orientation, concentration & memory.

Right to Vote contest for elections or exercise  
A person of unsound mind cannot contest for elections or exercise the privilege of voting.

### Medical Termination of Pregnancy Act 1971

#### 1. Medical Termination of Pregnancy Act, 1971 and Rules thereunder 1975

2. Object Termination of certain pregnancies by registered medical practitioner and for the matters connected therewith

3. MTP Act: Objectives 1. Aims to improve the maternal health scenario by preventing large number of unsafe abortions and consequent high incidence of maternal mortality & morbidity 2. Legalizes abortion services 3. Promotes access to safe abortion services to women 4. Offers protection to medical practitioners who otherwise would be penalized under the Indian Penal Code (sections 315-316)

4. Definitions Guardian: A person having the care of a minor or lunatic

5. Minor A person who under the provision of the Indian Majority act 1875 is to be deemed not to have attained his majority

6. Registered Medical Practitioner A medical Practitioner who possesses any recognized medical qualifications as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, whose name has been entered in a state medical register and who has such experience or training in gynecology and obstetrics as may be prescribed by rules made under this act.

7. Place It is a building tent, vehicle or vessel or part thereof used for the establishment or maintenance therein of hospital or clinic which is used or intended to be used for the termination of pregnancy.

8. Owner In relation to place, means any person who is administrative head or otherwise responsible for the working or maintenance of such hospital or clinic.

9. Circumstances for termination of Pregnancy by RMP 1. Pregnancy is not more than 12 weeks old: Conditions: a-Serious injury to physical or mental health of the woman and b- Child to be born would be seriously handicapped. 2. More than 12 weeks but less than 20 weeks: If pregnancy caused because of rape or as a result of failure of any contraceptive device used by any married woman or her husband for the purpose of family planning, it may be presumed to constitute a grave injury to the mental health of pregnant woman

10. • Woman with 18 years or more: with her written consent • Woman with less than 18 years: lunatic with written consent of her guardian

11. Experience or Training This act prescribes the experience and training in gynecology and obstetrics for RMP who should have to terminate the pregnancy. 1. Before commencement of the act: Should have registration in state medical register and have more than 3 years of experience and practice in mentioned field.

12. After Commencement of the act: • should have Completed 6 months of house surgency in gynecology and obstetrics • More than 1-year experience in the practice of gynecology and obstetrics at any hospital. • Assisted RMP in the performance of 25 cases of medical termination of pregnancy in a hospital established or maintained by govt. for this purpose 3. RMP who holds post-graduate degree or diploma in gynecology and obstetrics, the experience or training gained during the course of such degree or diploma.

13. Places for Pregnancy Termination • Should have approval from government. • Termination of pregnancies may be done under safe and hygienic conditions • Facilities required: Operation table, instruments, anesthetics equipment, resuscitation equipment, sterilization equipment, Drugs and parenteral fluids for emergency use.

14. Maintenance of admission register 1. Head of the hospital or owner of the approved place should maintain register in prescribed form of the admission of women for the termination of their pregnancies. 2. Serial number should be given to each entry in the register. 3. Fresh serial number need to be given in each calendar year 4. Serial number of each year should be distinguishable 5. Information should not be disclosed.

15. Offences and Penalties Offences Penalties Termination of pregnancy by a person who is not RMP Punishable under IPC Any person who willfully contravenes or fails to comply with the requirements of any regulations made by state govt. 1000 rupees

### **Manual Scavenging and Dry Latrines (prohibition) Act 1993,**

Manual scavenging is defined as the manual cleaning of latrines or the disposal of human excreta. Concisely, as the name implies, manual scavenging entails the manual handling of human excreta from insanitary and manual or dry toilets, built without a flush system. Rather, this method involves the removal of such wastes using conventional brooms and tin plates.

According to one of the latest publications of National Human Rights Commission, India, these wastes are piled into baskets, which are then carried by the scavengers on their heads to such locations that are sometimes several kilometres away from the scavenged toilets.

These wastes, as already well-established are the cause of many notorious enteric diseases such as cholera, diarrhoea, dysentery, typhoid, infectious hepatitis, hookworm and other such deadly diseases.

### **Some important Articles in Constitution of India which prohibits Manual Scavenging**

**Article 14 - Right to Equality**

**Article 17 – Untouchability**

**Article 21** - Right to Life & Liberty

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

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

### **Measures Taken Up in the Post-Independence Period**

In 1953, a Backward Classes Commission was constituted under the chairmanship of Kaka Kalelkar. The Commission in its report described the condition of sweepers and scavengers. The recommendations of the Commission, which, inter alia, emphasised the need to introduce mechanical and up-to-date methods of cleansing latrines in order to do away with the existing system of manual scavenging

#### **Previous Laws on Manual Scavengers**

- Employment of Manual Scavengers and Construction of Dry latrines (Prohibition) Act, 1993
- National Commission for Safai Karamcharis Act, 1993
- In 2011, the National Advisory Council recommended steps to eradicate manual scavenging and prohibit the employment of manual scavengers. On September 3, 2012, a Bill was introduced in the Lok Sabha to create more stringent provisions for the prohibition of insanitary latrines and the rehabilitation of manual scavengers.
- The Prohibition of Employment as Manual Scavengers and their Rehabilitation Act, 2013 replaced the existing “Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993 as it appeared to be ineffectual.
- The key purpose of the 2013 Act is to freshly investigate the condition of the manual scavengers, as there were reports on existence of approximately 2.3 million pit (insanitary) toilets according to 2011-census report.
- This 2013 Act bears stricter provisions to abolish manual scavenging completely from the society. As such, the present Act has been framed in such a way that there is a wider scope and higher penalties than the 1993 Act.

#### **The Salient Features of the Act**

1. The preambular paragraph of the Act stipulates the dignity of the individuals as one of the goals, which is in tune with the goals enshrined in the Preamble of the Constitution of India. It is important to note that work is worship and therefore it is necessary to remove the stigma attached to the profession. Instead, these people should be treated with full dignity.

2. The Act has also referred to Article 46 of the Constitution, which, inter alia, provides that the state shall protect the weaker sections, and, particularly, the scheduled castes and the scheduled tribes from social injustice and all forms of exploitation.
3. The Act prohibits the employment of manual scavengers, the manual cleaning of sewers and septic tanks without protective equipment and the construction of insanitary latrines.
4. The Act defines the term 'hazardous cleaning'. It refers to the use of protective gear and other cleaning devices and ensuring observance of safety precautions. However, the type of protective gear and other cleaning devices is not at all de- fined under the Act.
5. Act define the term 'insanitary latrine'. It is well known that the Indian Railway is the major promoter of manual scavengers and continues to practice manual scavenging inspite of the stringent provisions laid down in the Act. Railway Authority should devise a method to clean the latrines by way of constructing portable/removable small septic tanks beneath the small latrines inside the compartments, which may be cleared in the stations from time to time.
6. The Act seeks to rehabilitate manual scavengers and to provide for their alternative employment. In view of the existing hereditary obnoxious and inhuman condition of manual scavengers, the government has formulated various schemes/programmes for their social and economic upliftment.
7. Under the Act, each local authority viz., Municipality, Municipal Corporation, Gaon Panchayats, village councils have respective jurisdictions to construct sanitary community latrines.
8. The Act says that every Local authority shall: (a) carry out a survey of insanitary latrines existing within its jurisdiction, and publish a list of insanitary latrines, in such manner as may be prescribed, within a period of two months from the date of commencement of this Act.
9. The owner or user of insanitary latrines shall be responsible for converting or dismantling of insanitary latrines at his or her own cost. In case of failure to do so the local authority will demolish the same and construct a sanitary latrine in its place and local authority is authorised to release the cost of demolition and construction from the person concerned.
10. It is observed that financial assistance for demolition and construction of sanitary latrines will be necessary in case of Below Poverty Line (BPL) families and this class will constitute the majority. Such families should be exempted from penal provisions. Rather the local authority should be entrusted to construct sanitary or community latrines in such cases.
11. As far as the constitution of the Vigilance Committees stipulated under the Chapter VII of the Act is concerned, there must be inclusion of at least one member who has adequate knowledge in the field of Human Rights.

12. Further, the Central Monitoring Committee should meet at least once in quarterly instead of once in every six months as stipulated under the Act.
13. The District Magistrate and the local authority shall be the implementing authority.
14. The state government may appoint inspectors. They shall be responsible for examining premises for latrines, persons employed as manual scavengers and seizing relevant records.
15. Central and State Monitoring Committees, and Vigilance Committees in each district shall be established to oversee implementation. The National Commission for Safai Karamcharis (a statutory body) shall monitor implementation and inquire into complaints again contraventions of the Act.
16. The Bill creates provisions for the construction of an adequate number of sanitary community latrines and the use of appropriate technological appliances for cleaning sewers and septic tanks.

#### **Implementing authorities**

- Each District Magistrate and local authority is responsible for ensuring that:
  - (i) no person within his jurisdiction is engaged as a manual scavenger,
  - (ii) no insanitary latrines are constructed, and
  - (iii) manual scavengers are rehabilitated.

#### **Penalty**

- The penalty for employing manual scavengers or failing to demolish insanitary latrines is imprisonment of one year and/or a fine of Rs 50,000 for the first offence. Subsequent offences will be punished with imprisonment up to two years and/or a fine of Rs one lakh. The penalty for the hazardous cleaning of septic tanks and sewers is imprisonment of two years and/or a fine of Rs two lakh for the first offence, and five years and/or a fine of Rs five lakh for subsequent offences.
- Offences under this Bill are cognizable and non-bailable. The Bill permits the state government to confer powers of a Judicial Magistrate of the first class on an Executive Magistrate to conduct trials. Complaints have to be made before the court within three months of the offence.

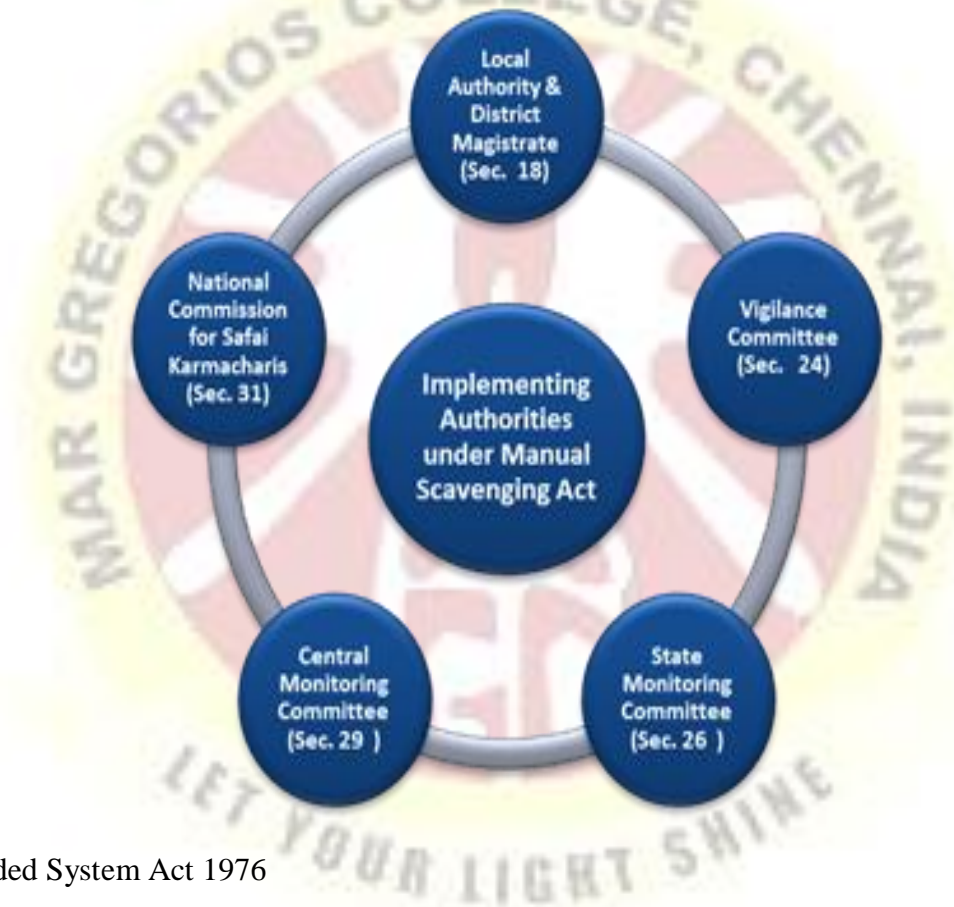
Every municipality, Panchayat shall prepare list of manual scavengers. They will be given ID card having details of family members, dependents.

Children will be entitled for scholarship.

Allotment of residential plot and financial assistance for house construction or ready made house.

He or his one of family member will be given skill training He or at least one adult member of his family shall be given subsidy and concessional loan for taking up an alternative occupation.

- The District Magistrate of the district shall be responsible for rehabilitation of each manual scavengers.
- All offences will be tried by Executive Magistrate u/s 21 of the Act.
- Vigilance Committee for each district headed by District Magistrate to advise District Magistrate/Sub-DM on the actions which need to be taken to oversee the economic and social rehabilitation of manual scavengers, to monitor registration of offences under the act and their investigation and prosecution (Section 25).



### The Bonded System Act 1976

ACT 19 OF 1976 The Bonded Labour System (Abolition) Bill, 1976 was passed by both the Houses of Parliament. It received the assent of the President on 9th February, 1976 and came on the Statute Book as THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 (19 of 1976). AMENDING ACT The Bonded Labour System (Abolition) Amendment Act, 1985 (73 of 1985). • THE BONDED LABOUR SYSTEM (ABOLITION) ACT, 1976 (19 of 1976) [9th February, 1976] An Act to provide for the abolition of bonded labour system with a view to preventing the economic and physical exploitation of the weaker sections of the people and for matters

Definitions.-In this Act, unless the context otherwise requires,- (a) "advance" means an advance, whether in cash or in kind, or partly in cash or partly in kind, made by one person (hereinafter referred to as the creditor) to another person (hereinafter referred to as the debtor)

(b) "agreement" means as agreement (whether written or oral, or partly written and partly oral) between a debtor and creditor, and includes an agreement providing for forced labour, the existence of which is presumed under any social custom prevailing in the concerned locality.

**ABOLITION OF BONDED LABOUR SYSTEM** 4 Abolition of bonded labour system.- (1) On the commencement of this Act, the bonded labour system shall stand abolished any every bonded labourer shall, on such commencement, stand freed and discharged from any obligation to render any bonded labour. (2) After the commencement of this Act, no person shall- (a) make any advance under, or in pursuance of, the bonded labour system, or (b ) compel any person to render any bonded labour or other form of forced labour

Agreement, custom, etc., to be void. On the commencement of this Act, any custom or tradition or any contract, agreement or other instrument (whether entered into or executed before or after the commencement of this Act) by virtue of which any person, or any member of the family or dependent of such person, is required to do any work or render any service as a bonded labourer, shall be void and inoperative.

• Liability to repay bonded debt to stand extinguished.-On the commencement of this Act every obligation of a bonded labourer to repay any bonded debt or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished. • Liability to repay bonded debt to stand extinguished.-On the commencement of this Act every obligation of a bonded labourer to repay any bonded debt or such part of any bonded debt as remains unsatisfied immediately before such commencement, shall be deemed to have been extinguished.

**IMPLEMENTING AUTHORITIES** • Authorities who may be specified for implementing the provisions of this Act.- The State Government may confer such powers and impose such duties on a District Magistrate as may be necessary to ensure that the provisions of this Act are properly carried out and the District Magistrate may specify the officer, subordinate to him, who shall exercise all or any of the powers, and perform all or any of the duties, so conferred or imposed and the local limits within which such powers or duties shall be carried out by the officer so specified. • Duty of District Magistrate and other officers to ensure credit.- The District Magistrate authorised by the State Government under section 10 and the officer specified by the District Magistrate under that section shall, as far as practicable, try to promote the welfare of the freed bonded labourer by securing and protecting the economic interests of such bonded labourer so that he may not have any occasion or reason to contract and further bonded debt.

**OFFENCES AND PROCEDURE FOR TRIAL** 16 Punishment for enforcement of bonded labour.- Whoever, after the commencement of this Act, compels any person to render any bonded labour shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

Punishment for advancement of bonded debt.- Whoever advances, after the commencement of this Act, any bonded debt shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees.

Punishment for extracting bonded labour under the bonded labour system.- Whoever enforces after the commencement of this Act, any custom, tradition, contract, agreement or other instrument, by virtue of which any person or any member of the family of such person or any dependent of such person is required to render any service under the bonded labour system, shall be punishable with imprisonment for a term which may extend to three years and also with fine which may extend to two thousand rupees; and, out of the fine, if recovered, payment shall be made to the bonded labourer at the rate of rupees five for each day for which the bonded labour was extracted from him

MISCELLANEOUS Protection of action taken in good faith.- No suit, prosecution or other legal proceeding shall lie against any State Government or any officer of the State Government or any member of the Vigilance Committee for anything which is in good faith done or intended to be done under this Act.

Jurisdiction of civil courts barred. No civil court shall have jurisdiction in respect of any matter to which any provisions of this Act applies and no injunction shall be granted by any civil court in respect of anything which is done or intended to be done by or under this Act. Power to make rules.- The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

Major provision of the minimum wages Act 1948 Object of the Act:- • The statement of the objects and reasons for the Bill states. The justification for statutory fixation of minimum wages is obvious. • The Act extends the concept of social justice to the workmen employed in certain scheduled employment by statutorily providing for them minimum rates of wages

### **Family Court Act,1984**

1. } The Family Courts are designed for speedy trial and quick disposal of matrimonial disputes (i.e., the dispute between the husband and wife). In view of increase in the incidence of matrimonial disputes and increasing pendency of the cases in civil and criminal courts, Judges, women organizations etc. requested the Central Government to pass a special legislation to deal exclusively with matrimonial matters. The Law Commission vide its reports 54 and 55(1974) recommended the Government to pass a special enactment for establishment of Court/Courts to deal with family matters. As a result, the Family Courts Act was passed in 1984 for the establishment of Family Courts in India. } In *M.P. Gangadharan v/s. State of Kerala*(2006 SC) , the Supreme Court has held that Family Court should be established not only because it is provided in the Act but the state must be alive to the situation that it has a duty to provide all infrastructure to the forum of dispute resolution.

2. } In some western countries, family courts are already functioning. Now it is accepted by most, that litigation in respect of any matter concerning family, whether divorce, maintenance, custody of children and trial of juvenile offenders should not be viewed in terms of failure of success of legal action, but as social therapeutic problem. No court which is engaged in finding out what is better for the welfare of the family, whether a marriage has broken down or not, who



should have custody of children or which spouse needs maintenance, should rest content with the assertions and contentions of the parties and evidence led by them to prove or disprove their contentions and allegations. The court engaged in this task requires a less formal and more active investigational and inquisitional procedure. In short, this will imply that it is not a litigation in which parties and their counsels are engaged in winning or defeating a legal action but parties, lawyers, social workers, welfare officers and psychiatrists, all are engaged in finding out a solution to the problems engaging the attention of the court.....

3. } .....Thus, the concept of family court implies an integrated broad based service to families in trouble. It stipulates that the family court structure should be such as is meant to preserve the family, and to help to stabilize the marriage. Obviously, for such a system, the adversary litigation system is hardly appropriate. Such a system visualizes the assistance of the specialized persons and agencies. } **THE FAMILY COURT ACT, 1984** :- It is a progressive legislation. It contains 23 sections. Initially, the Act did not draw the attention of all the State Governments. In course of time, it attracted the attention of several states. Under the Act, Family Court have been established in some states. The States and High Courts concerned are empowered under the Act to frame necessary rules. The State of A.P. framed the A.P. Family Courts (High Court) Rules, 1995.

4. } The object of the establishment of Family Court is to promote Conciliation, Mediation and speedy settlement of disputes relating to marriage and family affairs. The High Court of a State is empowered to establish the Family Courts in consultation with the State Government, for those towns and cities whose population exceeds one million. The Judges of the Family Courts are appointed by the State Government with the consent of the High Court. A Family Court may consist of a single Judge or more than one Judge. } The Family Court is higher than the District Court and lower than the High Court. } **Qualifications:** Following are the qualifications for the appointment as Judge of the Family Court: 1. Atleast 7 years experience as a Judicial Officer. 2. An advocate of High Court having not less than 7 years standing.

5. 3. He must be a member of a Tribunal etc. ♣ The age of retirement of the Family Court Judge is 62 years. Women is given preference for the appointment as Judges of the Family Courts. } **JURISDICTION OF THE FAMILY COURT** :- Section 7 of the Family Courts Act, 1984 provides the list. It can exercise jurisdiction in the following cases : 1. A suit or proceeding between the parties to a marriage for a decree of nullity. Restitution of Conjugal Rights, Judicial Separation and Divorce. 2. A suit or proceeding as to the validity of a marriage or as to the Matrimonial status of any person. 3. A suit or proceeding between the parties with respect to the property.

6. 4. Custody and financial support to the children. 5. Maintenance of wives, children and old parents. } In *Shyni v/s. George*, (1997 Kerala), it was held that wife can implead a close relative of her husband or even a stranger on allegations that the husband had handed over the property to them in a suit for recovery of the property. This would not oust the jurisdiction of the Family Courts. } In *K.A. Abdul Jaleel v/s. T.A. Sahida* (1997 Kerala) : The expression “parties to marriage” was held to include a divorced wife and a petition filed by her for declaration and partition of property jointly acquired by them would be maintainable.

7. } A civil suit to declare the decree of family court as null and void is not maintainable (*Shahnaz v/s. Shirin*, 1995 Bombay). Family Court’s jurisdiction will have precedence over our matrimonial and family law statutes. } **SCOPE OF INTERFERENCE IN APPEAL IN ORDER OF FAMILY COURT** : No specific procedure has been prescribed by statute to be followed by Family Court deciding application for custody of minor child. The only thing to be considered by

court is whether the procedure adopted by Family Court was in accordance with principles of natural justice. Paramount consideration is welfare of the child (Dr. Rohit Dandekar v/s. Dr. Raj Kavitha,(2004).

### **Tamil Nadu Prohibition of Eve teasing Act 1988.**

**EVE TEASING** Eve teasing is one kind of sexual harassment of women by men with use of the "EVE" Being a reference to the biblical EVE, the first woman considered a problem related to Delinquency in youth. It is a form of sexually aggression like – → Erotic behavior towards females. → Molestation of women by men. Molestation of women by men. → Street harassment. Street harassment. → Whistling at women etc. Some feminist writers claim that this behaviour is a kind of "little rape"....

**4. MODE OF EVE TEASING** →Offensivewatch→ Sly whistle→ Well-timedclap→Unwarrantedknock→Seeminglycasualtouch→Lastinglookat a helpless time→Suggestive songswith closed lips→ Slang comments→ Cheap gestures→ Display of an indecent video→ Passing by inslowmoving cars blasting loud music with many eyes all these are typical examples of eve teasing

### **5. PRESENT SCENARIO OF EVETEASING**

**6. SCENARIO IN BANGLADESH** 1. 90% girls aged 10-18 are victim of sexual harassment. 2. 32% eve teaser are students , 33% are middle aged men and 35% are anti social workers. 3. Bangladesh National Lawyer Association has given another statistic that in 2006 there are 24 stories of eve teasing in various newspapers and 20 in 2007 , 39 in 2008, 54 in 2009 , 52 in 2010 (Najneen Akter, daily Janakontha,2010 ). 4. Odhikar has reported in 2011 there are 672 incidents of eve teasing . But according to Odhikar there were 129 incidents in 2010.

**7.** 1.Degradation of social, cultural, moral values 2.Lack of positive attitudes towards women in the society 3.Considering women as commodities 4. Spreading of pornography 5.Free and uncontrolled telecast of satellite TV channels 6. Lack of proper cultural activities 7. Unawareness of the parents regarding their children **CAUSES OF EVE TEASING**

**8.** 8. Evil company 9. Drag addiction 10. Unemployment problem 11. Lack of proper education 12. Gender discrimination in the society 13. Absence of separate laws regarding eve teasing 14. Unawareness among mass people 15. Lack of moral and religious education in the curriculum 16. Modern fashion

### **9. IMPACT OF EVE TEASING**

**10.** Mental Weakness Curtailed education

**11.** Early Marriage

**12.** Women's suicide

**13.** Prevention OF EVE Teasing

**14.** Proper implement of law Mobile patrolling lead by lady police Social awareness Prevention of misuses of mobile internet Increase of religious education The door of vulgar cinema and open sky culture must be stopped Free mixing of male & female must be stopped Family education Last of all, we all have to grow a better humanity & outlook towards women

### **Persons with disability act, 1995**

1. Persons with disability act, 1995 λ Person with disabilities means a person suffering from not less than forty percent of any disability as certified by a medical authority. λ Persons with disabilities act,1995 was passed by Loksabha in 12th dec.1995 and come into enforcement on feb.7,1996. λ This act is extends to the whole of India except the state of Jammu and Kashmir.
2. This act explain the equal opportunities, protection of right and complete involvement of disabled persons. In this act responsibilities are assigned to central and state government, local corporation and municipalities to provide the services and facilities and equal opportunities to disabled persons so that he/she may also prove himself as productive citizen of there society.
3. Persons with Disabilities Act, 1995 (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995) The aims and objectives of the Act are: 1. To spell out the responsibility of the state towards the prevention of disabilities, protection of rights, provision of medical care, education, training, employment and rehabilitation of persons with disabilities; 2. To create a barrier free environment; 3. To counteract any situation of abuse and exploitation of persons; and 4. To make special provision of the integration of persons with disabilities into the social mainstream. 5JSS Law College
4. Main provisions of the act λ Prevention and early detection of disability λ Education λ Employment λ Non- discrimination λ Research and manpower development λ Affirmative action λ Social security
5. Persons with Disabilities Act, 1995 prevention and early detection of disability : 1. Undertake surveys, investigations and research concerning the cause of occurrence of disabilities 2. Promote various methods of preventing disabilities 3. Provide facilities for training to the staff at the primary health center 4. Take measures for pre-natal and post-natal care of mother and child; 5. Educate the public through the pre-schools, schools, primary health centers, village level workers and anganwadi workers; 6. Create awareness amongst the masses through television, radio and other mass media on the causes. 7JSS Law College
6. Persons with Disabilities Act, 1995 Education: 1. Promoting the integration of students with disabilities in normal schools. 2. Promoting setting up of special schools in government and private sector;. 3. Conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis; 4. Conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above; 5. Imparting education through open schools or open universities; 6. Conducting class and discussions through interactive electronic or other media; 7. Providing every child with disability free of cost special books and equipments needed for his education. 8JSS Law College
7. Persons with Disabilities Act, 1995 Employment 1. The appropriate governments to identify posts in government establishments, which can be reserved for disabled persons and review the list of posts at periodic intervals (not exceeding three years) (Section 32) 2. At least 3 percent of vacancies in every government establishment are to be reserved for persons with disabilities. Out of which 1 per cent each shall be reserved for persons suffering from blindness or low vision and the other 2 percent for persons with hearing impairment But the central government may exempt any establishment from the above

- requirements if the nature of work in such establishments is such that disabled persons are unable to work in such establishments. 9JSS Law College
8. Persons with Disabilities Act, 1995 Non-discrimination 1. Adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons 2. Engrave the surface of the zebra crossing for the blind or for persons with low vision; 3. Devise appropriate symbols of disability; 4. Provide warning signals at appropriate places. 5. Provide ramps in public buildings; 6. Provide Braille symbols and auditory signals in elevators or lifts; 7. Provide ramps in hospitals, primary health centers and other medical care and rehabilitation institutions. 10JSS Law College
  9. Persons with disabilities act,1995 Research and manpower development 1. Research in the following areas shall be sponsored and promoted: prevention of disability Development of assistive devices Job identification on site modifications on offices and factories. 2. Financial assistance shall be made available to the universities, other institutions of higher learning, professional bodies and non-government research units.
  10. Persons with Disabilities Act, 1995 Affirmative Action Special schemes are to be notified for the preferential allotment of land at concessional rates for: – Housing – Setting up business – Setting up special recreational centers – Establishment of special schools – Establishment of research centers – Establishment of factories by entrepreneurs with disabilities (Section 43) 12JSS Law College
  11. Persons with disabilities act,1995 Social security 1. Financial assistance to non-government for rehabilitation of persons with disability 2. Insurance coverage for the benefit of the government employees with disabilities 3. Unemployment allowance to people with disability registered with the special employment exchange for more than a year and who could not be placed in any gainful occupation.
  12. Persons with Disabilities Act, 1995 Comprehensive schemes are to be prepared by the government for: 1. Transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools. 2. The removal of architectural barriers from schools, Colleges or other institution, imparting vocational and professional training; 3. The supply of books, uniforms and other materials to children with disabilities attending school. 4. The grant of scholarship to students with disabilities. 5. Suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision; 6. Restructuring of curriculum for the benefit of children with disabilities. 14JSS Law College
  13. λ At last we can say that persons with disability act are provide equal opportunities, protection of right all disabled person and help complete involvement in all activities. This act encourage the non-formal education. PWD act come into force on such date as the central government may, by notification appoint.