ALAGAPPA UNIVERSITY

Directorate of Distance Education

Master of Social Work
II - Semester
349 24

SOCIAL WELFARE ADMINISTRATION
AND
LEGISLATIONS
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India being a welfare state has made great efforts for the development and welfare of its citizens, especially for the vulnerable sections of the society—women, children, people with special needs, unemployed, aged, minorities, etc.

Social service occupies an important place in the Indian scenario. It is specifically stated in Article 38 of Indian Constitution that ‘the State shall strive to promote the welfare of the people by securing and protecting as effectively as it may, a social order in which justice—social, economic and political—shall include all the institutions of the national life’. During the six decades of planning, the social welfare policies have aimed at the collective welfare of the Indian citizens. Successive Indian governments have enacted various social legislations for ensuring social justice to millions of Indians. India’s forefathers Pandit Nehru and Patel realized that Indian society needed to free itself from the shackles of its deep-rooted social problems and so enacting social legislations started immediately after India’s Independence.

Social legislation is ‘a set of laws’ designed to uplift and protect the economic and social position of those groups in society which because of age, race, sex, physical or mental disability or lack of economic power, cannot achieve dignified standards of living for themselves. The aims of social legislations in India include: (i) Women welfare, (ii) Child welfare, (iii) Development of Scheduled Castes, (iv) Welfare of Other Backward Castes, (v) Welfare of people with disabilities, (vi) Welfare of labour, and (vii) Housing welfare.

Social legislations are an important instrument for bringing about desirable social changes. Almost all the social problems have evolved over centuries through religious superstitions and dogmatic beliefs. Social evils like the caste system, polygamy, the purdah system, ban on widow remarriages, no education for females, female infanticide and child marriages have been practiced since centuries in Indian society. Many social experts believe that these social evils were responsible for keeping India captive to under-development and poverty. While in the fourteenth and fifteenth centuries many Western civilizations made huge strides towards progress and development, India kept languishing under the burden of its social problems.

The book Social Welfare Administration and Legislations has been written in keeping with the self-instructional mode or the SIM format wherein each unit begins with an Introduction to the topic, followed by an outline of the Objectives. The detailed content is then presented in a simple and organized manner, interspersed with Check Your Progress questions to test the student’s understanding of the topics covered. A Summary along with a list of Key Words, a set of Self Assessment Questions and Exercises and Further Readings is provided at the end of each unit for effective recapitulation.
UNIT 1 SOCIAL WELFARE ADMINISTRATION

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1.0 INTRODUCTION

The term social service is very often used in a general sense that includes organized activities that are primarily and directly concerned with the conservation, protection and improvement of human resources. The fundamental characteristic of social services is its capacity to integrate and personalize the response of different human needs. It takes into account the holistic view of the individual and looks into the needs of the weakest and the most vulnerable and ensures fundamental human rights to all. They foster development of all capacities of the individual that allows, as far as possible, a productive and personally satisfying life.

Social welfare means a range of specialized services for the weak, vulnerable, and disadvantaged sections of the community. In a broad sense, it is an objective of development planning and at an applied sense it denotes a particular specialized sector of social service. Social welfare services denote programmes that are
intended to cater to the special needs of individuals and groups who, by reason of some handicap: social economic, physical or mental are unable to avail themselves of or are traditionally denied, the amenities and services provided by the community.

Social welfare policy is the implementation of the concept of social justice as a state policy. It attempts to put emphasis on ideas such as equality, liberty and fraternity from a peculiarly socio-economic angle. The state becomes an agency to implement this in practice. Social policy is a strategy of actions indicating the means and methods to be followed in successive phases to achieve the declared social objectives.

Much before the social reform movement during the nineteenth century there were several religions reform movements. During this period, religion was the foundation of almost all the early welfare activities. Social reformers both religions and political, also relied heavily on the intervention of the state and the instrument of social legislation for the abolition of some social and religious practices that were detrimental to the welfare of certain segments of society; mostly for women and children.

Social welfare activities, such as, the care of the handicapped and destitute, were the responsibility of the joint family and religions institutions. The government assumed only a limited responsibility in these areas. During British rule, with changes in Indian society, such as urbanization and industrialization, organized social welfare came into existence in urban areas. During the early part of the twentieth century voluntary effort emerged on a large scale and welfare work started to be carried out by voluntary organizations. Most of these organizations limit their services to a particular caste or religious group. Voluntary workers are concerned with issues relating to social disparities, rehabilitation of the handicapped and exploitation of women and children. Voluntary effort has been responsible for the establishment of hospitals and educational institutions are committed to a social cause.

1.1 OBJECTIVES

After going through this unit, you will be able to:
- Discuss the meaning and definition of social welfare
- Describe the functions of a social welfare administration
- Explain accounting, auditing and fundraising

1.2 MEANING AND DEFINITION OF SOCIAL WELFARE ADMINISTRATION AND SOCIAL WORK ADMINISTRATION

In modern times, most of the countries have adopted the concept of a welfare state instead of a police state. The encyclopaedia of social sciences describes
Social Welfare Administration

Social welfare administration as a welfare state which takes up the responsibility to provide a minimum standard of subsistence to its citizens. A welfare state means a state which provides extensive services to the people. Thus, in a welfare state, the administration enters into economic, political, social and educational life of individuals. It also provides services to individuals, right from an individual’s birth to death. The state is to serve the old, sick, orphans, widows, helpless, oppressed and the disabled people whenever they are in need of services.

In the context of the present day social problems, the size of welfare services provided by an increasingly large number of organizations makes administration very important. Social welfare services, schemes, projects and programmes are becoming increasingly complex. Off late, it has been realized that social welfare programmes need to have well-trained and qualified individuals in order to perform social welfare functions effectively. As a result, it is argued that for serving people effectively it is necessary to hire professionals as it will amount to greater efficiency with minimum difficulties.

To achieve the aims and objectives of social welfare, the government formulates social policies and programmes and in pursuance thereof, enacts social legislation, allocates financial assistance and provides organizational and administrative linkages in the form of ministries and departments. It also seeks the partnership of non-governmental organizations for the effective implementation of various social welfare programmes. The administration of all these activities being undertaken in the sphere of social services and social welfare is considered as falling in the realm of social welfare administration.

Historical Development and Purpose

Mutual aid has been a part of every society. The desire to help one’s fellowmen has been in existence from time immemorial but the forms and methods of help have been varying from society to society, depending upon the social, economic and political factors. The Indian traditional view of social welfare is based on daya, dana, dakshina, bhiksha. The essence of which are self-discipline, self-sacrifice and consideration for others. The well-being of all depends on these values upheld by people individually and through community action. All religions levied upon their devotees a certain percentage of their income which was to be set aside as tax for charity purposes. The rulers of those days extended help to the afflicted parts of the population during emergencies like floods, earthquakes, fires, droughts and other natural calamities. In India, from the administrative angle, the reigns of king Ashoka, Harsha, Chandragupta Maurya, Akbar, Sher Shah Suri and Ferozeshah Tuglak, are the landmarks of administration that took care of different social needs of the people. The British administration, established an administrative set-up intended mainly for maintaining law and order. Some social reform measures were implemented by banning Sati and permitting widow remarriage by Acts passed in 1829 and 1856, respectively. After independence,
the old administrative pattern continued with the necessary changes to suit the social, political and economic set-up of the nation.

Social welfare administration in the field of social welfare, during the first Five Year Plan, created a unique administrative machinery consisting of an autonomous board named Central Social Welfare Board (CSWB) in August 1953. Similarly, the Social Welfare Advisory Boards were established at the state level. The main purpose of the Board (CSWB) has been to provide financial and technical assistance to voluntary organizations working in the field of social welfare.

If we look at the history of administrative organization, we find that before 1964 social welfare programmes were being managed by different ministries such as education, home, industries, health, labour, etc. The Renuka Ray Committee in its report submitted in 1960, recommended the establishment of the Department of Social Security. Under the aegis of Prime Minister Lal Bahadur Shastri, a social security department was established and located in the Ministry of Law on fourteen June 1964. The department of Social Security included areas such as social security, social welfare of backward classes; khadi as well as handicrafts. In 1966, it was renamed as Social Welfare Department. It was located in the Ministry of Education and Social Welfare created in 1971. Its status was raised to a ministry in the year 1979. Its name was further changed to the Ministry of Social and Women Welfare in 1984. With the creation of a separate department of Women and Child Development in the Ministry of Human Resource Development, it was reorganized and the organization was changed to the Ministry of Welfare in 1985. Subsequently it was renamed as the Ministry of Social Justice and Empowerment. Thus, the Central government has to set up a full-fledged ministry and organizations subordinate to it. These comprised the National Commission for Scheduled Castes and Tribes, Minorities Commission, National Institute of Social Defence, National Institute for the Handicapped, Department of Women and Child Development, Central Social Welfare Board, National Institute of Public Cooperation and Child Development under its administrative control. Besides the execution of social welfare projects, schemes and programmes sponsored and financed wholly or partly by the Central government; the state governments and union territory administrations formulate and implement welfare service programmes on their own in their respective jurisdictions. The state government union territories administrations carry out their welfare obligations and programmes mainly through their department of social welfare and voluntary organizations. In most of the states there is now either a full-time Secretary for social welfare or it is one of the main portfolios of a secretary. Thus social welfare schemes are still spread over more than one department directorates. The pattern of implementation of some of the schemes, such as old age pension, widow pension, and supplementary nutrition programmes also varies from state to state. Though most states now have district social welfare officers, there is no social welfare functionary at the block level.
Scope of Social Welfare Administration

There are broadly two views about the scope of social welfare administration. These are:

- The POSDCORB view
- The Integral view

1. The POSDCORB View of Social Welfare Administration

This is a narrow view of social welfare administration and takes into account mostly the execution of the government sponsored programmes. In other words, this view corresponds with the managerial view. Henri Fayol, L. Urwick, Fercey M. Ovean and Luther Gulick are advocates of this view.

According to Henry Fayol, the main categories of administration are:

(i) Organisation
(ii) Command
(iii) Coordination
(iv) Control

L. Urwick also agrees with Fayol’s views. L. Gulick has given a useful acronym in his special coinage: ‘POSDCORB’ where each letter describes one technique. These letters stand for:

- P Planning
- O Organizing
- S Staffing
- D Directing
- C Coordinating
- R Reporting
- B Budgeting

**Planning**: Planning means working out broad outlines of things that need to be done as well as the method that should be adopted to accomplish the purpose set for the enterprise.

**Organization**: It is the establishment of the formal structure of authority through which the work is sub-divided, arranged, defined and coordinated for the defined objective.

**Staffing**: Staffing is the process by which all positions in an organization are filled. It includes personnel who are appointed to run operations as well as train the existing staff in order to maintain favourable work conditions.

**Directing**: It is the continuous task of making decisions and implementing them in specific and general orders and instructions. It includes guiding the enterprise as a single cohesive unit.
Coordinating: Refers to the integration of several parts into an orderly whole to achieve the set targets. In other words, coordinating is the task that requires work of various divisions to get integrated.

Reporting: Refers to the process by which team leaders, managers and other higher ups submit their response or feedback to those who are in a superior position to them. In other words, reporting means keeping both: supervisors and subordinates informed of different organizational decisions and processes.

Budgeting: Is the process by which fiscal planning, accounting and control is carried out. It is an important part of any organization as it ensures processes run smoothly without wasting resources.

Social welfare administration vis-à-vis POSDCORB activities are common to all large scale organizations. They are the common problems of management found in different agencies, regardless of the peculiar nature of the work they do.

2. The Integral View of Social Welfare Administration

Another view of the scope of social welfare administration has come into vogue during the last few years. Due to the emergence of new social problems, the subject matter of social welfare administration is expanding day-by-day. The already overburdened administrative machinery of the government itself, not being able to successfully tackle these problems, involves various non-governmental organisations for this purpose. Therefore, this view incorporates not only the subject matter of social welfare administration but the implementation aspect as well, which is primarily the focus of POSDCORB.

The scope of social welfare administration is quite diverse in nature. With the emergence of new social problems of entirely different nature, a new strategy needs to be evolved for its solution. It may require optimum utilisation of available resources e.g. human, institutional, financial, technological etc. in a changing context. The social welfare administration incorporates a number of factors that are significant in the process of finding successful solutions to social problems.

A brief description of these factors (outlined by D.R. Sachdeva, 1992) is given below:

Contents of social welfare administration: Social welfare is concerned with the following:

- **Social Problems**: Assessment of its causes, prevention and treatment through public participation and effective implementation of social legislation.

- **Social Services**

- **Social Security**

- **Social Policy**
1.2.1 Principles

By and large social work is centred on two main concepts: (i) social work is a response that come to surface in order to address social problems, (ii) social work can be classified by the way(s) in which it deals with these problems.

The following are the principles of social work administration:

1. **Acceptance:** Group or team leaders should work as a collective and take appropriate actions. The motive is to foster a basic sense of security among employees.
2. **Participation:** According to this principle, members should come together to participate in policies and procedures.
3. **Communication:** Aims and objectives should be communicated to all members of a group or organization. Integrity and honesty is an integral part of every social welfare organization.
4. **Leadership:** Administrators have the responsibility of leading the team, group or organization in order to achieve goals and objectives.
5. **Planning:** Is central to the process of development. It is crucial for ensuring services that fulfil objectives are deemed meaningful.

The following is a comprehensive view of principles that have been formed by Trecker:

(a) **The Principle of Social Work Value:** These refer to the values that have been established by an organization.
(b) **The Principle of Community and Individual Requirements:** Individual and community requirements have given rise to social agencies.
(c) **The Principle of Agency Objectives:** These refer to the social purpose of the agency that must be drafted with clarity.
(d) **The Principle of Cultural Context:** In order to generate appropriate social services, individual and societal needs ought to be understood appropriately in the context of its specific culture.
(e) **The Principle of a Functional Professional Relationship:** These refer to the nature of relationship that exists between the board, administrator, employees and constituency.
(f) **The Principle of Totality:** These refer to the ways in which organizations, agencies and other bodies should be seen in its totality.
(g) **The Principle of Professionalism:** These refer to the ways in which administrators are responsible for ensuring high standards of professionalism.
(h) **The Principle of Participation:** These refer to suitable assistance offered by board members, staff and other constituencies.
(i) The Principle of Managing: These refer to the work that administrators have to do in order to ensure efficiency in processes. These have to be structured in a manner that clearly defines tasks and responsibilities. Moreover, the output has to be coordinated and classified. It is the administrator’s duty to ensure that these are carried out with maximum efficiency.

(j) The Principle of Utilization: These refer to monetary resources and facilities that need to be carefully preserved.

(k) The Principle of Transformation: These refer to changes and transformation that take place both within the individual and community and in turn shape organizations.

(l) The Principle of Assessment: An ongoing evaluation of processes is crucial to the completion of the agency’s objectives.

(m) The Principle of Growth: The aspect of growth and development is an important concept under the purview of the administrator.

What is Social Work Administration?

As per John C. Kidneigh (1950), social work administration is the ‘process of transforming social policy into social services. It is a two way process (1)… (it involves) transforming policy into concrete social services and (2) (It uses).… experiences in recommending modification of policy.’

Spencer suggests that there is general agreement that ‘administration is the conscious direction of the internal relationship and activities of the enterprise toward the achievement of goals.’ She also adds that it includes the conscious intervention in the interacting forces operating between the agency and the larger community of which it is a part.

Dunham describes administration as the process of supporting or facilitating activities which are necessary and incidental to the giving of direct service by a social agency. Administrative activities range from the determination of function and policies and executive leadership to routine operations such as keeping records and accounts and ongoing records of maintenance services.

Social work administration may be understood as the action of staff members who utilize social processes to transform social policies of agencies into the delivery of social services. It involves executives, leaders and every other staff member of the team. The basic processes most often used are: planning, organizing, staffing, directing and controlling.

Method of Social Work

There are five main social work methods, one of which is administration.

There is one method in social work, the problem solving method that encompasses all of the other five, with a focus on understanding and solving problems related to social functioning and social relationships (Skidmore).
Administration is a significant process recognized in social work. It is in reality a kind of social work practice – the way in which social services can be facilitated and the delivery of such services. While, case work concerns helping individuals or families with social relationships, group work uses the group as a tool to do the same. Community organization means solving social problems through the neighbourhood and community action; administration is the process that has to do with running an agency and involves goals, policies, staff, management, services and evaluation. Effective administration can really make a difference in the delivery of social services.

Administration is the method that helps facilitate the functioning and operation of an agency. Administration and other methods have much in common as they involve people, encompass relationships and problems and share many techniques and principles in the helping process. In other words, social work administration is the process of transforming social policies into social services.

Check Your Progress
1. What are the two views that discuss the scope of social welfare administration?
2. Write a note on staffing as an important part of social work administration.
3. What are the factors that come under social welfare administration?
4. Outline the two concepts which provide the basis of social work.
5. What is the importance of planning, leadership and communication?

1.3 FUNCTIONS OF SOCIAL WELFARE ADMINISTRATOR

A social welfare administrator not only performs the task of carrying out day-to-day functions but also makes efforts to continuously popularize and develop the organization.

Warham (1967) has outlined the following functions which should be performed by a social welfare administrator:

1. To Achieve the Objectives: A social welfare administrator sincerely implements policies of the organization. Policies can be implemented only through administrative processes. The administrator also participates in the formulation of policies so that uniformity between objectives and policies may be maintained.

2. To Create Formal Structure: In order to make the communication system more effective, a social welfare administrator creates a formal structure, prescribes normative standards for employees and develops work relationships according to them.
3. **To Encourage Cooperative Efforts:** A social welfare administrator ought to create a favourable work atmosphere in the organization in which staff members may easily perform their duties and responsibilities. If there is conflict somewhere it becomes the task of the administrator to resolve it. It is essential to make efforts to maintain high level of morale among employees, particularly by giving due recognition to work and conduct.

4. **Exploration and Utilization of Resources:** Both, financial and human resources are essential for effective functioning of any organization. An organization can effectively discharge its responsibilities if it has enough money and efficient employees. It is the function of the administrator to explore and properly utilize the financial resources. Financial control is also the function of an administrator who, if need be, will delegate their powers so that colleagues may use this power and function effectively.

5. **Supervision and Evaluation:** The administrator is responsible for effective performance of functions of organization. They keep an eye on the staff of the organization to check for any type of malfeasance, and provide the necessary help directions whenever required. They keep an account of performance and continuously evaluate the progress of work. In instances, where they find the conduct to be unsatisfactory combined with inefficiency in work they may proceed to take the necessary disciplinary actions as per the established rules.

L. Gulick (1937) has given a useful acronym to describe the functions of social welfare administration – POSDCORB — which represents planning, organizing, staffing, directing, coordinating, reporting and budgeting, respectively. A detailed description of these functions has been given below:

1. **Planning:** It is an intellectual process aimed at preparing an outline for systematic performance of functions. This outline is prepared on the basis of available facts, keeping in view the underlying philosophy and future objectives. Without a comprehensive plan, there will be difficulties in proper performance functions. The main function of planning is to clearly specify the objectives. After this, the policy for attaining goals and objectives is formulated, after which the necessary methods and procedures are highlighted. The next step is to specify methods and resources that have to be implemented in order to attain specified goals and objectives. A continuous evaluation of the progress is also incorporated as part of the work plan.

Planning, in short, is a process of bringing about proper adjustments between prioritized needs on the one hand, and available or movable resources, on the other. A plan is a document which clearly outlines what is to be done, how it is to be done, what kind of resources are to be mobilized or utilized and what will be the method of monitoring progress in the direction of established goals and objectives.
2. **Organizing**: Organizing is an important function because the performance of functions of any organization depends on it. It specifies the roles and functions and conditions in which they are to be performed. It defines the relationships between different constituents of organization and clarifies their roles and responsibilities. An outline of the organization is prepared by keeping in view the goals and objectives that are to be achieved.

3. **Staffing or Personnel Supervision**: Selection of staff is an important function of every administrator because performance primarily depends upon the competence of the employee. The quality of services provided by the organization depends upon the quality of staff. The following considerations are important in selecting competent staff:
   - (i) Policy relating to employee selection, promotion, and other decisions should be clear. Only competent employees should be appointed for various positions.
   - (ii) Employee grievances should be addressed quickly.
   - (iii) Decisions should be taken on the basis of facts and philosophy of the organization, and they should not be changed under pressure.
   - (iv) Functions and roles of all employees should be clear, and their responsibility should be well fixed.
   - (v) Continuous efforts should be made to develop a cooperative attitude and collaborative practices among employees.
   - (vi) Communication should be bilateral i.e., there should be free and frank exchange of information between employees and administration.

4. **Directing or Office Administration**: It is necessary to provide direction to employees, particularly when they are not able to decide about the action to be taken by them in unexpected situations. The objectives of direction are as follows:
   - (i) To see if the work is being performed according to rules and directions.
   - (ii) To help employees in performing assigned tasks and functions.
   - (iii) To maintain team spirit and feeling of cooperation.
   - (iv) To maintain standards of work.
   - (v) To understand the drawbacks and to make efforts to remove them.
   - (vi) To provide guidance in case of handling unforeseen and difficult situations.

5. **Coordinating**: Coordination is the process of synchronizing efforts of various constituents in order to achieve goals effectively; particularly by avoiding all kinds of wastage of resources. There are two important functions of coordination in an organization:
   - (i) to bring about uniformity between goals and functions and
   - (ii) to unify the functions performed. This is possible only when every member of the organization is fully committed to the organization.
and is prepared to make the sincerest and best efforts to achieve its goals with full commitment.

6. Reporting: Facts are presented through the system of reporting. A brief description of different activities performed during a specified period is given in the report. A report is very important from the viewpoint evaluating work performance. A report is prepared on the basis of various documents available in the organization and submissions made by heads of various divisions, departments, units and cells.

7. Budgeting: An administrator must prepare the budget for every year and get it approved by the concerned policy making body. A budget is prepared keeping in view the objectives that have been prepared. A budget is a statement of income and expenditure.

In addition to the above seven functions presented by L. Gulick, two more functions have been added to the list. These include: (1) evaluation, and (2) feedback. As a result, the acronym is now POSDCORBEF. Evaluation is the assessment of the progress made in the direction of achievement of goals and objectives. It sheds light on factors and forces due to which stipulated goals could not be achieved and suggests guidelines for future action, particularly strategies that should be adopted for goal achievement in an effective manner.

Feedback is the process of providing knowledge of the results of any behaviour. In the context of communication, it refers to the response or reaction of the receiver to the message transmitted by the speaker so that the communicator may know, whether the message sent has been received by the recipient in the same sense in which it was intended.

1.4 AUDIT AND ACCOUNTING

Accounting is the process of identifying, measuring and communicating economic information to various users. Another difficulty relates to maintaining accounts by voluntary agencies.

Pooling of resources on a joint platform may help smaller agencies in maintaining their accounts at least on an elementary basis. It may also be possible for few agencies in an area to engage one person to maintain their accounts with the help of office bearers. This aspect of voluntary agencies has to be strengthened by national organizations and the government, and also by grant giving bodies. Maintaining records should be one of the minimum standards of any welfare agency.

Auditing

Audit is an independent appraisal performed by an expert of an activity or event. There are operational, technical, ecological and other types of audit. Reviewing financial statements is one of the most common forms of audit.
The primary goal of accounting is to provide organizations with clear comprehensive and reliable information about its economic activities and status of its assets and liabilities. This information is presented in the form of accounting reports like the balance sheet, income statement, and statement of cash flows.

Audit of financial statements is the process of examining financial statements and underlying records of the organization in order to deliver an opinion on what the statements mean and anticipate trends. Therefore the main goal of an audit is to perform through evaluations of financial records and reports and provide statements on how improvement can be brought about.

There are still cases of small organizations not getting their accounts audited regularly. Perhaps this is due to the fact that either the agencies cannot maintain their accounts properly, or auditors are not available in the area, or that the organizations cannot afford the audit fee. In some states like Odisha and Assam, where a sufficient number of private auditors are not available and there are large numbers of small agencies which cannot afford audit fee, the government’s Audit Department has taken the responsibility of auditing the accounts of these agencies through government auditors. If the idea of coordinating councils had been put into practice in India, it would not have been difficult for smaller agencies to pool their resources and get the services of auditors, either free or at nominal costs. Voluntary agencies have to become business-like before they project themselves in a community and seek its participation and also seek government assistance. With the mushrooming of voluntary agencies, it is necessary that some financial control over the working of voluntary agencies is exercised. One of the methods by which this can be done is that voluntary agencies should learn and prepare budget estimates and also maintain their accounts at least on an elementary basis so that they can answer questions from donors.

1.4.1 Fundraising

Fund raising is one of the most demanding situations faced by social welfare organizations. In today’s scenario, raising funds is as important and difficult as sustaining credibility. Among others, welfare organizations have to undertake the task of securing the trust of benefactors. Its credibility depends largely on portraying the vision, techniques as well as results of prior assignments. Social welfare organizations use several fund raising techniques, some of which are: direct mail, outsourced face-to-face sales, telecalling, cause related marketing, events, payroll giving and product based. Over a period of time, these practices have become well defined and have even gained industry status. A close analysis will help explain how these practices are useful in raising funds.

(a) Direct mail: this is one of the most common methods of reaching out to people keeping in mind expenses and other related matters. Direct mail has been used by many organizations and is an effective way of conveying organization goals, vision and initiative. It includes other forms of
correspondence identified as lift letter, warm mail, case studies, newsletter, Magazine subscription lists, etc.

(b) **Outsourced face-to-face promotion:** this is a practice which gives information to people keeping in mind the possibility of making them benefactors of the organization. This is carried out by trained personnel who give out information and clarify queries regarding any project of the organization.

(c) **Telecalling:** is a method through which people are informed about social initiatives. This is done by workers or volunteers who have been given the task of educating people of initiatives and other projects.

(d) **Cause-Related Marketing:** is a way of generating funds by foregrounding the charitable aspect of the organization. It also includes various efforts that are made within the organization that can be positioned in a profitable way.

(e) **Events:** are ways through which welfare agencies interact with people. It includes several programmes and activities.

(f) **Payroll giving:** is a way of ensuring that employees give a portion of their income to charity.

(g) **Products:** creating products that are made by employees of the organization or made by children for whom a welfare drive is being mobilized are useful marketing techniques for generating funds.

**Roles and Functions of Financial Management: Sources of Finance**

A detailed study of the growth of welfare work during 1951–60 reveals that 3,509 institutions were established during this period. A majority of them were established during 1954-57, that is, as a result of the impact of the grant-in-aid system of the Central Social Welfare Board. Only four agencies or institutions, that is, 0.11 per cent were established during 1960. This is an indication of the fact that a saturation point had been reached in the growth of welfare organizations at the end of the Second Five-Year Plan. Another reason for this is that the Board decided to continue assistance in the Third Five-Year Plan to only those agencies which were aided by it up to 1960 and no new institutions were encouraged for financial assistance. Among the all-India voluntary organizations also a majority of the organizations, that is, 33.30 per cent were set up during this period. A study of the growth of institutions on a countrywide basis reveals that Maharashtra and West Bengal have been leading in this.

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**Check Your Progress**

6. What is planning?
7. What is an audit?
1.5 SOCIAL POLICY MAKING

Since Independence, social policy was viewed from the prism of a state subject. As India was marred by large-scale poverty and illiteracy, our forefathers knew that India could not afford to walk on the path of capitalism and market oriented economy. Nehru was of the view that India’s solution to poverty and other social problems lay only in socialist-oriented policies. Nehru believed in socialism because it was holistic in nature and gave due consideration to all the important aspects of the society; socialism would not just consider India’s economic aspiration but even the centuries-old problems of casteism, feudal system, illiteracy, etc. In the initial years after Independence, socialism played a dual role. The first was to guide India towards economic development and the second was to make India a social welfare country. Socialism played the first role quite diligently as Nehru converted Indian economy into a state-controlled economy; all the important means of production and industries were nationalized and brought under state control. The second role was quite challenging though, as it pertained to the centuries-old social practices. To overcome them, Nehru resorted to the Constitution and social legislations. Though implementation of Constitution was purely a state matter, the society’s cooperation was considered mandatory to achieve success.

From 1951 to the 1990s, India lived under the shadow of socialism. In these four decades the state had control over not only all the important economic activities, but also all the important facets of a citizen’s life, education and health. Indira Gandhi’s decision to nationalize the banking sector (to make banking affordable for the poor) and (the then Union minister of industries) George Fernandes’s decision to show IBM and Coca Cola the exit door, clearly reflected Indian Government’s socialist inclination. However, by the late 1980s, the façade of socialism was crumbling in India. India’s economy was stagnating under the burden of growing fiscal deficit, falling exports and stagnant industrial growth. On the front of social development too, the story was no different. Poverty, literacy, health, caste problem—in all these social areas India was able to make only marginal progress. Obviously, there was no other option for India but to chart a different path; a path that would push India out of poverty, illiteracy and other social problems. India’s search for the path ended in 1992 when the country introduced economic reforms. Economic reforms, to a large extent, led to the end of the government’s authoritarian control over India’s economy, and this also had tremendous impact on the country’s social policies.

1.5.1 Areas in Social Work

Some of the areas in social work include:

Women’s Welfare

In order that a woman may be allowed to fulfil her legitimate role in the family and the community, adequate services need to be promoted for her welfare. The position
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1. The functions of the woman differ to a great extent in different communities, and, therefore, community welfare agencies will have to work out their programmes and activities according to the specific requirements of the areas in which they work. Important problems relating to the status and rights of woman have to be dealt with by legislation. Special organisations on the part of the Central or State Governments for promoting the welfare of women have not yet been developed to any great extent. Well-organised social service departments are needed in the States if they are to initiate more comprehensive programmes of woman and child welfare and achieve better co-ordination between the efforts of public and private agencies. The major burden of organising activities for the benefit of the vast female population has to be borne by private agencies which have already done considerable work for the promotion of women’s welfare. The All-India Women’s Conference has 37 branches and about 300 ‘sub-branches’ in the country. The National Council of Women in India has 12 major branches, and the Girl Guides Association, the National Y.W.C.A., the Association for Moral and Social Hygiene, and the Trained Nurses Association in India, are affiliated to it. The Kasturba Gandhi National Memorial Trust does extensive work for the welfare of women and children in rural areas and has representatives to carry out activities in eighteen States. There are numerous small organisations all over the country which have done valuable work for women. These organisations provide dispensaries and maternity centres, homes for destitute children and shelter homes for women. They also organise programmes for education, recreation and training in handicrafts.

2. Child Welfare

The child, being always dependent, has to be provided for by its parents and the family, the community and the State. Considering the size of the population involved and the nature and complexity of the problem, the total responsibility of welfare has to be borne cumulatively by the family, the regional community, and the State at three different levels. The problem of survival and the high incidence of infant mortality and birth-rate has been dealt with in the chapter on Health. The problem of education is dealt with likewise in another chapter. However, certain aspects of the problem of health, growth and care of the child need the attention of social welfare agencies.

In a country where poverty is extensive, there is need to supplement the diet of children. Effective ways have to be devised by the State and private agencies to see that the necessary nourishment is received at least by under-nourished children in schools and in established institutions. To augment State resources, an effort should be made by each local community to assist educational institutions and child welfare organisations in supplementing the diet of the child in some way. At present, skimmed milk powder, cases of baby foods, semolina, vitamin tablets, pabulum cereals, codliver oil, etc., are received as gifts from various sources. Efforts to organise collections in kind at the community level could be supplemented by grants-in-aid from charity trusts and local self-governing bodies. It is desirable...
that State organisations, the Red Cross, the Indian Council of Child Welfare and other important national and State organisations for child welfare should co-ordinate their efforts both for the collection and distribution of supplementary foods for children. The five most suitable agencies for the distribution of free foods to children at the community level are (1) milk centres (2) maternity and child welfare centres (3) community centres (4) day nurseries and schools, and (5) play centres.

**Family Welfare**

There are a few agencies dealing exclusively with the problems of the family in India, and they cater mainly to local needs. Sectional groups assist their members with small doles and provide help in education, medical assistance and housing accommodation. Recently, some family welfare agencies have come into existence in Madras, Bombay and other places. The case work method is being used to assist families in rural as well as urban slum areas. This is a small beginning which shows a new approach to family problems. The organisations of extensive community welfare programmes in urban and rural areas creates the possibility of organising family welfare services on a small scale, including especially a family counselling service. As more case workers become trained in the various schools of social work, it will be possible to undertake a survey of family taal-adjustments and handicaps in selected community areas and to assist families in dealing with their economic and pathological problems.

The Central as well as State Governments may assist private organisations, trusts and funds in creating and running institutions or centres for the development of small-scale industries, crafts and handicrafts. Such institutions will provide avenues of employment and training and help families in avoiding destitution or in supplementing small family incomes.

**Youth Welfare**

Youth is the stage in life when, through training and development, immaturity approaches maturity for work, marriage, social participation and cultural attainment. The period of youth should stand for growth, development, preparation, action and leadership. Youth matures quickly in an atmosphere in which there is freedom, activity, recognition and opportunity. The life of youth should not be over-occupied with training and education, but there should be opportunity for self-expression, comradeship, community life, and national service.

The youth movement includes two kinds of organisations, namely, those which work for the welfare of youth, and those composed of the youth themselves. In varying degrees, youth organisations are interested in or are influenced by political emphasis. In order that youth organisations should grow and make an effective and continuing contribution to national life, their endeavour should be to give their main attention to activities which would promote youth welfare. Besides, the strength of the national youth movement can only be built up as a result of unity in action and comradeship amongst those who work for youth welfare in any of its aspects.
National Physical Fitness

The subject of national fitness deals with the maintenance and improvement of health of every citizen in order to develop efficiency. In the absence of legislation in the form of a National Fitness Act, it is necessary that physical fitness programmes are promoted by the States, as well as by the community.

It is possible for a nation to attain by organised effort and education certain physical qualities, abilities and skills so as to be able to perform the normal functions of life, be prepared for the protection of home and nation in times of external aggression and danger, and contribute towards national efficiency for economic production. A physical fitness standard for the individual should include the three factors of agility, strength and endurance which are the basis of all physical qualities and skills. In order to achieve the above, a national standard of physical achievement for all adults has to be laid down.

Crime and Correctional Administration

Research in the problem of crime in India has not yet made sufficient advance. The immediate task is to change or modify existing policies and programmes in order to adjust them to new objectives which seek to protect the interest of society and achieve a total rehabilitation of the offender. Crime is stimulated by conditions prevailing in society and it is due to personal and psychological factors. Economic conditions have always been a factor contributing to crime. Intensive surveys to study the causes, nature and extent of crime should be undertaken by research organisations, universities and other private agencies. The treatment of the crime problem is intimately related to the nature of legislation, and the approach of the judiciary to crime. So far there has been no basic approach towards the various problems of correctional administration, but a number of useful steps have been recently taken by States and there is growing interest in the reform of penal administration.

The problem of correctional administration has to be dealt with in three stages: the pre-committal stage; the administration of correctional institutions; and probation and after-care. The principle that no person should be considered an offender till he is proved guilty should govern the treatment of accused and under-trial persons. The administration of police lock-ups and jails needs to be reviewed in the interest of the proper treatment of the inmates of the lock-ups. Special care must be taken when first offenders are committed to jails, so that no serious psychological harm is done to them. The administration of correctional institutions is governed by jail manuals. A recent conference of State Inspectors-General of Prisons has proposed the appointment of a committee to suggest the basis on which jail manuals may be revised to suit the new objectives, methods and programmes of correctional institutions, remove the inflexibility of rules, and permit greater freedom to the authorities on the spot to interpret sympathetically the rules so as to serve the objects of rehabilitation. Changes in the jail manuals will naturally
Social Welfare Administration

require a revision of the Prison and Prisoners’ Act which would need to be modified to meet changes in correctional administration.

**Welfare of Physically Handicapped**

The physically handicapped person, if he is not able to receive medical attention, or when such attention is found to be of no avail, has to depend upon his family for maintenance and shelter. Absence of family support leads to beggary, or dependence upon public charity. Inadequate medical treatment, absence of vocational training, and lack of opportunities for social adjustment of the persons to the environment has contributed to the sufferings of a large number of persons who ought to receive the intelligent assistance of the community, and if possible an effective assistance from the State. Physically handicapped persons are classified as (i) those lacking in one or more physical senses, i.e., blindness and deafness, or combinations; (2) those suffering from movement difficulties; i.e., orthopaedic, malnutrition and cardiac; and (3) lepers, epileptics, rachitic, and dumb persons. The total number of afflicted persons in India has hardly ever been correctly estimated. This is due to defective enumeration, lack of definitions, and the desire of persons to avoid publicity to their handicaps. To obtain better estimates of afflicted persons, sample surveys in selected urban and rural areas are needed. Some provision for physically handicapped persons exists in several States. Voluntary associations which are already working the welfare programmes for this class of persons need to be encouraged and assisted.

**1.5.2 Purchasing and Stock Keeping**

The purchasing function involves:

(a) Identification of needs, for goods and services
(b) Identification of costs to cover the needs for those goods and services,
(c) Identifying the suppliers, procuring estimates (at least three)
(d) Negotiating favourable trading terms with them,
(e) Placing an order
(f) Receiving the goods and/or services and paying for them
(g) Preparation of accounting and archiving expenditures.

It also involves:

(a) Credibility of the supplier in terms of being able to supply the requirements and in time
(b) Cost effectiveness of the goods supplied
(c) Quality of goods supplied
(d) Supplier should meet all necessary formalities in connection with its status as per the rules and regulations of the Government.
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(e) Supplier must be able to supply all the good in the requisition/or of the specification prescribed in the purchase order

(f) Must be local, reliable and known

(g) Must be able to supply large quantities if necessary

(h) Past performance

(i) Availability of supplier

(j) Reputation of supplier

Maintaining a Stock

(a) This is to be maintained at the office where the goods are purchase or stored centrally.

(b) This register shall be updated on the receipts column as and when fresh stocks arrive. It is important that the person responsible for the stocks initials the quantity in the stock book.

(c) All requisitions must be numbered and in duplicate. One copy has to be maintained at the central store and the duplicate given to the accounts.

(d) All issues shall be recorded immediately in the stock register and this must be updated on a daily basis.

(e) The stock registers should be maintained on a first in, first out basis.

1.5.3 Record Maintenance

According to Arthur Dunham (1962), administration is the process of supporting or facilitating activities which are necessary and incidental to services by a social agency. Administrative activities range from the determination of function and policies, and executive leadership to routine operations such as keeping records and accounts and carrying on maintenance of services.

Record maintenance is important for evaluation of social welfare programmes and agencies. Quantitative monitoring (measuring how much or how many) has the tendency to record numeric data related to the programme. For example: the number of posters distributed, the number that were posted, the number of counselling sessions conducted, the number of times a radio programme was aired, the number of truck drivers who received work-related training and so on. It focuses the type and frequency of programme elements that are being conducted. Quantitative monitoring has the tendency to encompass the recording of numerical counts. The actions in the project or programme timeline of activities should be scrutinized carefully to learn about the monitoring activities that can probably be useful in measuring progress. The project timeline should also include methods to monitor associated activities.

Therefore, we find that it is a process which includes definite knowledge, understanding, principles and ways of interaction. Its main focus is on the suitability
and accessibility of social services to the needy. Social work enables the process of administration through guidance, planning, stimulation, organisation, creating structure, coordinating and research. To fulfil the well-defined main objectives of administration, policies are suitably amended; programmes are formulated and budget, finance, personnel and selection procedures are made.

1.5.4 Coordination

It is rightly said that a battle can be lost no matter how strong the force, if there is no coordination among the various wings, divisions and units of the force. As in battle, so in administration. No organization, no matter how competent its staff, can achieve its desired objective without coordination. The first principle of management states that an organization has to work well, no part of it should repeat what the other part does, no employee should work at cross-purposes and that there should be no conflict among various units internally. This is technically called ‘coordination’. Negatively, coordination means removing conflicts and overlaps in administration. Positively, it means securing cooperation and teamwork among all employees. Newman defines coordination as ‘the orderly synchronization of efforts’ to provide the proper degree of time and involvement resulting in harmonious and unified actions. Coordination is needed not only for securing work and cooperation but also to prevent conflicts that may arise in the working of an organization due to: (i) the ignorance of employees or units about each other’s activities, (ii) a tendency among men in charge of particular activities to regard their own deal as all-important unmindful of the needs of others and make encroachments on others’ sphere of activities, and (iii) a growing tendency towards empire building or greed for power among different units of an organization.

Coordination at the organizational level can be achieved through several devices such as establishing a special unit for coordinating work commonly known as the ‘coordination’ or ‘establishment’ section or unit, through standardization of procedures and methods, through departmental meetings and conferences and through organization and process staff. Coordination at the inter-organizational level can be achieved through devices such as interdepartmental committees, meetings and conferences among officials of different departments and by appointing centralized staff, secondary and financial agencies like the joint committees of interrelated departments and from time to time other agencies such as the Public Works Department, the Estate Office, the Directorate General of Supplies and Disposal, the Union Public Service Commission, the Comptroller and Auditor General of India and the Ministry of Finance and its various departments. Coordination at the national level or at the inter-state level in India is achieved through the Planning Commission, the National Development Council, conferences and meetings, zonal councils and inter-state councils. The Cabinet Secretariat, the Cabinet headed by the Prime Minister and various Cabinet Committees effect major coordination between the Centre and the states. Conferences of governors, chief ministers and ministers are common and these
help in coordination. Besides the above bodies, certain other institutions and boards like the University Grants Commission, Inter-university Boards, Association of Indian Universities and the Indian Historical Records Commission are also doing coordination work.

Check Your Progress

8. List five most suitable agencies for the distribution of free foods to children at the community level.

9. How can coordination at the organizational level be achieved?

1.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The two views are: POSDCORB and the Integral view.

2. Staffing is the process by which all positions in an organization are filled.

3. Social work is concerned with the following factors: social problems, social services, social security and social policy.

4. By and large social work is centred on two main concepts: (i) social work is a response that come to surface in order to address social problems, (ii) social work can be classified by the way(s) in which it deals with these problems.

5. Planning, leadership and communication form the central basis of development. Every administrative body requires three separate divisions that are focus on planning, giving directions and ensuring that every member is up to date with important information, policies and deadlines.

6. Planning is an intellectual process aimed at preparing an outline for systematic performance of functions.

7. An audit is an independent appraisal performed by an expert of an activity or event.

8. The five most suitable agencies for the distribution of free foods to children at the community level are: (1) milk centres (2) maternity and child welfare centres (3) community centres (4) day nurseries and schools, and (5) play centres.

9. Coordination at the organizational level can be achieved through several devices such as establishing a special unit for coordinating work commonly known as the ‘coordination’ or ‘establishment’ section or unit, through standardization of procedures and methods, through departmental meetings and conferences and through organization and process staff.
1.7 SUMMARY

- A welfare state means a state which provides extensive services to the people. Thus, in a welfare state, the administration enters into economic, political, social and educational life of individuals.

- To achieve the aims and objectives of social welfare, the government formulates social policies and programmes and in pursuance thereof, enacts social legislation, allocates financial assistance and provides organizational and administrative linkages in the form of ministries and departments.

- There are broadly two views about the scope of social welfare administration. These are:
  - The POSDCORB view
  - The Integral view

- The POSDCORB view of social welfare administration is a narrow view of social welfare administration and takes into account mostly the execution of the government sponsored programmes.

- The scope of social welfare administration is quite diverse in nature. With the emergence of new social problems of entirely different nature, a new strategy needs to be evolved for its solution.

- By and large social work is centred on two main concepts: (i) social work is a response that come to surface in order to address social problems, (ii) social work can be classified by the way(s) in which it deals with these problems.

- As per John C. Kidneigh (1950), social work administration is the 'process of transforming social policy into social services. It is a two way process (1) … (it involves) transforming policy into concrete social services and (2) (It uses) … experiences in recommending modification of policy.'

- Administration is a significant process recognized in social work. It helps facilitate the functioning and operation of an agency.

- A social welfare administrator not only performs the task of carrying out day-to-day functions but also makes efforts to continuously popularize and develop the organization.

- L. Gulick has given a useful acronym to describe the functions of social welfare administration – POSDCORB — which represents planning, organizing, staffing, directing, coordinating, reporting and budgeting, respectively.

- Accounting is the process of identifying, measuring and communicating economic information to various users. Another difficulty relates to maintaining accounts by voluntary agencies.

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Social Welfare Administration

- Planning
- Organizing
- Staffing
- Directing
- Coordinating
- Reporting
- Budgeting

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Self-Instructional Material
• Audit is an independent appraisal performed by an expert of an activity or event. There are operational, technical, ecological and other types of audit. Reviewing financial statements is one of the most common forms of audit.

• The primary goal of accounting is to provide organizations with clear comprehensive and reliable information about its economic activities and status of its assets and liabilities.

• Fund raising is one of the most demanding situations faced by social welfare organizations. In today’s scenario, raising funds is as important and difficult as sustaining credibility.

• In order that a woman may be allowed to fulfil her legitimate role in the family and the community, adequate services need to be promoted for her welfare.

• According to Arthur Dunham (1962), administration is the process of supporting or facilitating activities which are necessary and incidental to services by a social agency.

• Coordination is needed not only for securing work and cooperation but also to prevent conflicts that may arise in the working of an organization due to: (i) the ignorance of employees or units about each other’s activities, (ii) a tendency among men in charge of particular activities to regard their own deal as all-important unmindful of the needs of others and make encroachments on others’ sphere of activities, and (iii) a growing tendency towards empire building or greed for power among different units of an organization.

1.8 KEY WORDS

• Staffing: It is the process by which all positions in an organization are filled. It includes personnel who are appointed to run operations as well as train the existing staff in order to maintain favourable work conditions

• Social Service: It is a service rendered to any person on the basis of a desire to serve inspired by the feeling of helping others.

• Budgeting: It is the process by which fiscal planning, accounting and control is carried out.

• Social Welfare: It is a range of specialized services for the weak, vulnerable, and disadvantaged sections of the community.
1.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

**Short Answer Questions**

1. What is social work administration?
2. What are the methods of social work?
3. Write a short-note on auditing.
4. What does the purchasing function involve?
5. Why is coordination needed in an organization?

**Long Answer Questions**

1. Examine the two views about the scope of social welfare.
2. Describe the functions of a social welfare administrator.
3. What is fundraising? What are the practices used in fundraising?
4. Discuss the different areas of social work.

1.10 FURTHER READINGS


UNIT 2  PUBLIC RELATION, EVALUATION AND MONITORING

Structure
2.0 Introduction
2.1 Objectives
2.2 Public Relation
2.2.1 Monitoring and Evaluation
2.3 Research and Annual Report
2.4 Social Welfare Administration at National, State and Local Levels
2.5 Central Social Welfare Board (CSWB)
2.5.1 State Social Welfare Advisory Boards
2.6 Directorate of Social Welfare and Handicapped Welfare in India
2.7 Answers to Check Your Progress Questions
2.8 Summary
2.9 Key Words
2.10 Self Assessment Questions and Exercises
2.11 Further Readings

2.0 INTRODUCTION

In the previous unit, you were introduced to various concepts of social welfare administration. In this unit, we will discuss the use of public relation, evaluation and monitoring in social welfare administration. The unit will also discuss social welfare administration at the national, state and local levels. It will examine the Central Social Welfare Board, state welfare boards, as well as the directorates of social welfare and handicapped welfare.

2.1 OBJECTIVES

After going through this unit, you will be able to:

- Discuss the role of public relations, monitoring and evaluation in social welfare administration
- Describe social welfare administration at the national, state and local levels
- Examine the objectives of the Central Social Welfare Board

2.2 PUBLIC RELATION

As social welfare organizations are becoming increasingly popular, public relations and networking is fast becoming an important task. Public relations and networking
Public Relation, Evaluation and Monitoring

includes social welfare communication which is needed to create and maintain cordial ties with benefactors and other people who are involved. In addition to developing concepts and ideas it also records information that one receives from others. It is important to note that communication is central to this process and involves proper dissemination of knowledge among team members. Public relations personnel are required to not just preserve but mobilize other agencies and public support as well.

The following have been identified as major steps involved in public relations and networking:

- Mobilizing public support and awareness
- Creating confidence among staff members
- Identifying problem areas and creating a discussion panel
- Conveying the benefits
- Striving hard to increase participation

The proper leverage of social communities essentially allows public relations practitioners to effectively communicate to the target group through message broadcasting, brand awareness and word of mouth (WOM). Social network public relations offer organizations the opportunity to build brand awareness, research consumer opinions, identify opinion leaders, spread specific messages, and so on. If approached with a well-defined public relations strategy, the development and cultivation of such networks can provide the opportunity to instil credibility and trust within a brand, the factors that ultimately enhance reputations and drive sales.

The public relations process follows the model of persuasive communication. It too has the objective of bringing about a change in the opinions, beliefs and attitudes of the public. To this end, the public relations process has the following elements in it:

- Image Audit
- Planning
- Collection of Information
- Preparation of Message
- Evaluation

(a) Image audit

This is the first stage in any public relations process. Before the process may be initiated, it is necessary for the public relations department to know about the kind of image the organization has earned in public memory. Image audit is carried out with the help of image surveys in which questionnaires are distributed among a sample group of the population to know what they feel about the organization. As the questionnaire is comprehensive enough, it collects good amount of information about how the public rates the organization on various variables.
(b) Planning

Once the public relations managers have collected information about the ways in which the public views the organization, the next stage in the public relations process is to plan the public relations campaign. Planning involves preparation of the plan of action which should state the specific and measurable goals of the PR process, the types of messages to be inserted in the mass media, the mass media to be approached, and the estimated budget for these activities. Based on the cost benefit analysis, a workable plan of action needs to be put in place.

(c) Collection of Information

In order that suitable messages may be prepared for circulation in the public sphere, information about the strengths, weaknesses and developmental activities needs to be collected. This information needs to be evaluated for its news value before it may be used for message preparation.

(d) Preparation of message(s)

The information collected needs to be artfully presented in the form of persuasive messages. This requires skills of news writing and inter-personal skills for the organization of press conferences and meetings. The messages need to be tailored according to the relative strengths of each media chosen for the purpose.

(e) Evaluation

Once the organization has released verbal and non-verbal stimuli in the form of various mass media messages in the public domain, it needs to assess their impact on the target audience. This calls for an Impact analysis.

In public relations and networking, local public awareness activities are conducted by inviting several members of the community to interact with each other. It can be said that community outreach is an initiative taken by individual members or a group as a whole to make other members of an organization aware of their ideas or practices. Such programmes at times are also conducted for general public and are mostly conducted by various NGOs, religious institutions and civic groups.

Unlike most of the marketing campaigns, community outreach programmes do not entirely focus on a particular product or strategies to increase their market share. These programmes usually involve dissemination of ideas, and educating the participants about a particular event. They are generally carried out by the organizations to publicize their outreach strategies and are linked to:

- Mission of the organization
- Organization goals and milestones
- Defined target areas
The educational (other than politico-social) institutions can play a very effective role in community outreach programmes. These institutions can also initiate a procession for mobilizing support for development activities, developing public service projects and instructional programmes, and collaborating with other institutions to further community goals. To achieve the broad based participation, it is essential to build a true community outreach programme. This can take many forms: advertising community activities in the media, using newsletters, or by making presentations at organizational meetings. But the most effective techniques involve direct and personal contact that is offered in a welcoming spirit.

2.2.1 Monitoring and Evaluation

Both evaluation and monitoring work concurrently. Monitoring gives the basic data that answers the majority of questions whereas, evaluation is the conversion of data in order to provide logical value.

Monitoring

Monitoring is the systematic collection and analysis of information of a project. It is an effort to make a project or an organization more efficient and effective. Monitoring is an outcome of pre-set goals and activities designed in the planning phase of work. It helps in ensuring that work is carried out as per schedule. Monitoring becomes a precious tool for the management if it is used proficiently and comes across as an effective base for evaluation. It enables one to determine whether the available resources are sufficient and are being used well, whether the capacity one has is sufficient and appropriate and whether one is doing what one plans to do. In monitoring, data is collected regularly and progress is measured with respect to programme objectives. There are three main domains of information required in a monitoring system:

(i) Inputs: These are resources that conduct and carry out the project or programme. These may include employees, funding, resources and time.

(ii) Process: This is a group of activities in programme resources.

(iii) Outputs: This is the instant outcome that a programme achieves by executing activities (e.g., quantity of merchandise distributed, number of staff undergoing training, people reached, or number of people served).

Monitoring takes care of the following issues:

- The degree of realization of planned activities
- The progress made to achieve set goals
- The kind, perspective, duration and time of the services provided and the people who avail this service
- The level of satisfaction that results from these services
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- The quality of services provided
- The cost per unit service

Monitoring also measures the extent to which a programme or project:

- Is undertaken consistently with every design or implementation plan
- Is aimed at the precise target group

Evaluation

Programme evaluation refers to the purpose of research, rather than to any specific research methods. Its purpose is to gauge and improve the conceptualization, design, planning, administration, implementation, effectiveness, efficiency and utility of social interventions and human service programmes (Rossi and Freeman, 1993).

The three broad objectives of programme evaluation are:

(i) To assess the ultimate success of programmes
(ii) To assess problems in implementation of programmes
(iii) To obtain information needed in planning and developing programmes.

Programme evaluation can be further classified as summative and formative. Summative evaluations are concerned with the ultimate success of a programme and decisions about its selection from alternative options and its continuity. Formative evaluations are focused on obtaining information that is helpful in planning the programme and in improving its implementation and performance. Evaluation of the outcome and efficiency of programmes may assess whether they have any unintended harmful effects, whether success is being achieved at a reasonable cost and how the ratio of its benefits and cost compares with the benefits and costs of other programs with similar objectives. This approach to evaluation is sometimes called the goal attainment model of evaluation. It refers to formal goals and mission of the programme.

Evaluation is comparison of the impact of the actual project with agreed strategic plans. It considers what one sets out to do, what one has accomplished and how it has been accomplished. It can be formative (taking place during the life of a project or organization, with the intention of improving the strategy or way of functioning of the project or organization). It can also be summative (drawing knowledge from a completed project or an organization that is no longer functioning). Evaluation means making use of social research methods to explore the efficiency of activities.

The uses of evaluation are as follows:

(i) Validating alterations within the core group (e.g., transformations in risk behaviour).
(ii) Assess the extent to which goals have been achieved. It is the process to check the efficiency and usefulness of a programme or a project.
(iii) Tracking the result and effects of programmes or projects on a broad scale

(a) Outcomes: Short-term or intermediary outcome achieved by executing the activities of programmes.

(b) Impact: Long-term effects (e.g., changes in health status).

Questions that are asked during evaluation are as follows:

1. What are various types of results that have been detected?
2. What is the meaning of the results?
3. What are the effects of the programme?

The purpose of evaluation is to learn about the effect of the result of one or more projects or programmes. It is a challenge to carry out evaluations due to the following reasons:

- The process involves laborious study and design that comprises groups that control or compare.
- It tries to find how one project or programme is different from others, within the same target group or geography.
- The workforce needed for coordinating and guiding the design and implementation of evaluation is usually scarce, especially if it is an external agency.
- There is a dearth of skills required in evaluation design, data collection techniques (in terms of both, quantity and quality), study, review and diffusion.
- Lack of monetary resources (NGOs have a large number of priorities and hence, it may be difficult for them to come up with funds needed for evaluation).

Results and evaluation of the effect is closely linked with the process of monitoring. The evaluator can make use of process information to learn about the reasons and ways related to interventions achieving their effects. Using the same, the evaluator can also know about the aspects that affect the outcome. If the results are analyzed without paying attention to the implementation of the programme, they may prove to be faulty, depending on the efficiency of the intervention.

**Cost-effectiveness analysis**

Cost-effectiveness is helpful to managers and planners in decision-making related to the appropriate employment of their budgets and funding. This information enables decision-makers to decide on different ways of funding and analyze if the funds are being suitably spent or need to be re-allocated. The result is an outcome which is a combination of both, examination and cost data.

- **Quantitative monitoring** (measuring how much or how many): Has the tendency to record numeric data related to the programme. For example:
the number of posters distributed, the number that were posted, the number of counselling sessions conducted, the number of times a radio programme was aired, the number of truck drivers who received work-related training and so on. It focuses the type and frequency of programme elements that are being conducted. Quantitative monitoring has the tendency to encompass the recording of numerical counts. The actions in the project or programme timeline of activities should be scrutinized carefully to learn about the monitoring activities that can probably be useful in measuring progress. The project timeline should also include methods to monitor associated activities.

- **Quantitative methods:** Are usually dependent on organized or uniform means of collecting and analyzing numeric data. Quantitative approach can be used to investigate all types of evaluations and research queries, since majority of the phenomena can be measured in terms of numbers. A few widely-used quantitative methods comprise population census, surveys related to population and regular components of surveys related to health services, inclusive of a facility census provider, interviews, provide client observations and client exit interviews.

- **Qualitative monitoring** (quality or qualitative): Answers questions related to topics like the manner in which programme elements have been conducted. It also addresses the impact of programme activities on actual or developing behaviour change; the manner in which information pervades the ‘at-risk’ community, etc. This can also function as a component of the feedback system.

- **Qualitative methods:** Are usually dependent on different semi-structured or open ended methods for producing detailed and explanatory information. A few of the widely-used qualitative methods comprise focus group discussions and in-depth interviews. Investigation of the same phenomenon can also comprise the use of quantitative methods and qualitative methods, where both these methods complement each other. Flexible methods can also be used to explore important issues and decide the language to be used in a structured questionnaire. On the other hand, if a survey gives results that are not clear or explanatory, open-ended focus group discussions or in-depth interviews with a sub-group of survey respondents can be used for understanding results.

**Tools for Monitoring and Evaluation**

A method can be termed as a scientific design or approach used in a monitoring, evaluation, or research activity. A data collection tool refers to an instrument used to record the information that will be gathered through a particular method. Tools are the most important component of the techniques of quantitative data collection. The reason for this is that quantitative methods depend on organized and
standardized instruments like questionnaires. Tools (like open-ended questionnaires or checklists) are usually used for collecting qualitative data, as a means for guiding a relatively standardized implementation of a qualitative method. The programme staff can probably use or manage tools or they may be self-administered (which implies that the programme participant or client fills in answers on the tool). In case the tools are to be self-administered, a documented process should be in place for collecting data from customers who are not educated. There should be no breach of their space, privacy and confidentiality. A few of the popular quantitative tools for monitoring and evaluation are as follows:

- Sign-in (registration) logs
- Registration (enrolment, intake) forms; checklists
- Programme activity forms
- Logs and tally sheets
- Patient charts
- Structured questionnaires

Qualitative tools for monitoring and evaluation comprise:

- Focus group discussion guide
- Direct observation checklist
- In-depth interview guide

Monitoring and evaluation (M&E) is an important part of every programme. It provides the means for measuring the success in the achievement of goals and objectives. Using monitoring and evaluation, the key stakeholders and programme designers can get to know the outcome of a programme. For monitoring and evaluation to be successful and to provide useful results, it must be incorporated into the programme at the design stage. Planning an intervention and developing a suitable strategy should work hand in hand. In order to make sure that the monitoring and evaluation activity is relevant and sustainable, project designers must work together with national and local stakeholders and donors. An integrated and complete monitoring and evaluation work plan should be put in place. These work plans should be integrated in every type of project. They highlight the information that is required to be collected, describe ways to collect it and indicate how to distribute and use the outcome. Ideally, an all-inclusive template should determine its larger purpose. It presents specific questions, methods and tools that indicate the kind of data to be collected and ways to collect it. The work plan also explains the flow of monitoring and evaluation data specifies essential resources and its subsequent implementation. It ought to outline a fundamental timeline and provide a strategy to use and disseminate data. The role played by monitoring and evaluation in several projects is that of a policing exercise that is conducted in order to identify and rectify errors.
The following are seven key problems that have been identified:

(i) Low dedication among staff resulting in delayed implementation of strategies.
(ii) Monitoring is considered to be an obligation that has been forced externally. The project staff works reluctantly to complete forms and the job is seen as mere gathering of data.
(iii) Monitoring may churn out information that is not relevant and that is inferior in quality because it only emphasizes on the physical and monetary factors and skips factors like project outreach, effect and impact.
(iv) Insufficient attention is given to the monitoring requirements of other stakeholders, like beneficiaries, society-based organizations and other local associates.
(v) There are barely any internal project reviews or ongoing self-evaluations. Generally, external evaluations or supervisions introduce amendments and changes.
(vi) There is no integration or cooperation between monitoring and evaluation functions and project management.
(vii) Participatory and qualitative methods are not used to their full capacity as their complete value is not known. Both monitoring and evaluation are directed at learning from what is being done and how it is being done by emphasizing on it.

- **Efficiency**: It is the state where the output is proportionate to the input in the form of efforts. The input and relative output may be in terms of finance, time, staff, equipment, etc. When a project is undertaken and executed, implementation of plans and strategies is an important concern, hence efficiency becomes crucial.
- **Effectiveness**: It is the degree of success that development programmes or project achieves, in terms of the set objectives.
- **Impact**: It is the factor that determines whether or not the programme or project has made a difference to the situation it has addressed. In other words, it is an indication whether the strategy was useful or not. It is important to consider the impact of the current project before one decides to take a bigger one on the same lines.

Monitoring and evaluation helps in:

- Reviewing progress
- Identification of problems related to planning and/or implementation
- Incorporation of adjustments so that “making a difference” becomes easy

Several organizations believe that monitoring and evaluation are required by benefactors rather than they being management tools. Benefactors have the right to know how their money is being spent and also if it is being spent in the right
way. However, the fundamental and most significant use of monitoring and evaluation is to evaluate the current impact and to devise ways to improve efficiency. Though plans are very important, they cannot be fixed. Their rate of success or failure determines whether or not they should be changed. Monitoring and evaluation indicate whether plans are succeeding or not and also whether the circumstances have changed. They also provide the management with information necessary for decision-making, related to the project or organization. Aspects like the pillars of strategic framework: problem analysis, the vision and values of project or organization remain consistent. Apart from these aspects, everything else can be subjected to negotiations. It needs to be kept in mind that monitoring and evaluation themselves are not a solution, but they are tools of great value. They help in:

- Identifying problems and their causes
- Suggest possible solutions to problems
- Raising questions about assumptions and strategies
- Provide information and insight
- Encourages one to act on the information and insight
- Increase the probability of a positive impact

Monitoring comprises the following:

- Setting up indicators of competence, efficiency and impression
- Establishing systems to gather information related to the indicators
- Collecting and recording information
- Analyzing information
- Using information to update day-to-day management

The following are the salient features of evaluation:

- It focuses on the objectives of a project or an organization.
- It reviews progress.
- It analyses the strategy of the project or organization.
- It addresses the following:
  (i) The efficiency of the use of resources
  (ii) The opportunity costs
  (iii) The consistency of the project or the organization
  (iv) The effects of the operations of the organization or project on stakeholders

An evaluation focuses on the effectiveness, efficacy and effect of the project or organization. It can be done in a number of ways. The most popular ones are as follows:

**Self-evaluation:** This comprises an organization or a project aiming to conduct self-analysis and self-assessment of its performance by learning and
improving its practice. The organization needs to be very honest for this process to be effective. Thus, it may come across as a significant learning experience.

**Participatory evaluation:** It is a type of internal evaluation. The purpose is to get maximum number of people to directly participate in the work. People involved may be those working on the project including the beneficiaries. An outsider, if involved, can only facilitate the process and not evaluate it.

**Rapid participatory appraisal:** This was initially used only in the rural belt. However now, this technique is applicable to many communities. This method of evaluation is based on quality. It is semi-structured and is conducted by an interdisciplinary team in a short time. It is used as a base to understand an internal situation and can collect information quickly, cheaply and usefully. It involves utilization of secondary data, direct observation, semi-structured interviews, substantial informants, group interviews, games, diagrams, maps, calendars, etc. In terms of evaluation, it provides significant contribution from people who are likely to benefit. Moreover it is elastic and interactive.

**External evaluation:** This type of evaluation is carried out by an external person or team.

**Interactive evaluation:** In this type of evaluation, an external evaluator or evaluation team actively interacts with the organization or the project under consideration.

At times, someone from within the organization may also be part of the evaluation team. The information desired is linked with the importance attached to it. In the activity of development, this importance is related to our values. A large amount of work in civil society organizations is built on a value framework. It is this framework that determines the standards of acceptability in the work we do.

The central values on which most development work is built are:

- Serving the disadvantaged
- Empowering the disadvantaged
- Changing society as opposed to just helping individuals
- Sustainability
- Well-organized utilization of resources

So, the most important thing one needs to know is; what needs to be done and in what way, for meeting the requirements of these values? For responding to this question, our monitoring and evaluation system must provide details related to:

- Who is benefiting from what we do? How much are they benefiting?
- Are the beneficiaries passive recipients or does the process enable them to control their lives?
- Are there lessons in what we are doing and can be a larger impact on our surroundings?
• Can what we are doing be sustained in some way for the long-term, or will the impact of our work come to an end when we leave?
• Are we getting optimum outputs for least possible inputs?

Check Your Progress
1. What is the first stage in a public relations process?
2. What is monitoring?

2.3 RESEARCH AND ANNUAL REPORT

Social research is a systematic and scientific process, based on well-defined rules, applicable in certain circumstances, for achieving the objective of transforming an indeterminate situation into a determinate one. It may be defined as systematic investigation intended to add to available knowledge in a form that is communicable and verifiable. Social researches are generally carried out to acquire knowledge in connection with social life and social phenomena. Human beings are studied as members of the social system.

Social research investigates the interrelationships among various social facts. It also verifies new and old facts about social life and acquires knowledge about the control of social phenomena and laws that are formulated and promoted. These laws are concerned with social relationship and social phenomena, through social research.

When we observe certain objects or phenomena, often unaware of our biases, we do not question them and so we attribute our observations entirely to the objects or phenomena being observed. In this process, it is possible to arrive at the right decision on the basis of wrong reasons or vice versa.

According to Young (1960), social research is ‘a scientific undertaking, which by means of logical and systematized methods, aims to discover new facts and analyse their sequences, interrelationship, causal explanations and natural laws which govern them’.

Sleisinger and Stevenson (1934) define social research as ‘a method of studying, analysing and conceptualizing social life in order to extend, correct or verify knowledge, whether that knowledge aids in the construction of a theory or in the practice of an art’.

Moser (1961) explain social research as ‘a systematized investigation to gain new knowledge about social phenomena and problems’.

Bogardus (1953) opines that social research is ‘the investigation of the underlying processes, operative in the lives of persons who are in association’.
Reports

The utility of a research report is proved only after others know about its findings. A genuine research experience essentially comprises preparing a detailed documented research report. Every student of research should know about this requirement. However, though this is an added benefit, it cannot replace a complete report that has been documented well. A well-written report is created by a student with absolute analysis and is corrected as required by the faculty mentor. It demonstrates that the student has thorough knowledge about the range of the problem, the means/instrumental methods used and development of the outcome. It is very important for any undergraduate research project to result in a systematic and well-documented report. The outcome of the research should always be recorded and made available to the general public.

Thus, documentation of a research report is an important affair. Generally, the activities of presenting research results, or documenting the report, are considered important for a research project. Actually speaking, documentation of the report is the final step of a research study, which requires different skill sets. These skills are not the same as those used in the earlier stages of research. The researcher should be very careful in achieving this objective, for which he is likely to seek the assistance and guidance of experts.

Steps in Report Writing

A good number of scientific research reports, irrespective of the subject, use similar methods of scientific interpretation. That is: the problem is defined, a hypothesis is created and experiments are worked out for testing the hypothesis and drawing conclusions. The exact format of scientific reports is often regulated in terms of variations in order and content. The student is motivated to use the style that is most suited to the discipline of the research. Many journals offer a formatting template to aid the author. Tedious, measured and precise inductive efforts are involved in creating research reports. The common steps involved in writing reports are:

- Logical analysis of the subject matter
- Preparation of the final outline
- Preparation of the rough draft
- Rewriting and polishing
- Preparation of the final bibliography
- Writing the final draft

Though all these steps are self-explanatory, yet a brief mention of each one of these will be appropriate for their better understanding.

**Logical analysis of the subject matter:** It is the first step which is primarily concerned with development of a subject. There are two ways in which to develop a subject: (i) Logical, and (ii) Chronological.
Logical developments are based on rational associations and links between concerned entities, by means of analysis. Logical treatment often comprises developing the material from the simplest possible to the most complex structures. The basis of chronological development is connectivity or sequence between time and occurrence. The instructions for creating or working on something, normally have a chronological flow.

Preparation of the final outline: It is the next step in writing the research report. Outlines are the framework on which long written works are constructed. They support the logical functioning of material and reminder of the points to be focused on in the report.

Preparation of the rough draft: This follows a logical analysis of the subject and preparation of the final outline. Such a step is of utmost importance to the researcher, who now sits to write what he has done in the context of his research study. He will write down the procedure adopted by him in collecting the material for his study, along with various limitations faced by him, the technique of analysis adopted by him, the broad findings, and generalizations and various suggestions he wants to offer regarding the concerned problem.

Rewriting and polishing of the rough draft: This step happens to be the most difficult part of formal writing. Usually this step requires more time than writing of the rough draft. A careful revision marks the difference between a mediocre and a good piece of writing. While rewriting and polishing, one should check the report for weaknesses in logical development or presentation. The researcher should also see whether or not, the material, as it is presented, has unity and cohesion; does the report stand upright and firm, and exhibit a definite pattern, like a marble arch? In addition, the researcher should give due attention to consistency factor in his rough draft. He should check the mechanics of writing—grammar and spelling.

Preparation of the final bibliography: Next in order comes the task of the preparation of the final bibliography. The bibliography, which is generally appended to the research report, is a list of books, which is in some way pertinent to the research which has been done. It should contain all those works consulted by the researcher. The bibliography should be arranged alphabetically and may be divided into two parts; the first part may contain the names of books and pamphlets and the second part may contain the names of magazine and newspaper articles. Generally, this pattern of bibliography is considered convenient and satisfactory from the point of view of the reader, though it is not the only way of presenting bibliography.

Writing the final draft: This constitutes the last step. The final draft should be written in a concise and objective style and in simple language, avoiding vague expressions such as ‘it seems’, ‘there may be’, etc. At the time of documenting the final draft, a researcher must elude intangible terms and scientific slangs. Exhibits and instances of common experiences should be made integral part of the final draft because they prove very helpful to communicate the outcome of the research to others.
A research report should attract interest and be original. People should find it enthusiastic and appealing. However, it should be kept in mind that the focus of every report should be directed at solving some intellectual problem, must contribute to the solution of a problem, and must add to the knowledge of both the researcher and the reader.

Check Your Progress
3. What is a ‘report’?
4. Mention the two ways of developing a subject for a research.

2.4 SOCIAL WELFARE ADMINISTRATION AT NATIONAL, STATE AND LOCAL LEVELS

There are number of administrative Organizations are operating in the Centre, State and local levels.

In the year 1985-86, the erstwhile Ministry of Welfare was bifurcated into the Department of Women and Child Development and the Department of Welfare. Simultaneously, the Scheduled Castes Development Division, Tribal Development Division and the Minorities and Backward Classes Welfare Division were moved from the then Ministry of Welfare. Subsequently, the name of the Ministry was changed to the Ministry of Social Justice and Empowerment in May, 1998. Further, in October, 1999, the Tribal Development Division had moved out to form a separate Ministry of Tribal Affairs. In January, 2007, the Minorities Division along with other welfare unit have been moved out of the Ministry and formed as a separate Ministry and the Child Development Division has gone to the Ministry of Women and Child Development.

At present, the Ministry of Social Justice and Empowerment is committed towards educational development, economic development and social empowerment of persons belonging to Scheduled Castes, Backward Classes, rehabilitation of persons with disabilities, victims of drug abuse, aged, etc.

Another Corporation under the Ministry, namely National Safai Karamcharis Finance and Development Cooperation (NSKFDC) provides credit facilities to beneficiaries, such as Safai Karamcharis, scavengers and their dependents for income generating activities for socio-economic development through State Channelizing Agencies.

The Ministry implements two acts for protecting the civil rights or the Scheduled Castes, namely.
- Protection of Civil Rights Act, 1955
- The Scheduled Castes and the Scheduled. Tribes (Prevention of Atrocities Act, 1989)
The Ministry also deals with the following important issues, with regard to Scheduled Castes Development:

- Monitoring of point 11(a) of 20 point programme—Justice to Scheduled Castes.
- Affirmative Action including reservation in private sector for Scheduled Castes and Scheduled Tribes.

### 2.5 CENTRAL SOCIAL WELFARE BOARD (CSWB)

The role of voluntary organizations has remained a very important factor in the history of development of welfare services in India. The First Five Year Plan of India recognized that the major responsibility in the field of social welfare will eventually fall on voluntary organizations; however, to get their cooperation adequate financial assistance was required to be given to them for the desired outcome. It was also recognized that complex social problems cannot be dealt with and solved through governmental efforts only, hence the required involvement of voluntary efforts. After Independence, when the country embarked upon a programme of planned development, 'Social Welfare' came in as an integral part of the development. Setting up of the Central Social Welfare Board (CSWB) on twelfth August, 1953 by a resolution of the Government of India as an autonomous body, was in a way, the expression of active participation of the state in dealing with problems of social welfare with voluntary or non-official participation in the plan schemes. The CSWB was comprised of non-officials, officials and voluntary organizations; it involved multilateral coordination and was hailed as a unique experiment of its kind in the field of welfare administration.

#### Functions of the Board

The CSWB was assigned the following functions under the resolution:

(i) The cause a survey to be made of the needs and requirements of social welfare organizations.
(ii) To evaluate the programmes and projects of the aided organizations.
(iii) To coordinate the assistance extended to social welfare activities by various ministries in central and state governments.
(iv) To promote setting up of social welfare organizations on voluntary basis in places where no such organizations exit (v) To render financial aid, when necessary, to deserving organizations on terms to be prescribed by the Board

#### 2.5.1 State Social Welfare Advisory Boards

The recommendations made by the panels indicated the necessity of having State Boards in each state on the lines of CSWB which could assess the needs and problems of organizations in the states and help in the implementation of schemes.
The Board, therefore, decided to set-up State Social Welfare Advisory Boards in all the states by November 1954, and twenty six State Boards came into existence. Presently thirty three State Boards are functioning in the country as counterparts of CSWB at the state level and work as link bodies between the State Government and the voluntary organizations. The State Boards receive, scrutinize and examine proposals for grants-in-aid before making their recommendation to the CSWB.

**Administrative Set-up After 1969**

In the year 1969 CSWB was registered as a ‘Charitable Company’ under Article 25 of the Companies Act 1956 to give legal status and autonomy to it. The General Body of the Board consisted of fifty five members representing prominent social workers, professionals from the fields of Education, Law, Medicine, etc., and representatives from the Departments of Women and Child Development, Welfare, Health, Education, Labour and Finance, Planning Commission, Members of Parliament and Chairpersons of the state Boards.

The main objectives of the CSWB as enlisted in the Memorandum of Association are:

(i) To study the needs and requirements of social welfare organizations
(ii) To evaluate the programmes and projects of the aided organizations
(iii) To coordinate the assistance extended for social welfare activities by various Ministries in Central and State governments
(iv) To promote the setting up of welfare organizations in uncovered areas and promote additional ones, wherever necessary
(v) To render technical and financial support to deserving institutions including Panchayati Raj Institutions
(vi) To promote social welfare activities for families, women, children and the handicapped and to assist in cases of unemployment, old age sickness, disablement, etc.
(vii) To organize or promote training programmes in social work and also to organize pilot projects, wherever necessary
(viii) To organize emergency relief in cases of disaster and calamities
(ix) To collect, disseminate and utilize statistical and other information pertaining to the Board
(x) To promote or join in promoting or conduct, undertake to participate in national and international seminars, conferences, conventions and exhibitions

**Financing**

Department of Women and Child Development, Ministry of Human Resource Development, Government of India is providing 100 per cent finances for the CSWB’s programmes and establishment. The programmes of CSWB are
implemented on two patterns, i.e. centralized and decentralized programmes. For centralized programmes, grants are sanctioned to organizations by CSWB and grants or funds are released directly to them, on the recommendation of the State Boards. New proposals for decentralized programmes are recommended by State Boards and sanctioned by the CSWB. The funds for these proposals are allocated and released to State Boards for further release to organizations. The State Boards are authorized to sanction and release funds to organizations under the decentralized programmes.

**Programmes of the Board**

These have been described below:

(i) **General Grant-in-Aid Programme**: In the First Five Year Plan, the Grant-in-aid programme was started by the CSWB which continued in the successive plan periods for consolidation, improvement, expansion and development of existing services as well as for undertaking new programmes.

(ii) **Welfare Extension Projects**: While administering grant-in-aid programme, it was realized that most of the organizations and services were concentrated in urban areas. As a consequence, practically no significant development had taken place in rural areas. The Board, therefore, decided to provide a network of much-needed services in villages through the scheme of Welfare Extension Projects (Rural). These projects aimed at providing minimum basic services for women and children in rural areas.

(iii) **Family and Child Welfare Projects**: The Welfare Extension Projects provided a base for Family and Child Welfare Scheme which went a step further in providing services for the entire family. This programme was planned on the basis of recommendations of the Child Care Committee on Welfare Extension Projects (1965). Under this scheme, attempt was made to provide integrated welfare services for children in the form of pre-school education, health, nutrition and immunization as also for women in the form of mother-craft and home-craft.

(iv) **Demonstration Projects (Balwadis)**: The Demonstration Projects (Balwadis) which formed a part of the scheme of Demonstration Projects of Integrated Child Welfare Services scheme started by Government of India were transferred to CSWB in 1964. The objective of the scheme was to provide nutrition, health care, immunization and pre-school education through the use of play material and counselling of the mothers and the community at large. No less than eleven demonstration projects having 249 centres are being run in eleven states.

(v) **Mahila Mandal Programme**: In pursuance to the decision to hand over the WEPs of original pattern started in 1954-55 to the voluntary organizations and Mahila Mandals in rural areas where no institutions had existed earlier, the Board started a scheme of Grant-in-aid to such Mahila Mandals in
1961. The Mahila Mandals and other voluntary organizations continued the programme for providing welfare services to women and children, and the Board gave grant to these organizations up to 75 per cent of the approved expenditure with the institution arranging the remaining 25 per cent expenditure as its matching contribution on continuing basis.

(vi) **Condensed Courses of Education for Women**: The CSWB realized that education is used as a part of the overall strategy for achieving a significant improvement in the status of women. Hence, the programme of Condensed Courses of Education for Adult Women was started in 1958 with the main focus on helping women to complete schooling for primary and middle level or up to the level of matriculation and for metric-failed candidates separately for a period of two years and one year course respectively, as the case may be. These courses are of two types: (1) residential and (2) non-residential for different durations for beneficiaries in the age-group of up to twenty five years. The scheme is specifically designed to help drop-outs and failed candidates to complete their school education.

(vii) **Vocational Training Programme for Women**: The Programme of Vocational Training courses were introduced in the year 1975. It provides financial assistance to voluntary organizations having adequate experience and infrastructure to provide vocational training to deserving women of the age-group of 15 years and above by training them in traditional and non-traditional trades.

(viii) From December 1997, the Department of Women and Child Development had started sanctioning grant to CSWB under NORAD Scheme funded by the Government of Norway. This scheme of Vocational Training for Women was renamed as ‘Swaawalamban’ (self-dependence) during the financial year 2002-03. This Scheme has been transferred to the States by the Department of Women and Child Development, Government of India. Socio-Economic Programme: This Programme was started in the year 1958 by the Board with the object of promoting economic empowerment of women with the ultimate aim of securing economic rehabilitation of needy, destitute and handicapped women. Under this programme, disadvantaged women are offered facilities to engage themselves in full-time or part-time work to earn wages to supplement meagre income of their families while working from home or a nearby place without disturbing their domestic life.

The different categories of schemes for which financial assistance is provided, are:

(a) Industrial units such as small handicraft, handloom units as well as units functioning as secondary to large industrial undertakings, etc.

(b) Dairy and animal husbandry units such as piggery, poultry, goat and sheep breeding.
(c) Self-employment Scheme such as supply of sewing machines, vegetable and fish vending.

This scheme has been discontinued w.e.f. 1st April 2003 by the government.

(ix) **Holiday Camps for Children:** The CSWB pioneered this scheme in the year 1958 for children in the age group of 10-16 years by providing financial assistance to voluntary organizations for organizing holiday camps for children belonging to poor and socially backward families who have had no opportunity to move out of their usual surroundings. This programme gave an opportunity to children to visit places of interest, to learn good habits and to have experience of community living in which activities were organized in a planned manner. This programme has been discontinued since 1996-97 by the Government of India.

(x) **Working Women's Hostels:** Due to the disintegration of joint family system and increasing mobility of women in search of jobs away from their homes, the need for providing alternative accommodation has been increasingly felt. The CSWB has been giving financial assistance to voluntary organizations since 1958 for providing accommodation at reasonable rates to working women of lower income groups, since hostels provide safe and secure accommodation to women.

(xi) **Crèches for Working Women and Ailing Mothers:** The Scheme was started and implemented by the Department of Women and Child Development, Government of India, since 1975, and is designed to provide day-care services to children and to provide substitute care in the absence of their mothers. The Scheme was transferred to the CSWB in the year 1977-78, and each crèche unit consists of twenty five children for whom sleeping facilities, health care, supplementary nutrition, immunization etc. are provided.

(xii) **Awareness Generation Projects:** This programme was started by CSWB in the year 1986 with a view of enabling voluntary organizations to organize Awareness Generation Camps on various issues relating to women. Issues such as Status of Women, Women and Law, Women and Health, Community Health and Hygiene, Women and Technology, Environment, Economy, Social Action, Legal Literacy, etc. are discussed in the camps to make the participating women aware of their role in society, family, etc.

(xiii) **Short Stay Homes:** The scheme of Short Stay Homes was launched by the Department of Women and Child Development in 1969 to provide temporary shelter for a period of three years to women and girls who have either been exposed to mortal danger or have been the victims of family discord. During the period of stay, women are provided maintenance, medical treatment, counselling, vocational training, referral, rehabilitative and follow-up services. A home can accommodate 30 women at a time and it is located...
at District or Block Headquarters and in towns as well with a population of not less than 50,000.

The implementation of this scheme was entrusted to CSWB in the year 1999-2000 with revised norms. Now short stay homes are being sanctioned by the Department of Women and Child Development, Government of India, and grants are sanctioned by the CSWB after monitoring and inspection of the homes.

(xiv) **Family Counselling Centres (FCC):** The concept of “Family Counselling” was developed by CSWB in the country in the 1980s when there was a spate of dowry-related murders, the Board spearheaded the campaign against this crime and started the programme of ‘Voluntary Action Bureaus’ (VABs) which subsequently took the shape of Family Counselling Centres (FCCs).

The objective of the voluntary Action Bureaus and Family Counselling Centres (FCCs) is to provide preventive and rehabilitative services to women and families that are victims of atrocities and family maladjustments. These programmes have served a vital function in mending family relations through crisis intervention and systematic counselling. The role of Voluntary Action Bureaus had been redefined w.e.f. 1992-93 with special emphasis on monitoring and systematic expansion of FCC programme through coordination between governmental and voluntary agencies, creating awareness and publicity on atrocities against women, conducting research on social problems affecting the status of women and organizing training programmes for counsellors of FCCs. VABs are functioning in State Boards and are being assisted by a sub-committee of experts which meets periodically to review the programme.

FCCs are also being run within the premise of some police headquarters under the administrative control of State Boards. The objective of these FCCs is to provide speedy crisis intervention to women whose cases were registered with the police. An attempt is made to arrive at out-of-court settlement of family discord cases. FCCs are also being run for women in jails to provide counselling and rehabilitative services to women prisoners.

Funds are also being provided for running ‘Rape Crisis Intervention Centres’, Pre-marital Counselling Centres and FCCs for Devdasis and red-light areas.

(xv) **Innovative Schemes:** There are certain areas and sectors which have remained uncovered in the process of development and the existing schemes do not cover them. There are special groups such as children of women in commercial sex, rag pickers, and children of leprosy patients, each of which needs special care and attention. Proposals for such marginalized groups of society are also considered under the ‘Innovative Schemes’ of the CSWB.
2.6 DIRECTORATE OF SOCIAL WELFARE AND HANDICAPPED WELFARE IN INDIA

Handicapped persons are those who are afflicted with malformation, deformities and other defects that interfere with the normal functioning of the body. The problems and difficulties of these persons go on multiplying with the changing times and environments. They constitute one of the weakest segments of the Indian populations. The handicapped comprise six major categories, viz., the blind, the deaf, the orthopedically handicapped, the leprosy affected, the mentally retarded, and emotionally and socially handicapped.

The organisation of specialized services for them has been unfortunately slow due to special difficulties. Yet a few educational and rehabilitative services have sprung up sporadically, mainly through voluntary efforts, systematic, organised efforts were put in only after Independence both by the Government and by the voluntary agencies. In this respect the Five Year Plans have provided an impetus to the programmes for the handicapped. About 350 institutions are functioning in the country at present for the education and training of various categories of the handicapped, among these, 170 are for the blind, 70 for the deaf, 25 for the orthopedically handicapped, and 80 for the mentally handicapped. In the sphere of education, scholarships are awarded by the Government to deserving blind, deaf and orthopedically handicapped children to pursue general, technical or professional education.

The National Advisory Council for the education of the physically handicapped recommended in 1957 the establishment of special employment exchanges for the physically handicapped in selected places all over the country. In 1970, a scheme of National Awards for outstanding employers of physically handicapped persons and the most efficient physically handicapped employees was instituted in order to stimulate the placement of trained physically handicapped persons. It covers employers and employees from public and private sectors, local authorities, etc.

Among all the handicapped groups, the mentally retarded have received very little attention. Very few voluntary institutions have been working in this field. In 1970 the Federation for the Welfare of the Mentally Retarded was organised. It is trying to draw the attention of the Government to the problem of the mentally retarded. Now a National Institute for the Mentally Retarded is being set up by the Union Ministry of Health and Family Planning.
Leprosy handicapped population is also quite large - about 4 million. The Government launched the National Leprosy Control Programme and the World Health Organisation is also collaborating in this programme. The present-day leprosy control programme is based on three activities, namely, Survey, Education and Treatment or S.E.T.

Differently-abled welfare in India

- The Constitution of India ensures equality, freedom, justice and dignity of all individuals and implicitly mandates an inclusive society for all, including persons with disabilities. The Constitution in the schedule of subjects lays direct responsibility of empowerment of disabled persons on the State governments. Therefore, the primary responsibility to empower the disabled rests with the State governments.


- A multi-sectoral collaborative approach, involving all the appropriate governments, i.e., ministries of the Central Government, the State Governments/UTs, Central/State undertakings, local authorities and other appropriate authorities is being followed in the implementation of various provisions of the Act.

- India is a signatory to the ‘Declaration on the Full Participation and Equality of People with Disabilities in the Asia-Pacific Region. India is also a signatory to the Biwako Millennium Framework working towards an inclusive, barrier free and rights-based society. India signed the UN Convention on Protection and Promotion of the Rights and Dignity of Persons with Disabilities on 30th March, 2007, the day it opened for signature. India ratifies the UN Convention on 1st October, 2008.

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<td>7. Who are handicapped people?</td>
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2.7 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Image audit is the first stage in any public relations process.
2. Monitoring is the systematic collection and analysis of information of a project. It is an effort to make a project or an organization more efficient and effective.
3. A ‘report’ is a very official record that is written for diverse reasons related to science, social science, engineering, business disciplines, etc.
4. The two ways of developing a subject for a research are: (i) Logical, and (ii) Chronological.
5. The Ministry of Social Justice and Empowerment is committed towards educational development, economic development and social empowerment of persons belonging to Scheduled Castes, Backward Classes, rehabilitation of persons with disabilities, victims of drug abuse, aged, etc.
6. Department of Women and Child Development, Ministry of Human Resource Development, Government of India is providing 100 per cent finances for the CSWB’s programmes and establishment.
7. Handicapped persons are those who are afflicted with malformation, deformities and other defects that interfere with the normal functioning of the body.

2.8 SUMMARY

- Public relations and networking includes social welfare communication which is needed to create and maintain cordial ties with benefactors and other people who are involved.
- The public relations process follows the model of persuasive communication. It too has the objective of bringing about a change in the opinions, beliefs and attitudes of the public.
- Both evaluation and monitoring work concurrently. Monitoring gives the basic data that answers the majority of questions whereas, evaluation is the conversion of data in order to provide logical value.
- Monitoring is an outcome of pre-set goals and activities designed in the planning phase of work.
NOTES

- Programme evaluation refers to the purpose of research, rather than to any specific research methods. Its purpose is to gauge and improve the conceptualization, design, planning, administration, implementation, effectiveness, efficiency and utility of social interventions and human service programmes (Rossi and Freeman, 1993).

- Cost-effectiveness is helpful to managers and planners in decision-making related to the appropriate employment of their budgets and funding.

- Social research investigates the interrelationships among various social facts. It also verifies new and old facts about social life and acquires knowledge about the control of social phenomena and laws that are formulated and promoted. These laws are concerned with social relationship and social phenomena, through social research.

- A good number of scientific research reports, irrespective of the subject, use similar methods of scientific interpretation. That is: the problem is defined, a hypothesis is created and experiments are worked out for testing the hypothesis and drawing conclusions.

- The CSWB was comprised of non-officials, officials and voluntary organizations; it involved multilateral coordination and was hailed as a unique experiment of its kind in the field of welfare administration.

- Handicapped persons are those who are afflicted with malformation, deformities and other defects that interfere with the normal functioning of the body.

- The National Advisory Council for the education of the physically handicapped recommended in 1957 the establishment of special employment exchanges for the physically handicapped in selected places all over the country.

2.9 KEY WORDS

- **Public Relations**: It is the professional maintenance of a favourable public image by a company or other organization or a famous person.

- **Devadasi**: It refers to a hereditary female dancer in a Hindu temple.

- **Social Research**: It is a systematic and scientific process, based on well-defined rules, applicable in certain circumstances, for achieving the objective of transforming an indeterminate situation into a determinate one.
2.10 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What are the objectives of programme evaluation?
2. What is the significance of monitoring and evaluating data?
3. Define social research.
4. Write a short note on the welfare of handicapped people in India.

Long Answer Questions

1. Discuss public relations and networking. Make a list of the ways in which the two are similar.
2. Describe the elements of the public relations process.
3. Describe the steps in report writing.
4. Explain the functions and objectives of the CSWB.

2.11 FURTHER READINGS


3.0 INTRODUCTION

In the previous unit, you learnt about social welfare administration at the national and state level. You also discussed about the role of public relations, monitoring and evaluation in social welfare administration. Here we will discuss the evaluation of social welfare in India. The unit will also discuss the role of NGOs in national development and government schemes on social welfare.

3.1 OBJECTIVES

After going through this unit, you will be able to:

- Evaluate social welfare programs in India
- Discuss some government schemes on welfare
- Describe the various types of NGOs

3.2 EVALUATION OF SOCIAL WELFARE IN INDIA

We have already discussed evaluation in the previous unit. To recapitulate, programme evaluation refers to the purpose of research, rather than to any specific research methods. Its objective is to gauge and improve the conceptualization, design, planning, administration, implementation, effectiveness, efficiency and utility.
of social interventions and human service programmes. Using this definition, let us review some of the programmes and policies of social welfare in India, especially in relation to the disabled.

**Review of the Policies and Programmes in India**

1. **Empowering Persons with Disabilities**

To ensure social justice to the disabled on equitable terms, the Central Government enacted a comprehensive legislation viz. The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. The PD Act which came into force in 1996 aims to empower the persons with disabilities with a right to demand for an enabling environment wherein they can enjoy protection of rights, equal opportunities and full participation in various developmental activities of the country. A beginning has been made to implement this innovative legislation with a special focus on rehabilitation of the rural disabled.

The policy envisages a complete package of welfare services to the physically and mentally disabled individuals and groups. It also seeks to deal effectively with the multidimensional problems of the disabled population. Set up in line with this policy are six National Institutes:

(i) National Institute for Visually Handicapped, Dehradun
(ii) National Institute for the Orthopedically Handicapped, Calcutta
(iii) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai
(iv) National Institute for the Mentally Handicapped, Secunderabad;
(v) National Institute for Rehabilitation, Training and Research, Cuttack; and
(vi) National Institute for Physically Handicapped, New Delhi.

All these institutes offer a variety of long term training programmes: three year Degree courses in Physiotherapy, Occupational Therapy, Mental retardation, Education of the deaf, Communication Disorders; shorter period degree and diploma courses in the above disciplines and also in prosthetic and orthotic engineering and audiology, speech therapy and teachers training for the blind.

To cater to the needs of the rural disabled, these National Institutes would also work in close collaboration with organizations, governmental and non-governmental, to give a major thrust to develop training and service models especially suited to the demands and needs of the disabled in rural areas. At present, the National Institutes are paying more attention to building up technical manpower through degree and diploma courses. However, their role in the area of research and development and up-gradation of services in the States has been very limited. In order to develop cost effective aids and appliances, research and development activities of various Institutes need strengthening. The activities
of these National Institutes also need to be evaluated so as to diversify/modify training programmes and make them more relevant to the available job opportunities and review their activities from the point of their usefulness, coverage and cost effectiveness.

In order to simplify and streamline procedures besides enlarging the scope of activities in line with the commitments of the PD Act, 1995, four on-going schemes were merged: i) Assistance to Voluntary Action for the Disabled Persons; (ii) Assistance to Voluntary Organization for the Rehabilitation of Leprosy Cured Persons; (iii) Assistance to Voluntary Organizations for starting Special Schools for Handicapped Children; and (iv) Assistance to Voluntary Organization for Persons with Cerebral Palsy and Mental Retardation. Those schemes have been amalgamated into one single ‘Integrated Scheme to Promote Voluntary Action for Persons with Disability’ in 1998 with a common objective promotion of voluntary efforts for the welfare and development of persons with disabilities. This re-cast umbrella scheme does indeed incorporate all the components of the earlier schemes; but it also proposes to cover new areas viz. - legal aid and legal counselling; support facilities for sports, recreation, excursions, creative and performing arts; promotion of research in various developmental areas, establishment of well-equipped resource centres, etc. The scope of the revised scheme has been amplified to such an extent that any voluntary organization working for ameliorating the plight of the disabled is funded.

Artificial Limbs Manufacturing Corporation (ALIMCO), KANPUR was set up in 1976 as a registered body under Section 25 of Companies Act of 1956 for developing, manufacturing and supplying artificial limbs and rehabilitation aids to the disabled. As per stipulations of Section 25 of the Act, the Corporation cannot generate any profit and depends as such on financial assistance from the Central Government. ALIMCO is to have four Auxiliary Production Centres in different regions to achieve a sizeable increase in production and sale of wheel chairs and tri-wheelers to serve a larger number of orthopedically disabled. In spite of a strong element of subsidy built into its products, ALIMCO was earlier running into losses but in recent years the Corporation has significantly improved its operation; it has been able to achieve substantial increase in turn-over and cut its cash losses during 1997-99. Yet the ALIMCO products are not only costly; they have low acceptability among users. So, there is an urgent need to evaluate the functioning of the Corporation to cater to the needs of poorer segments of the disabled and to optimize the cost of production of various aids and appliances.

3.2.1 Volunteer Social Work

Volunteer social work is a type of social service. Helping the helpless is a type of social service. It is a service rendered to any person on the basis of a desire to
serve which is inspired by the feeling of helping others. Thus, the term ‘social service’ is used to denote help given by a volunteer to an individual or group at the time of need or to enhance the welfare of individuals or the community through personal efforts or by collective action. Social service does not require training in social work or skill in professional techniques.

In the Indian context, social services are those services that are provided on an extensive scale to those who are in need of help. They are designed to meet the basic needs of people and include services such as health, education, housing etc. Providing drinking water during summer, mental health facilities, inexpensive clinics as well as conducting food bank operations are a few examples of social service.

3.3 SOCIAL AGENCIES: MEANING, DEFINITION AND TYPE

As the social structure becomes more complex, the State is called upon to play an increasing role in providing services for the welfare of the people. The Central Government, the various State Governments and local self-governing bodies, each in its own sphere, have to ensure that they have at least the minimum administrative machinery for dealing with social "problems. What form this machinery takes will depend on their particular circumstances and requirements, but it is certain that without the necessary machinery they will not be able to pursue their programmes.

The functions of the social welfare machinery of the Central and State Governments may, for instance, be:

1. to study the need for and the efficacy of social legislation,
2. to execute programmes of social welfare,
3. to assist, both directly and through other agencies, the development of social services, the study of social problems, and the creation of trained personnel for social administration,
4. to assist specialised and private agencies through guidance, and financially, and to protect the interest of society by a measure of regulation and control,
5. to initiate pilot projects, or help field organisations to develop such projects, in order to demonstrate the efficacy of programmes, methods, leadership and organisation,
6. to promote initiative in and improvement of social services by supplying information, materials, publications, audio-visual aids, etc., and
7. to take over social services of vital importance initiated and organised by private agencies when these develop beyond their ability to manage.
Local self-governing bodies can do much to co-ordinate welfare activities in their areas and promote co-operation between their departments and the work of private agencies. Local committees or councils of social service agencies could undertake activities such as the following depending upon the resources which are available or can be raised:

(a) taking effective measures to alleviate suffering, especially by providing emergency relief;
(b) organising and assisting community centres;
(c) improving housing conditions, clearing slums and providing welfare services and special amenities for communities residing in slum areas;
(d) promoting child welfare activities;
(e) providing parks, playgrounds and other amenities for physical recreation and welfare;
(f) supporting private social service agencies and institutions for social education, women’s welfare, youth welfare, welfare of handicapped persons and underprivileged communities; and
(g) creating public opinion and assisting the vigilance authorities in the control of social vice and beggary.

The inter-relationship between the various activities has to be emphasised and the necessary co-ordination assured both in the Central Government; and in the States. One aspect of this co-ordination would be to secure that legislation relating to social problems follows broadly similar principles. In cases where grants-in-aid are given by a State authority to a private agency, it is desirable to lay down general directions for improving the content of the programmes and their administration. A measure of supervision and inspection should also be provided in order to maintain standards of efficiency. A major responsibility for organising activities in different fields of social welfare, like the welfare of women and children, social education, community organisation, etc., falls naturally on private voluntary agencies. These private agencies have for long been working in their own humble way and without adequate State aid for the achievement of their objectives with their own leadership, organisation and resources. Any plan for the social and economic regeneration of the country should take into account the service rendered by these private agencies and the State should give them the maximum co-operation in strengthening their efforts. Public co-operation, through these voluntary social service organisations, is capable of yielding valuable results in canalising private effort for the promotion of social welfare. One of the most important tasks of the State is to conduct a survey of the nature, quality and extent of service rendered by voluntary agencies in different parts of the country, to assess the extent of financial and other aid that they are in need of in...
order to develop their programmes of work, and to co-ordinate their activities. A sum of Rs. 4 crores has been provided as grants-in-aid to voluntary social service organisations for strengthening, improving and extending the existing activities in the field of social welfare and for developing new programmes and carrying out pilot projects. It is envisaged that this fund of Rs. 4 crores should be administered by a board to be set up by the Central Government to which a great deal of administrative authority will be devolved. The board should be predominantly composed of non-officials who have actual experience of field work in promoting voluntary welfare activities.

It is necessary to co-ordinate the programmes of various agencies so as to guide them into broad streams and bring added strength and intensity of purpose to welfare activities. Such co-ordination calls for a common approach and a co-operative outlook on the part of the, organisers of voluntary social work. Further, it will be necessary to induce agencies to agree to subordinate their individual interests to some extent and thus make collective effort possible not merely in the execution of programmes, but also in the economic and rational use of personnel. Such co-operation could also lead to joint effort in obtaining resources. Co-ordination need not involve on the part of the co-operating organisations loss of individuality or of freedom to organise and to carry out programmes. Co-ordination will have to be of two types. In the first place, there may be functional co-ordination on the part of national organisations striving to achieve specific objectives like physical fitness, child welfare, youth welfare, social education, community organisation, etc. Secondly, there may be effective co-ordination of effort on the part of agencies functioning in the same regional area or community, so that the various agencies may serve each area through a common pool of activities.

The entry of state in the field of social welfare is marked by the establishment of Social Welfare Department and Social Welfare Advisory Board. These are the two agencies through which Social Welfare Administration is carried out in the country. They come under the Ministry of Social Justice and Empowerment. Social Welfare Department is directly involved in providing services for various vulnerable groups. But the coverage of government services is very limited. This gap is filled up by the services given by the NGOs. The administrative authority of the government and non-government sector are the Social Welfare Department and Social Welfare Advisory Board.

Social Welfare Department

The Planning Commission set up by the Government of India in March 1950 to prepare a plan for the most effective and balanced utilisation of country’s resources formulates the programmes of social welfare in the country. Then onwards in all
the five year plans a budget has been allocated for social welfare. The Department of Social Welfare was created at the centre in 1964. Subsequently Social Welfare Department was established in all states as well. The purpose of Social Welfare Department is to chalk out various welfare schemes and programmes for the under privileged sections in the society. Such programmes are devised by the department at the centre and also by the state departments according to the need felt in each state. In Kerala, Social Welfare Department was established in 1975 with an aim of framing social welfare programmes to protect, rehabilitate and attain overall development of the weaker sections of the society like destitute, aged, handicapped and the like.

The department is directly involved in providing institutional services for various target groups. Abala mandirams, rescue homes and after care homes are maintained for protecting destitute women and women involved in immoral trafficking. ICDS is a very important programme to be mentioned in the field of child welfare which aims the overall development of the children. Nutrition programmes, informal free-school education, health checkups, accurate referral services and health and nutrition classes are provided under ICDS. Besides Children’s Homes are maintained for saving children who are in need of care and protection and observation homes and special homes and probation services for children with criminal background. Institutional care is also given for physically handicapped, mentally deficient children and aged and destitute men and women by the department. There are also certain schemes for financial assistance to the risk groups and grants for NGOs. There can be slight variations in the programmes carried out by different state departments in accordance with the needs and problems felt in each state. Similarly the organizational set up may also vary slightly in status.

Fig 3.1 Organizational Setup of the Department of Social Welfare at the Centre
3.3.1 Types and Models of NGO’S

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

NGO types by orientation

- **Charitable Orientation** often involves a top-down paternalistic effort with little participation by the “beneficiaries”. It includes NGOs with activities directed toward meeting the needs of the poor - distribution of food, clothing or medicine; provision of housing, transport, schools etc. Such NGOs may also undertake relief activities during a natural or man-made disaster.
- **Service Orientation** includes NGOs with activities such as the provision of health, family planning or education services in which the programme is designed by the NGO and people are expected to participate in its implementation and in receiving the service.

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

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

NGO Types by level of operation:

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

- **Citywide Organizations** include organizations such as the Rotary or lion’s Club, chambers of commerce and industry, coalitions of business, ethnic or educational groups and associations of community organizations. Some exist for other purposes, and become involved in helping the poor as one of many activities, while others are created for the specific purpose of helping the poor.

- **National NGOs** include organizations such as the Red Cross, YMCA’s/ YWCA’s, professional organizations etc. Some of these have state and city branches and assist local NGOs.

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

Models are strategies which NGOs are using to plan and implement their projects with a large positive impact. Some of them are as follows:

Community Focus and Ownership

Successful projects are designed around the specific needs of the community they are being implemented in. This requires doing assessments and talking with the community when planning a program. Each community faces different obstacles, and designing programs around these unique needs makes programs more effective and efficient. This specialized design also attracts greater involvement and support from the community. Involving the community in the planning and decision making of programs strengthens the relationship between NGO’s, the communities and projects. Community members feel more ownership and responsibility for the projects, and are more likely to be invested in a project’s success and effectiveness. Community involvement can also help with funding and staffing of programs, and increases the likelihood of a successful handover from NGOs to the community.

Partnerships

Another model of successful NGOs is their creation of partnerships with other civil society organizations, international institutions and/or the government. International NGOs are partnering with local civil society to effectively plan and implement programs. NGO’s at every level are partnering with one another to share information, best practices and funding mechanisms in order to develop the best programs possible. NGOs are also working with the government to design and implement programs, often operating their programs in alignment with the education goals and priorities outlined by the government. Partnerships, whether with civil society or the government, help spread the planning, managing, and funding burdens of programming. Overall, partnerships make programs more effective and efficient.

Innovative Approaches to Providing Services

Successful projects go beyond the traditional models of delivering aid and services. Many effective programs are conducted outside of formal institutions or conventional formats. This allows NGOs to reach a broader range of participants, and have a larger impact. Successful programs provide services in interesting, interactive, or unique ways. Often this means moving away from preconceived ideas had prior to working with a community, and for NGOs to be flexible and willing to change or supplement their programming when necessary. One large area of recent innovation is the integration of technology for more effective and engaging programming.

Capacity Building

In order to run effective projects, NGO’s must help build the infrastructure and capacity of governments, institutions and communities to support these projects.
Capacity building can be done in many forms; including institutional, physical or intellectual—depending on the needs of the community. Sometimes this means increasing physical infrastructure—building roads, buildings, telecommunication, etc. that will ease the implementation of projects. Other projects focus on building intellectual capacity, passing on new knowledge, technology and skills to community members. Still others focus on building the institutional capacity of governments, institutions and other civil society groups to take on and administer the services NGOs are providing. Countries must develop their infrastructure in order to provide the services NGOs are currently providing to their citizens in the future. Successful NGOs focus on building capacity in order to implement programs efficiently, and enhance communities’ ability to provide services by themselves in the future.

Check Your Progress
1. List three National Institutes for the physically and mentally disabled.
2. What are community based organizations?

3.4 ROLE OF NGO’S IN NATIONAL DEVELOPMENT

Non-governmental organizations (NGOs) or non-profit organizations (NPOs) are agencies that work in different sections of society to bring about welfare and development, especially among the vulnerable, marginalized or deprived groups and communities. As the name NPO suggests, it is typically an organization that does not aim for profits. Rather, it collects funds and sponsorships to carry out developmental work among its target groups. Its funds come from governments, international organizations and individuals. We must understand that NGOs do not perform charity. In fact, they play a very important role, especially at the grassroots level, to bring about development and empowerment of its target groups rather than simply performing short-term charitable acts that do not produce any sustainable development in the target groups. NGOs operate at both national and international level. Some examples of international NGOs are the UNICEF, Amnesty International. In today’s world, the role of NGOs has become priceless. They are working with fervour to promote welfare, either on their own or by collaborating with the government. In this section, we will discuss the role and functions performed by different NGOs.

Basic Structure and Role

Every NGO has, as its basic structure, the components of vision, mission, objectives, strategies and activities. Vision is the idea of the kind of society that the organization is trying to create or reach. Usually, the vision statement of an NGO remains unchanged. Mission statement clarifies to the members of the
organization how to reach the vision that the organization has created. A good NGO will rework its mission statement at necessary intervals in order to make sure it uses the most effective methods of reaching its goals/visions. Objectives are the specific steps needed to be taken in order for the organization to realize its vision. On the basis of the objectives, an organization formulates its strategies regarding how to achieve those objectives. Activities are designed on the basis of its strategies. There are different types of NGOs, such as implementing NGOs which involve direct workers working at the grassroots level; funding NGOs, which work at an intermediate level between the implementing NGOs and the sources of funding; self-help NGOs that deal with members only, i.e., the people who are made members of the NGO based on their vulnerability or need for development and thus, make direct intervention with only these particular members. Its reach is smaller than implementing NGOs. NGOs typically work with a large number of volunteers instead of having a very large salaried workforce.

With an overburdened government carrying out a myriad of responsibilities, especially in developing nations, the role of NGOs in aiding welfare has become imperative. The role of an NGO is to compliment the government in its bid to bring about welfare in the society. Some of the most important roles that NGOs perform include developing infrastructure such as schools, toilets especially in rural areas; facilitating communication between the governments, target populations and the funding agencies.; provides technical assistance or training required to work at the grassroots level; carries out research and surveys to monitor and examine different aspects related to the target populations; and most importantly, it advocates for and with the poor and the vulnerable i.e., its target groups. In a globalizing world, the role and importance of NGOs has also increased manifold. There are a large number of NGOs that are working in diverse areas like women and child development, education, welfare for the poor, disabled, marginalized, displaced, old, sick, and environment protection in our country. Let us now discuss the work being done by some voluntary organizations in our country to promote welfare and development.

3.5 GOVERNMENT SCHEMES ON SOCIAL WELFARE

Some of the different schemes are as follows:

(a) Integrated Child Development Services Scheme

ICDS scheme was started in 1975 in 33 blocks in the country. It is the largest scheme in the world for early childhood care and development. The scheme provides an integrated approach for converging basic services for improved child care on nutrition and health, targeting children below 6 years and pregnant and lactating mothers. They are presently reached through a network of more than twenty lakh
NOTES

In order to universalize the scheme, the Government has sanctioned an additional 792 projects and nearly three lakh AWCs boosting the total to 7073 projects and 13.56 lakh AWCs and MAWCs. It is a centrally sponsored scheme where 90 per cent of the administrative component is provided by the Government of India (GOI) along with 50 per cent of supplementary nutrition Special Nutrition Programme (SNP) except for the North Eastern Region (NER) where the ratio on SNP is also borne up to 90 per cent by Government of India. In order to achieve universalization the AWCs and projects need to be made operational at the earliest. AWC is considered operational on the finalization of location, recruiting anganwadi workers or helpers and starting to provide NP and pre-school services. A project is operational when project office is set up with a CDPO and 75 per cent AWCs under it become operational.

The Ministry has adopted the WHO Growth Standards for correct identification of the nutritional status of children. This entails provision of growth charts and weighing machines at the AWC. Additionally, a joint Mother and Child Protection Card (MCPD) has been formulated and the states would start using the MCPD in 2010-11.

(b) Indira Gandhi Maatritva SahayogYojanaa (IGMSY)

The Ministry has formulated a conditional cash transfer scheme to be implemented on a pilot basis in ninety six districts. The scheme aims to provide cash transfers to women in pregnancy and while nursing on fulfilling certain conditions. The ultimate objective is to provide for part compensation for wage loss so that they can look after their health and nutrition status and also for their children. The scheme is to be finalized in 2010-11.

(c) Child Protection

The Integrated Child Protection Scheme has been recently launched for creating a safe and secure environment for children. This scheme is to be mainly implemented through the State Government and UT Administrations, and funds will be released for the setting up and running of service delivery mechanisms and institutional structures, supported by advocacy measures and capacity building efforts. The release of grants will be made to the State Governments and Union Territories after they have signed a Memorandum of Understanding (MOU) with the Ministry. Funds will be released after approval of the project proposal. Setting up of Juvenile Justice Boards (JJBs) and Child Welfare Committees (CWSs) as mandated under the Juvenile Justice (JJ) Act, is an important prerequisite for the implementation of the scheme. For each district, one CWC and JJB is required.
(d) SABLA
The Ministry has formulated a scheme named as the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (SABLA) for holistic development of girls aged 11-18 years. The scheme aims at the empowerment of adolescent girls through various interventions like nutrition, life skill education, home based skills, health education etc. The scheme has been implemented w.e.f. 2010-11.

(e) STEP
The Support to Training and Employment for Women (STEP) was launched as a Central Sector Scheme in 1986-87. The STEP aims at making a significant impact on asset less and marginalized women by upgrading skills for self and wage employment. The sequence of activities is envisaged as mobilizing women in viable groups, improving their skills, arranging for productive assets or access to wage employment, creating backward and forward linkages, improving or arranging for support services, providing access to credit, awareness generation, gender sensitization, nutrition education, sensitization of project functionaries, etc. Thus STEP advocates an integrated package of inputs aiming at the self-reliance and empowerment of women by enhancing their productivity and enabling them to take up income generation activities.

(f) Swadhar/Short Stay Homes
The two schemes have similar objectives and target beneficiaries as detailed below:

- To provide for the catering of primary needs shelter, food, clothing and care to marginalized women and girls living in difficult circumstances who are without any social and economic support.
- To provide emotional support and counselling to such women.
- To rehabilitate them socially and economically through education, awareness, skill up-gradation and personality development through behavioural training, etc.
- To arrange specific clinical, legal and other support for women and girls in need of interventions by linking and networking with other organizations in both government and non-government sectors on case basis.
- To provide helpline (24 hour telephone facility) or other facilities to women in distress.
- To provide other services required for support and rehabilitation of women in distress.

Target Group

- Widows deserted by their families and relatives and left uncared at religious places where they are victims of exploitation.
Social Welfare Programme and Agencies

NOTES

- Woman prisoners released from jail and without family support.
- Women survivors of natural disaster who have been rendered homeless and are without any social and economic support.
- Trafficked women and girls rescued; women and girls who have been victims of sexual crimes, who are disowned by family or who do not want to go back to their respective families for various reasons.
- Women victims of terrorist or extremist violence who are without any family support and without any economic means for survival.
- Mentally challenged women who are without any support of family or relatives.
- Women with HIV/AIDS deserted by their family or women who have lost their husband due to HIV/AIDS and are without any social and economic support; similarly women placed in difficult circumstances.

National Mission for Empowering Women

As part of the Government’s commitment towards holistic empowerment of women, a National Mission for Empowerment of Woman has been set up as an umbrella mission to ensure convergence and coordination in the pro-women and women-centric interventions undertaken by various Ministries of the Central Government and State Governments/UTs. National Mission for Empowerment of Women (2010-15), which was launched on the 8th March, 2010 aims at strengthening the processes that promote all round development of women by focusing on a coordinated approach for implementation of schemes of participating Ministries or Departments and by creating an enabling environment conducive to social change. The National Mission is an umbrella mission under which schemes of the participating Ministries having monitorable convergence indicators will be covered. To roll out the mission, the National Mission Directorate and the National Resource Centre for Women are to be constituted.

Gender Budgeting

The Ministry of Women and Child Development is the nodal Ministry for Gender Budgeting. Gender Budgeting is a process that entails mainstreaming of a gender perspective in all policies and schemes of Government. The Ministry conducts training schemes for other Ministries or State Governments as part of its mandate.

Check Your Progress

3. What is the basic structure of an NGO?
4. What is the largest scheme in the world for early childhood care and development?
3.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Three national institutes for the physically and mentally disabled are:
   (i) National Institute for Visually Handicapped, Dehradun
   (ii) National Institute for the Orthopedically Handicapped, Calcutta
   (iii) Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai

2. Community-based Organizations (CBOs) arise out of people’s own initiatives. These can include sports clubs, women’s organizations, and neighbourhood organizations, religious or educational organizations.

3. Every NGO has, as its basic structure, the components of vision, mission, objectives, strategies and activities.

4. Integrated Child Development Services Scheme (ICDS) is the largest scheme in the world for early childhood care and development.

3.7 SUMMARY

- Evaluation refers to the purpose of research, rather than to any specific research methods. Its objective is to gauge and improve the conceptualization, design, planning, administration, implementation, effectiveness, efficiency and utility of social interventions and human service programmes.
- To cater to the needs of the rural disabled, these National Institutes would also work in close collaboration with organizations, governmental and non-governmental, to give a major thrust to develop training and service models especially suited to the demands and needs of the disabled in rural areas.
- Volunteer social work is a type of social service. Helping the helpless is a type of social service.
- The Central Government, the various State Governments and local self-governing bodies, each in its own sphere, have to ensure that they have at least the minimum administrative machinery for dealing with social “problems.
- The inter-relationship between the various activities has to be emphasised and the necessary co-ordination assured both in the Central Government; and in the States.
- The purpose of Social Welfare Department is to chalk out various welfare schemes and programmes for the underprivileged sections in the society.
• Models are strategies which NGOs are using to plan and implement their projects with a large positive impact.

• Non-governmental organizations (NGOs) or non-profit organizations (NPOs) are agencies that work in different sections of society to bring about welfare and development, especially among the vulnerable, marginalized or deprived groups and communities.

• ICDS scheme was started in 1975 in 33 blocks in the country. It is the largest scheme in the world for early childhood care and development.

• The Integrated Child Protection Scheme has been recently launched for creating a safe and secure environment for children.

• As part of the Government’s commitment towards holistic empowerment of women, a National Mission for Empowerment of Woman has been set up as an umbrella mission to ensure convergence and coordination in the pro-women and women-centric interventions undertaken by various Ministries of the Central Government and State Governments/UTs.

3.8 KEY WORDS

• Gender Budgeting: It is a process that entails mainstreaming of a gender perspective in all policies and schemes of Government

• NGO: It means a non-profit organization that operates independently of any government, typically one whose purpose is to address a social or political issue.

• Civil Society: It can be understood as the “third sector” of society, distinct from government and business, and including the family and the private sphere.

3.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. Write a short note on the evaluation of social welfare schemes in India.

2. List the objectives of the Swadhar scheme.

Long Answer Questions

1. Discuss the functions of the social welfare machinery of the Central and State Governments.

2. Describe the various types of NGOs.
3.10 FURTHER READINGS


UNIT 4 AGENCY REGISTRATION

Structure

4.0 Introduction
4.1 Objectives
4.2 Agency: Methods of Creation and Advantages
4.3 Memorandum of Association: Rules, Regulation and Registration Procedures
4.4 Answers to Check Your Progress Questions
4.5 Summary
4.6 Key Words
4.7 Self Assessment Questions and Exercises
4.8 Further Readings

4.0 INTRODUCTION

In the previous unit, you learnt about the evaluation of social welfare in India, the various governmental schemes on social welfare as well as the meaning and definition of social agencies. In this unit, the discussion on social agencies will continue. We will examine how agencies are registered, as well as the rules and regulations entailed. The unit will also discuss memorandums of association.

4.1 OBJECTIVES

After going through this unit, you will be able to:

- Discuss how agencies are created
- Describe the guidelines for drafting a memorandum of association

4.2 AGENCY: METHODS OF CREATION AND ADVANTAGES

Agency is the basic principle underlying all forms of business organisation. It is one of the most common legal relationship in modern times. Modern business is becoming complex day by day. As such it is not possible for an individual to carry on the business singly. He must necessarily depends on others for the efficient running of the business.
A person who is competent to make a contract may do so:

(i) either by himself or
(ii) Through another person.

When he makes contracts through another person, he is said to be making a contract through an agent. The person who acts on behalf of another of who represents a person in dealing with third parties is called as an agent and the person on whose behalf he acts of who is thus represented is called as principle.

The contract which creates the relationship of principal and agent is called an agency. Agency is based upon the principle qui facet per alium per se (he who does a thing through another does it himself). According to this principle, all acts which a person can do or is bound to do, except those which from their very nature can only be performed personally, can be done through an agent. The principal is bound by the acts of his agent and can get the benefit of such acts as if he had done them himself.

However, no person can effectively do through an agent what he himself is legally competent to do personally. For example, a minor who has no contractual capacity cannot by an agent make a contract which he himself is incapable of making.

The relationship of principal and agent may arise:

1. By express agreement, or
2. by implied agreement, or
3. By ratification or
4. By operation of law

1. Agency by express agreement

The authority of an agent may be expressed or implied. Normally the authority given by a principal to his agent is an express authority which enables the agent to find the principal by acts done within the scope of his authority. The agent may in such a case be appointed either by word of mouth or by an agreement in writing. The usual form of a written contract of agency is the power of attorney by which one person empowers another to represent him, or act in his stead, for certain purposes on a stamped paper.

2. Agency by implied agreement

Implied agency arises from the conduct, situation or relationship of parties. It may be inferred from the circumstances of the case and things spoken or written or the ordinary course of dealing may be accounted as circumstances of the case.

Implied agency a uses when the principal conducts himself towards the person alleged to be the agent or the third parties in such a manner, as if the principal had conceded to the appointment of that person as agent.
(i) Agency by estoppel

The doctrine of estoppel may be stated thus where a person by his conduct, on by words spoken on written leads wilfully another person to believe that a certain state of affairs exists and induces him to act on that belief so as to alter his previous position, he is precluded from denying subsequently the fact of that state of affairs.

In estoppel when an agent has, without authority done acts on incurred obligations to third persons on behalf of his principal the principal is bound by such acts on obligations, if he has by his words on conduct induced such third persons to believe that such acts and obligations were written the scope of the agents authority.

(ii) Agency by holding out

Agency by holding out is a branch of the agency by estoppel in this case, a prior positive on affirmative act on the part of the principal is required to establish agency subsequently.

(iii) Agency by necessity

In certain urgent circumstances the law confers an authority on a person to act as an agent for the benefit of another, there being no opportunely of communicating with that other, such agency is called an agency of necessity.

3. Agency by ratification

Ratification means subsequent acceptance and adoption of an act by the principal originally done by the agent ex-post facto on agency arising after the event.

Where acts are done by one person on behalf of another but without his knowledge on authority he may elect to ratify or to disown such acts. If he ratifies them, the same effects will follow as if they had been performed by his previous authority.

In such circumstances the contract of agency shall come into effect from a retrospective date. The date will be the date on which agent has first acted. The ratification tantamount to prices authority.

Ratification establishes the relationship of principal and agent between the person ratifying and the person doing the act. It establishes a contractual relationship between the principal and the third party.

Preparation of Byelaws

These have been discussed in Unit 5.
4.3 MEMORANDUM OF ASSOCIATION: RULES, REGULATION AND REGISTRATION PROCEDURES

The memorandum of association is the charter of a society. It is a document depicting and describing the objects of its existence and its operation. It defines the permitted range of enterprise care must be taken to draft this document so meticulously as to confer all powers on the society which will be reasonably required for total attainment of the objects.

Format of Memorandum of Association

The memorandum of association as per the central Act and the Acts enacted by various state Government should contain:

(i) Name of the Society
(ii) the Objects of the Society
(iii) The names, addresses and occupation of the members of the governing body and
(iv) The place of registered office of the society

The memorandum should be neatly typed on good quality durable paper and pages serially numbered as these documents form a permanent record. At least one and a half inch margin must be kept on the left side of each sheet of paper while typing and it should be typed on one side only.

Generally, the memorandum should contain following para clauses:

(i) Name of the society
(ii) principal place of its office
(iii) the objects for which the society is established
(iv) names, addresses and occupation of the governors, council directions, committee or other governing body to whom, by the rules of the society, management of its affairs is entrusted, and
(v) names, addresses and full signatures of the seven or more persons subscribing their name to a memorandum of association.

Signatures of the subscribers should be duly witnessed and attested.

In Maharashtra the memorandum of association of a society should contain following declaration signed by seven or more persons associated with it. “We the following person being desirous of forming ourselves into a society under the societies Registration Act, 1860 have subscribed our names to this memorandum”

Such declaration should be signed by the seven or more persons associated with the society and its should be dated.
**Guidelines for drafting Memorandum of Association**

Guidelines for drafting various paragraphs of the memorandum of association and rules and regulations of the society are given below:

1 **Name of the Society**

In the principal Act, no guidelines appear regarding selection of name of the society by the proposed subscribers, however in general analogy with the law on companies following points may be kept in mind:

(a) Registrar of Societies may be approached with alternative names to ascertain whether the same are not undesirable and are not being used by other existing societies

(b) Name of society should not suggest obscenity or be against decency and decorum. It should not be undesirable in the opinion of the Registrar

(c) Name should not be likely to promote disharmony or filings of enmity or hatred or ill will between different religious racial or regional groups or costs or communities

(d) Name should not be identical or nearly resemble with the name of existing registered society

(e) The name of the societies may end with the word Trust

(f) The name of society should be such as does not attract the provisions of emblems and names. (Prevention of improper use) Act 1950

(g) The proposed name should not suggest or be calculated to suggest the patronage of government of India or connection with local authority or any corporation or body constituted by the Government under any law for the time being in force.

(h) Any name, emblem, official seals, colourable imitation thereof as specified in Emblems and Names (Prevention of Improper Use) Act, 1950 should not be used without prior permission of the Government.

(i) If it is proposed to give all India character to the society and words all India or Akhil Bhartiya are to form part of name, the society must have its constituent in at least eight different states of Indian Union.

(j) Words cooperative, land development Reserve Bank, Union, State, Gandhi or any other word expressing or implying the sanction, approval or patronage of the central or any state Government and municipal or chartered or any word which suggests or is calculated to suggest connection with any municipality or other legal authority may not be used without the previous sanction in writing of such authority.

The subscribers to the memorandum of association may be guided by the above provisions while selecting a name for the proposed society. The Registrar has the power to refuse registration if the name is inconsistent with these guidelines.
Box 4.1: Format of Memorandum of Association

1. **Name of the society:**
   The name of the society shall be………………..

2. **Registered Office:**
   Registered Office of the society shall remain in the………………..(mention here State) and at present it is at the following address:

3. **Aims and objects:**
   The aims and objects for which the society is established are as under:
   (a)
   (b)
   (c)
   (d) and so on ..

4. **Governing Body:**
   The names, addresses, occupation and designation of the present members of the governing body to whom the management of the Society is entrusted as required under Section 2 of the Societies Registration Act, 1860, are as follows:

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<tr>
<th>S. No.</th>
<th>Name (Full in capital)</th>
<th>Address</th>
<th>Occupation</th>
<th>Designation in the society</th>
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5. **Declaration:**
   We the undersigned, are desirous of forming a society namely “……………..” under the Societies Registration Act. 1860 in pursuance of this Memorandum of Association of the Society.

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<th>Occupation</th>
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Note: 1. The memorandum should close here.
2. Following paragraph should be added as last paragraph of clause 3 hereof:

“All the incomes, earnings, movable or immovable properties of the society shall be solely utilised and applied towards the promotion of its aims and objects only as set forth in the Memorandum of Association and no portion thereof shall be paid or transferred directly or indirectly by way of dividends, bonus, profit or in any manner whatsoever, to the present or past members of the society or to any person claiming through anyone or more of the present of the past members. No member of the society shall have any personal claim on any movable or immovable properties of the society or make any profit, whatsoever, by virtue of his membership.”

Box 4.2: Format of Rules and Regulations

1. Rules and Regulations
   (i) Name of the society.
   (ii) Membership defined.
   (iii) Admission and qualification for membership.
   (iv) Subscription.
   (v) Cessation of membership.
   (vi) Rights and privileges of membership.

2. General Body
   (i) General body defined.
   (ii) Powers and duties/functions of the general body.
   (iii) Quorum and notice of meeting and periodicity of meetings.

3. Managing/Governing Body/Executive
   (i) Managing/Governing Body/Executive Committee defined.
   (ii) Composition
   (iii) Minimum and maximum strength including office-bearers.
   (iv) Election and its mode.
   (v) Term of the office of the Governing Body.
   (vii) Powers and duties of the office bearers.
   (viii) Quorum and notice of the meetings.
   (ix) Filling up of casual vacancies.

4. Sub-Committee if any
   (i) Formation.
   (ii) Composition.
   (iii) Duties and functions.

5. Sources of Income and Utilisation of Funds

6. Financial Year

7. Audit of Accounts

8. Operation of Bank Account
9. Annual List of Managing/Governing Body (Sec. 4 of the Act)

Once in every year a list of the office-bearers and members of the Managing/ Governing body shall be filed with the Registrar of Societies, as required under Section 4 of the Societies Registration Act, 1860.

10. Legal proceedings (Section 6 of the Act)

The society may sue or be sued in the name of the President/Secretary as per the provisions laid down under Section 6 of the Societies Registration Act, 1860.

11. Amendments/alteration, extension or abridgement of purposes, aims and objects or change of name, Sections 12 and 12A of the Societies Registration Act. The amendment shall be made under this section.

12. Dissolution and adjustment of affairs

If the society needs to be dissolved it shall be dissolved as per provisions laid down under Sections 13 and 14 of the Societies Registration Act, 1860.

13. Application of the Act

All the provisions under all the sections of the Societies Registration Act, 1860 shall apply to this society.

14. Certificate

Certified that this a true and correct copy of the rules and regulations of the society.

Sd/-        Sd/- Sd/-

(President)                         (Secretary)                                   (Treasurer)

Box 4.3: Model Rules and Regulations of a Society

1. Name of the Society

Name of the society shall be.........................

2. Membership

The membership of the society is open to any person who has attained the age of maturity and fulfils the terms and conditions of the society but subject to the approval of the Governing Body of the society.

Note: If the membership is not approved by the Governing Body of the society, the reason of refusal shall be communicated to, the person/applicant concerned.

3. Admission Fee & Subscription

The Admission Fee and the Subscription shall be as under unless otherwise revised by the Governing Body of the society:

(a) Admission Fee Rs. 100/- at the time of admission,
(b) Subscription Rs. 251/- per month.
4. Termination or Cessation of Membership
The Governing Body of the society shall have the powers to expel/terminate a member or members, from the membership of the above society, on the following grounds:
(a) on death,
(b) on written resignation,
(c) if found to be involved in any anti-social activities,
(d) if adjudged by any court of law to be a criminal offender,
(e) if found guilty by means of anti-propaganda of the Aims and Objects of the society,
(f) if fails to pay the subscription of contribution for three months,
(g) if has not attended three consecutive meetings,
(h) if disregards Rules & Regulations or disobeys the decisions of the Governing Body.

Note: The decision of the Governing Body regarding the termination from the membership of the society, shall be communicated to the member concerned.

5. General Body Defined
All the members of the society will constitute the General Body of the society.

6. General Body
(a) Notice: Minimum 15 days notice shall be given to the members, before the date of General Body Meeting, enclosing agenda specifying date, time, place and issues to be discussed.
(b) Meeting: General Body Meeting shall be held once in every year regularly.
(c) Quorum: The quorum of General Body Meeting shall be 2/3rd (two-third) of the total strength of the General Body Members of the society.

7. Rights & Privileges of Members
All and every member of the society shall:
(a) shall be entitled to participate in meetings, cultural/educational function and other lawful gatherings, called/arranged by the society.
(b) have right to collect the Identity Card after depositing the required/prescribed fee (fixed by the Governing Body of the society from time to time).

8. Duties of the Members
All and every member of the society shall:
(a) elect the Governing Body of the society,
(b) attend the General Body meetings regularly,
(c) give the necessary information to the society. Pertaining to any matter which is necessary to be known by the society.
(d) riot indulge in activities which are prejudicial to the Aims and Objects and/or the Rules & Regulations of the Society.

9. Governing Body
(a) Strength: The Strength of Governing Body (including office bearers and executive member) shall not be less than 7 and not more than 21.
(b) Term: Term of every Governing Body shall be Five Years.
(c) Notice: Minimum 7 days notice shall be required for every Governing Body Meeting of the society but Urgent Governing Body Meeting can be called by 24 hour notice.
NOTES

10. Functions & Powers of Governing Body
   (a) Governing Body shall be responsible for the management and administration of all affairs of the Society, and is also authorised to appoint any office bearer/executive member to look after any particular activity.
   (b) All the decisions shall be taken by the majority votes.
   (c) The Governing Body shall have the powers as are the powers of the society, mentioned in the ‘Memorandum’ of the society and in these Rules and Regulations. The Governing Body shall have also the following powers:
       (i) To prepare plans, projects and programmes.
       (ii) To appoint Election Officer and his/her powers.

11. Composition of the Governing Body
    The composition of the Governing Body shall be as under:
    (a) President ... One
    (b) Vice-President ... One
    (c) General Secretary ... One
    (d) Secretary ... One
    (e) Treasurer ... One
    (f) Executive Members from two to sixteen

12. Powers and Duties of Office Bearers
    A. President
       (a) President shall preside over all the meetings of the society.
       (b) At the time of voting on any matter/subject (except Election), if the total votes of the groups of members happen to be equal in number, the President has the power to cast an extra vote to decide the matter/subject.
       (c) President shall have the power to allow inclusion of any subject/matter in agenda for the discussion in the course of proceeding/meeting.
       (d) President will sign all the papers/letters, on behalf of the society, to conduct its correspondences.

    B. Vice-President
       The Vice-President of the society shall enjoy all the powers of the President in his/her absence.

    C. General Secretary
       (a) General Secretary will summon and attend the meetings of the Governing Body and General Body.
       (b) General Secretary will prepare the Membership Register as well as the Proceeding Register to record the minutes of the proceedings of the
Governing Body Meetings and the General Body Meetings and have them duly signed by the members who attend the meetings.

D. Secretary
The secretary shall enjoy all the powers of General Secretary in his/her absence.

E. Treasurer
(a) All funds of society shall remain under the care and management of Treasurer.
(b) Treasurer shall maintain the accounts of all money which is received and/or paid by him/her on behalf of the society.
(c) Treasurer shall make disbursement in accordance with the direction of Governing Body.

13. Re-Admission
In case, any member of the society is expelled by the Governing Body on the reason of non-payment of the subscription, he can be re-admitted, provided the member concerned pays all up to date dues with the permission of the Governing Body.

14. Appeals
All the appeals shall be preferred to the General Body of the society and the decision of the general body shall be final.

15. Filling Up of Casual Vacancies
Any casual vacancy amongst the governing body, shall be filled by the resolution passed by the governing body. Such appointment(s) shall be confirmed by the general body in its coming general body meeting.

16. Election
General body in its annual meeting will elect its president and all the office bearers and also the executive members of the governing body, after every five years by secret ballot papers or by show of hands as the election officer may decide.

17. Sources of Income
All the income of the society shall be utilised only for the promotion and upliftment of the Aims and Objects of the society. Sources of income of the society are as under:
(a) Admission fee and subscription from the members of the society,
(b) Donations and special contributions.

18. Financial Year
Financial year of society shall start from 1st April to 31st March, every year.

19. Audit
The accounts of society shall be audited by a qualified auditor (Chartered Accountant) every year.

20. Management of Funds & Accounts Operation
Bank Accounts shall be operated by Joint Signatures of Treasurer and anyone out of President and General Secretary.
21. Annual List of Governing Body
   Once in every year a list of the Office-Bearers and the Executive Members (of
   the Governing Body) shall be filed in the office of the Registrar of Societies.
   Delhi as it is required under Section 4 of Societies Registration Act, 1861.

22. Dissolution
   If the society needs to be dissolved, it shall be dissolved as per provision
   down under Secs. 13 & 14 of Societies Registration Act, 1860, as applicable to
   National Capital Territory of Delhi.

23. Legal Proceedings
   Society may sue and/or be sued in the name of PRESIDENT as per provisions
   laid down, under Sec. 6 of the Societies Registration Act, 1860, as applicable
to National Capital Territory of Delhi.

24. Amendment
   Any amendment in Memorandum, Rules and Regulations will be carried out
   in accordance with Sections 12 & 12-A of the Societies Registration Act,
   1860; as applicable to National Capital Territory of Delhi.

25. Application of the Act
   All the provisions under all the Sections of the “Societies Registration Act,
   1860”, as applicable to National Capital Territory of Delhi, shall be applicable
to this society.

26. Essential Certificate
   Certified that this is the correct copy of the Rules and Regulations of the
   society.

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Check Your Progress

1. What are the ways in which the relationship between principal and agent
   may arise?

2. What should a memorandum of association as per the central Act and
   the Acts enacted by various state Government contain?

4.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The relationship of principal and agent may arise:
   (i) By express agreement, or
   (ii) By implied agreement, or
   (iii) By ratification or
   (iv) By operation of law
2. The memorandum of association as per the central Act and the Acts enacted by various state Government should contain–
   (i) Name of the Society
   (ii) the Objects of the Society
   (iii) The names, addresses and occupation of the members of the governing body and
   (iv) The place of registered office of the society

4.5 SUMMARY

- Agency is the basic principle underlying all forms of business organisation. It is one of the most common legal relationship in modern times.
- The contract which creates the relationship of principal and agent is called an agency. Agency is based upon the principle qui facit per alium per se (he who does a thing through another does it himself).
- According to this principle, all acts which a person can do or is bound to do, except those which from their very nature can only be performed personally, can be done through an agent.
- The relationship of principal and agent may arise:
  (i) By express agreement, or
  (ii) by implied agreement, or
  (iii) By ratification or
  (iv) By operation of law
- The memorandum of association is the charter of a society. It is a document depicting and describing the objects of its existence and its operation.
- The memorandum should be neatly typed on good quality durable paper and pages serially numbered as these documents form a permanent record.
- Registrar of Societies may be approached with alternative names to ascertain whether the same are not undesirable and are not being used by other existing societies.

4.6 KEY WORDS

- **Memorandum**: It is a document recording the terms of a contract or other legal details.
- **Contract**: It is a written or spoken agreement, especially one concerning employment, sales, or tenancy, that is intended to be enforceable by law.
- **Byelaw**: It means a rule made by a company or society to control the actions of its members.
4.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions
1. What does the term ‘agency’ imply in the context of express agreement?
2. What is an agency?

Long Answer Questions
1. Describe the format of the memorandum of association.
2. Explain the guidelines for drafting a memorandum of association.

4.8 FURTHER READINGS

UNIT 5 REGISTRATION OF SOCIETIES AND TRUSTS

5.0 INTRODUCTION

There are many different kinds of associations working in the social sector of any economy. These may be in the form of agencies, Trusts or societies. Whatever may be the form, wherever money is involved, it is not only a legal requirement but also an efficient decision to get the society or Trust registered. It assists in the proper management of money and resources in terms of its efficient and judicious use. There is also the benefit of tax concessions and protection from law suits. Formation of societies have the additional benefit of likeminded people working towards a similar goal which will result in better planning and management. Since societies and Trusts are integral to the social policy of any nation, in this unit, you will learn about the major provisions related to the registration of societies and Trusts along with the roles and functions of the executive committee and governing body of the societies.

5.1 OBJECTIVES

After going through this unit, you will be able to:

- Discuss the creation of trust
- Explain the registration of societies
• Describe the qualities, functions, role of executive committee and governing body
• Explain the dissolution and status of societies

5.2 CREATION OF TRUST

A trust is an obligation annexed to the ownership of property and arising act of a confidence reposed in an accepted by the owner on declared and accepted by him for the benefit of another on of another and the owner.

Authors of the Trust
The person who reposed or declared the confidence is called the author of the Trust.

Trustee
The person who accepts the confidence is called the Trustee.

Beneficiary
The person for whose benefit the confidence is accepted is called the beneficiary

Trust Property
The subject matter of the Trust is called Trust-property or Trust money.

Beneficial Interest
The beneficial interest on interest of the beneficiary is his right against the trustee as owner of the trust-property.

Instrument of Trust
The instrument of any by which the trust is declared is called the instrument of trust.

Creation of Trusts
Section 3 of the India Trusts Act, 1882 defines a Trust as an obligation resting on the owner of a property for the benefit of another. The definition does not set out any distinction between an equitable and legal ownership administered in law court.

Trusts are generally divided into two categories simple trusts and special trusts. In a simple trust, the trustee is a passive depository of the property with no active duties expected there of. A simple trust is created when one person conveys property to another upon trust for the benefit of some person, giving no directions to the receiver of the property.

In the case of special trust, the trustee is active agent to ascertained to execute the donor’s will and the trust is operative. In a special trust, the machinery
NOTES

of a trust is introduced for the execution of the purposes particularly pointed out and the trustee is not a mere passive depository of the estate but is called upon to exert himself actively in the execution of the settlor’s intentions as for example, where a conveyance is made to the trustees upon trust to sell the estate to settle debts.

The distinction between a Private and Public Trust is that where in the Private Trust the beneficiaries are specific individuals, in the Public Trust, they are the general public of a class as in they constitute a body.

A Trust may be created for any lawful purpose. The purpose of a Trust is lawful unless it is

(a) forbidden by law, or
(b) is of such a nature that, if permitted it would defect the provisions of any law, or
(c) is fraudulent or
(d) evolves or implies injury to the person on property of another, or
(e) the court regards it as immoral on opposed to public policy.

Every Trust of which the purpose in unlawful is void. And where a Trust is created for two purposes of which one is lawful and the other unlawful and the two purposes cannot be separated, the whole trust is void.

In this section the expression law includes where the Trust property is immovable and situated in a foreign country the law of such country.

Methods of Creating a Trust

A Trust may be created by

(i) a declaration by the owner of property that he holds it as Trustee for another person. or
(ii) a transfer inter vivos by the owner of property to another person as Trustee for the transferor on for a third person or
(iii) a transfer by will by the owner of property to another person as trustee for a third person, on
(iv) an appointments by one person as trustee for the donee of the power or for a third person, on
(v) a promise by one person to another person whose rights thereunder are to be hold in trust for a third person

A Trust may be Created

(a) by every person competent to contract and
(b) with the permission of a principal civil court of original jurisdiction, by or on behalf of a minor.
But subject in each case to the law of the land being in force as to the circumstances and extent in and to which the author of the trust may dispose of the trust property.

The subject matter of a trust must be property transferable to the beneficiary. It must not be merely beneficial interest under a subsisting trust.

Every person capable of holding property may be a beneficiary. A proposed beneficiary may renounce his interest under the Trust by disclaimer addressed to the Trustee on setting up, with notice of the trustee a claim in consistent therewith.

Every person capable of holding property may be a trustee but, where the trust involves the exercise of discretion, he cannot execute it unless he is competent to contract.

**No one is bound to accept a trust**

A Trust is accepted by any words or acts of the Trustee indicating with reasonable certainty such acceptance instead of accepting a Trust, the intended Trustee may, within a reasonable period disclaim it and such disclaimer shall prevent the Trust property from vesting in him.

A disclaimer by one on two on more Co-Trustees vests the Trust property in the other one other and makes him on them sole Trust on trustees from the date of the creation of the Trust.

The Trustee is bound to fulfill the purpose of the Trust and obey the directions of the author of the Trust given at the tone of its creation, except as modified by the consent of all the beneficiaries being competent to contract.

Where the beneficiary is incompetent to contract his consent may for the purposes of this section be given by a Principal Civil Court of original jurisdiction.

Nothing in this section shall be deemed to require a Trustee to obey any direction when to do so would be impracticable illegal or manifestly injurious to the beneficiaries.

A Trustee is bound to acquaint himself, as soon as possible, with the nature and circumstances of the Trust-property to obtain where necessary a transfer of the Trust-property to himself and subject to the provision of the instrument of Trust to get in trust-moneys invested on insufficient on hazardous security.

A Trustee is bound to maintain and defend all such suits and subject to the provisions of the instrument of Trust, to table such other steps as regard being had to the nature and amount on value of the Trust-property, may be reasonably requisite for the presentation of the Trust-property and assertion or protection of the title thereto.

Where the Trust is created for the benefit of several persons in succession and the trust property is of a wasting nature on a future can reversionary interest
the Trustee is bound, unless an intention to the contrary may be inferred from the instrument of Trust, to convert the property into property of a permanent and immediately profitable character.

Where there are more beneficiaries than one the Trustee is bound to be impartial, and must not execute the Trust for the advantage of one at the expense of another.

**Check Your Progress**

1. What is a simple Trust?
2. How is a Trust accepted by a Trustee?

### 5.3 REGISTRATION OF SOCIETIES

A society has been described as a company on association of persons generally incorporated united together by mutual consent to deliberate determine and act jointly for some to include club, institution on organisation or Association of persons by what so ever name called. The legal thesaurus by William C Burton refers society to include Association Bloc, Body, Class, Cheque, Club Coalition, Combine, Commonwealth, Confraternity, Consociation, Group, Institute league, organised group and Religions sect, etc. Societies are formed to help promote human values because they work on non-profit basis. A society is formed to achieve charitable or promotional objects.

The Societies Registration Act, 1860 lays down procedure for registration of societies for various bonafide purposes stated in the Act.

The registration gives the society a legal status and is essential for:

(i) Opening bank accounts
(ii) Obtaining registration approvals under Income Tax Act.
(iii) Lawful vesting of properties of societies and.
(iv) recognition to the society at all forums and before all authorities

The provisions of the Societies Registration Act 1860 aim at improving legal condition of societies established for promotion of literature science on fine arts as for diffusion of useful knowledge as for charitable purposes.

The Societies Registration Act is a central legislation and has been adopted by most of the State Governments with/without certain amendments.

Some of the states who have adopted the Act have also framed their Rules, for implementation of the Act. However, certain States have in acted their own law for regulation of societies in their states. These are:

1. Andhra Pradesh Societies Registration Act, 2001
2. Himachal Pradesh Societies Registration Act, 2006
4. Karnataka Societies Registration Act, 1960
5. Madhya Pradesh Society Registration Adhiniyam, 1973
6. Meghalaya Societies Registration Act, 1983
7. Mizoram Societies Registration Act, 2005
8. Rajasthan Societies Registration Act, 1958
9. Tamilnadu Societies Registration Act, 1975
10. Travancore Cochin Literary Scientific and Charitable Registration Act,
11. West Bengal Societies Registration Act, 1961

**Preamble**

The preamble to the Act States,

> Whereas it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of literature, science, or the fine arts as for the diffusion of useful knowledge, the diffusion of political education for charitable purposes.

**Comparison between Society and Company**

An organisation in the nature of a society can also be registered under section 8 of Companies Act, 2013.

These are basically non-profit organisation. A society is a non-commercial organisation formed for the promotion of objects like art, culture, science, religion, etc.

Under Section 8 of the Companies Act 2013, a company can also be formed for non-profit objectives. These objectives may not be charitable. These companies are allowed to drop words limited on Private Limited from their names. The promoters while deciding whether to register themselves as a society as a section 8 company may keep following distinctive features in mind:

**Table 5.1 Society Vs Company**

<table>
<thead>
<tr>
<th>Features</th>
<th>Society under Societies Registration Act 1860</th>
<th>Company u/s 8 of the companies Act 2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Objects</td>
<td>Charitable literary scientific etc.</td>
<td>Non-profit activities</td>
</tr>
<tr>
<td>2. Formation</td>
<td>Procedure is simple and easy</td>
<td>Procedure is but complicated</td>
</tr>
<tr>
<td>3. Name</td>
<td>Selection of name is not difficult</td>
<td>Name has to be approved from the Registrar of companies</td>
</tr>
<tr>
<td>4. Management</td>
<td>Management of Society is easy simple and not much restrictions have been composed under the Act.</td>
<td>Provisions of the companies Act have to be complied with and are complex laborious rigid and time consuming</td>
</tr>
</tbody>
</table>
### Registration of Societies and Trusts

#### NOTES

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<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>5.</td>
<td>Meetings</td>
<td>Annual meeting of society has to be held as per provision in the Act. Meetings of Governing Body are held as prescribed in the Rules of the Society</td>
</tr>
<tr>
<td>6.</td>
<td>Penalties</td>
<td>Very few offences and penalties have been presented</td>
</tr>
<tr>
<td>7.</td>
<td>Reputation</td>
<td>Registered Societies enjoy some reputation as companies</td>
</tr>
<tr>
<td>8.</td>
<td>Legal entity</td>
<td>A registered society is a legal entity with certain limitations</td>
</tr>
</tbody>
</table>

### Registered and Unregistered Societies

Unregistered societies differ from registered ones in respect of certain consequences. Thus:

(i) Properties belonging to a society registered under the Act are deemed to be vested for the time being in the governing body of such society in not vested in the trustees.

(ii) A suit can be filed by as against a registered society:

   (a) In the name of certain office bearers as trustees as provided by the rules and regulations of the society or

   (b) In the name of such persons as may be appointed by the governing body of the society.

   In the absence of registration a society has no legal status and therefore, it cannot be sued.

(iii) If a judgment is obtained against a person of officer named on behalf of the registered society, such judgment cannot be enforced against the property of the society alone by registration an unregistered society acquires a status only to make it convenient for carrying out the purposes for which it has been established.

### Societies formed by Memorandum and Registration

Any seven or more persons associated for any literary, scientific or charitable purpose may by subscribing their names to a memorandum of association and filing the same with Registrar of Joint Stock Companies form themselves into a society under Societies Registration Act, 1860.

### Eligibility

Besides individuals, the following persons are eligible to form a society by subscribing to the memorandum of a society:
(a) Foreigners

Foreigners can also subscribe to the memorandum of a society if the society is to be registered in India. Indian law will apply even if all the subscribers are foreigners. A society will be a foreign society if it is registered outside India although all the members are of Indian origin.

(b) Partnership Firm

The position of a partnership firm regarding its eligibility to subscribe to the memorandum of society is not clear from the provisions of the Partnership Act, 1932 as from judicial pronouncements sub-section (3) of section 8 of the Companies Act 2013 permits a partnership firm to become a member of non-profit company. Under section 3 of the A.P. Societies Registration Act 2001, a society of which a firm whether registered or not is a member shall not be registered under the Act.

(c) Limited Company

Limited company being a legal entity can subscribe to the memorandum of a society through its authorised attorney.

(d) Registered Society

A registered society can subscribe to memorandum of association of proposed society. It being a legal entity, it can subscribe through its constituted attorney.

(e) Minors

The provision of the Societies Registration Act, 1860 and judicial pronouncements on the Act are not clear about the eligibility of minor signing the memorandum of the society.

Minors can become members of a company by applying through the natural guardian for being registered, as a member of a company, was entitled to be so registered if shares were fully paid up. Although a minor cannot subscribe to the memorandum, he may become member later on through his guardian.

5.3.1 Purpose for which a Society can be Formed

A society can be formed for the promotion of literature, science on the fine arts or the diffusion of useful knowledge political education or for charitable purposes. Section 20 of the Societies Registration Act 1860 specifies the following purposes for which societies may be registered under the Act:

(i) Grant of charitable assistance
(ii) Creating of Military orphan funds
(iii) Societies established in the general presidencies of India
NOTES

(iv) Promotion of:
- Science
- Literature
- Fine Arts
- Instruction on diffusion of useful knowledge
- Diffusion of political education
- Foundation or maintenance of Public museum and galleries of
  - Painting
  - Working of art
  - collections of natural history
- Mechanical and philosophical inventions, instruments or design.

Purpose and Activities of Society

Purpose means the fundamental principles upon which the association was formed and the trust created. Purpose is different from the activities on the programme of the society. For example, if a society is founded for the purpose of promotion of literature, it may in its rules, provide for variety of activities, such as giving scholarships to deserving student, holding essay competitions, awarding prized for best books, organising conferences for popularizing a language etc.

Purpose construes the main object on the central area of the society as distinguished from its detailed activities which are obviously directed towards the purpose.

The various forms of societies in vogue and their primary purposes are indicated below:

| (a) | School, colleges, libraries | Education |
| (b) | Hospital, Dispensaries, Health centres | Health and Medical Aid |
| (c) | Printing Schools and Proses polytechnics, vocational Training centres etc. | Technical Training and demonstration for providing better employment opportunities |
| (d) | Orphanages, Hostels Homes for the aged and the handicapped clubs | Social welfare |
| (e) | Voluntary organisation social service societies, research institutes | Development |

Recreation or Enjoyment

The question whether a society can be registered under the Societies Registration Act 1860, or other corresponding Act having recreation and enjoyment as one of its objects has neither been answered in the statute nor discussed or decided in law court. In England the query has been returned in negation under the Perversions of Literary and Scientific Institution Act, 1854.
However, under Tamil Nadu Societies Registration Act, promotion of recreation has been included as an object for which a society may be formed and registered. Besides, promotion of sports and games (a recreation activity) has been included in Delhi State Amendment and also under the laws framed by Andhra Pradesh Tamil Nadu, Meghalaya and Karnataka.

Charitable Purpose

Lord Camden has defined charitable purposes as a gift to general public which extends to poor as well as the rich equal. It may be noted as universal rule that the law recognises no purpose as charitable unless it is of a public character, that is to say a purpose must, in order to be charitable be directed to the benefit of the community or a section of the community.

Charitable purpose includes not only relief of the poor education and medical relief alone, but advancement of other objects of general public utility as well.

The expression object of general public utility however is not restricted to objects beneficial to the whole mankind. An object beneficial to a section of the community is an object of general public utility to serve a charitable purpose, it is not necessary that the object should be to benefit the whole of mankind or even all persons being in a particular country or province. It is sufficient if the intention to benefit a section of the public as distinguished from specified individuals.

5.3.2 Other Important Registration Related Provisions

A society should be registered in the state in which its registered office is situated. The registration of a society has to be done under the Act wherever obtaining and not in the state where the benefit is claimed.

Once the persons proposing to form a society have decided upon the name of the society and have prepared drafts of Memorandum and Rules and Regulations of the Society, procedure detailed in following paragraphs may be adopted for getting the society registered.

Sigourney of Memorandum of Association

All the subscribers memorandum should sign each page of the memorandum and the signatures should be witnessed by an Oath Commissioner, Notary Public (Notary Stamp duty affixed) Gazetted officer, Advocate Chartered Accountant or Magistrate Ist Class with their rubber/official stamp and complete address.

An illiterate person may put his thumb impression which should be described as LTI or RTI by a person who should also put the name of subscriber and attest it by his own signature. An endorsement to the fact that the contents of the document have explained to the subscribers should also be given.

Persons desirous of forming a society should also become members of the first governing body. An outsider cannot become member of the first governing
NOTES

Registration of Societies and Trusts

A outsider cannot become member of the governing body in the first instance.

Signature on Rules and Regulations

The rules should be signed by at least three members of the governing body. Following certificate should be given at the end of the rules and regulations:

“Certified that this is the correct copy of rules and regulations of the society”

Sd Sd Sd
(President) (Secretary) (Member)

File the required documents with the Register of Societies

Following papers should be filed with the Registrar of Societies (titles by which registering authorities are known in different states) registration of a society under the Act:

(a) Cover letter requesting for registration stating in the body of letter various documents annexed to it. It should be signed by all the subscribers to the memorandum or by a person authorised by all of them to sign on their behalf.

(b) Memorandum of Association in duplicate along with a certified copy. It should be neatly typed and pages serially numbered.

(c) Rules and Regulations/ Bye laws in duplicate duly signed.

(d) Where there is a reference to any particular existing places of worship like Temple, Masjid, Gurudwara, Church or Budhvihar etc. sufficient documentary proof establishing legal competence and control of applicant society over such places should be filed.

(e) Affidavit on non-judicial stamp paper of appropriate value sworn by the president or secretary of the society starting relationship between the subscribers. The affidavit should be attested by an Oath Commissioner Notary Public (Notarial stamp duly affixed) or Magistrate Ist Class.

(f) Documentary proof such as House Tax receipt rent receipt in respect of premises shown as Registered Office of the society on no objection certificate from the owner of the premises.

Registration Fee

Normally fee of ₹ 50/- is payable as registration fee of a society and it should accompany the request for registration payable in cash or by Demand Draft. In the Union Territory of Delhi, the Registrar intimates the applicant society by a letter stating that all the formalities have been completed and the documents filed are acceptable. The applicant society is required to deposit the registration fee after receipt of the letter.
Formalities of registration and requirement of documents etc., may differ slightly from state to state. The applicants may, therefore, contact in advance the Registrar of Societies having jurisdiction.

**Registration Certificate**

On receiving the relevant documents the Registrar shall satisfy himself about the compliance of the provisions of the Act and correctness of the documents and then certify in his hand that the society is registered under the Act of 1860 on other corresponding Acts.

**Presumption of Registration**

Presumption that the society was duly registered under the Act arises not on the certificate of Registration granted by the registrar but on the certified copies of the rules and regulations and memorandum certified under Section 19 of the Act which constitutes them as prima facie evidence of the matters therein contained.

**Effects of Registration of a Society**

The registration of society under the Act of 1860 gives it the status of a legal entity or a juridical person when the society is registered, it and its members become bound to the same extent, as if each member had signed the memorandum. Once registrations is effected, objects of a society as are in consistent with the provisions of the Act become in operative. A society registered under the Act must confine its activities to the sphere embraced by its objects. A tax imposed on a society is one imposed on the society and not on its members. A society registered under the Act enjoys the status of a legal entity apart from the members constituting it. A registered society is a legal person just as an individual but with no physical existence. As such it can acquire and hold property and can sue and be sued.

**Effects of Non Registration**

The society should be registered under the Act to acquire the status of a juridical person. In absence of registration, all the trustees incharge of the fund have alone a legal status and the society has no legal status and therefore, it cannot sue and be sued. A non-registered society may exist in fact but not in law. It is immaterial under the Act whether the society is registered, but where the benefit is claimed, the registration of society under the Act is required, an unregistered society cannot claim benefit under the Income Tax Act.

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**Check Your Progress**

3. Name the Act which lays down procedures for registration of societies in India.

4. Which condition must be fulfilled without which the law recognises no purpose as charitable?

5. What does the status of a registered society being a legal person entail?
5.4 QUALITIES, FUNCTIONS AND ROLE OF GOVERNING BOARD, COMMITTEES AND EXECUTIVES

In this section, you will learn about the qualities (nature), functions and role of governing bodies and executive committees under the Societies Registration Act, 1860.

5.4.1 Member

Section 15 of the Societies Registration Act, 1860 defines a member of a society as a person who:

(a) has been admitted to the society according to its rules and regulations and
(b) has paid subscription as provided in the rules has signed the role on list of members of the society, and
(c) has not resigned in accordance with the rules and regulations of the society

No one can claim admission to a society as a matter of right on payment of prescribed subscription the discretion of the governing body is final concerning grant or refusal of admission to a person.

Rights

1. Right to receive notice

A member of a registered society is to receive notice of all the annual and special general meetings. In case the member has not left any address with the society the notice may be advertised in two newspapers.

2. Right to vote

Every member of a registered society is entitled to vote in all the annual and special general meetings however, a member who is in arrears of his subscription for a period exceeding three months shall not be so entitled.

3. Resolving disputes

A member may proceed under the provisions of the Arbitration and Consultation Act, 1996 or may move the district court for resolving any dispute arising among the members of managing committee or the members of the society intense in respect of any matter relating to the affairs of the society.

4. Right to receive copies of bye-laws

Every society is required to deliver a copy of its byelaws, to each of its members at the time of admission. A member of the society may ask for copies of byelaws, receipt and expenditure account and balance sheet on payment of prescribed fee.
Register of Members

It is advisable for the societies to keep a permanent record of their members in the register of members. Details of name, address, occupation date of admission, date of payment of subscription, details of non-payment service of notice, expulsion, resignation etc., should be recorded in this register.

5.4.2 Governing Body and Executive Committee

The governing body of the society is the brain of the society the activities of the society are managed, executed and supervised by the governing body. The governing body is required to act within the framework of the objects of the society as well as to carry out the statutory duties laid down in the act.

Section 16 of the principal act defines the governing body to be the governors, council, directors, committee trustees or other body to whom by the rules and its regulations of the society the management of its affairs is entrusted. The definition gives different homes to the body by which it can be known. The main criterion for identifying the governing body is whether the rules and regulations of the society have entrusted the management of the affairs of the society to such body. The entrustment of the management should be complete. The governing body of the society is a fluctuating body. Constitution of the governing body is not affected by the change in its membership. There will always be a governing body to manage the affairs of the society whether or not the same has been properly constituted in terms of the rules and regulations. The criterion in all cases is who is managing the affairs of the society. The property of the society costs in the governing body and not in the members of the society.

The term of governing body has not been defined in the Act. Provisions in the Companies Act also do not throw any light on the subject. The first members of the society are the members of its governing body. Also usually, the governing body comprises of members, chosen from amongst the members of the society. But at times government may appoint its nominee, in the governing body in the public interest. The provisions relating to filing and defending the suits by the society provide that any proceedings or suit in any court shall not discontinue by reasons of the person dying or ceasing to full the character in whose name such suit on proceeding has been fraught. Same proceeding shall continue in the original form and vacancy in the governing body shall not have any effect.

Minimum members of the governing body

There should be at least two members in any governing body. In Himachal Pradesh, Tamil Nadu and Andhra Pradesh there should be at least three members of the governing body.

Appointment

The members of the governing body are either elected or nominated as per the rules and regulations of the society.
Terms of office

The terms of office of members of who is to manage the affairs of the society, it is but natural that the members of the governing body collectively have to comply with the provisions laid down in the statute in regard to filing documents with the registrar, maintaining accounts, managing and applying the funds of the society for carrying out the objects of the society etc. Many provisions in the principal act provide the manner in which the society is required to act and for all purposes it is the governing body which will act on behalf of the society.

Appointment of New Trustees

New trustees may be appointed if it becomes so necessary or there may be appointed trustees in place of or in addition to any trustee or trustees in whom any property belonging to or held on acquired by a registered society is vested. In trust the new trustees may be appointed by governing body as is generally provided in the rules of the society. In Himachal Pradesh and Tamil Nadu, the term of office of a member of governing body can not exceed three years and in Andhra Pradesh it is six years. The members of the governing body may retire or be expelled if provided in the rules on the society.

Trustees of the property of the society

The members of the governing body are the trustees of the properties of the society they have to look after and manage the properties of the property may include both movable and immovable property. The property of the society vests in its trustees and when there are no trustees for the property of the society, it is deemed to be vests in the property of the society is described as the property of the governing body of such society.

Executive Committee

(i) Every registered society shall have a committee of not less than three members to manage its affairs. Every registered society shall file with the Registrar a copy of the registrar maintained by it and from time to time file with the Registrar notice of any change among the members of the committee.

(ii) A copy of the register shall be filed either at the time of the registration of the society or within such period as may be prescribed from the appointment of the members of the first committee and the notice of any change among the members of the society of the committee shall be filed within such period as may be prescribed from the date of such change.

(iii) The members of the committee shall be appointed at a meeting of the society by a resolution of a majority of the members present and entitled to vote thereat

(iv) The term of office of the members of the committee shall not exceed three years from the date of their appointment.

(v) The member of the committee shall be eligible for reappointment.
Disqualification for Governing Body

A person shall be disqualified for being a member of the governing body on the date of elections, if he/she:

(a) is disqualified for such appointment by an order of a Court or Registrar for causing loss to the society or retaining property or for any other reason detrimental to the interest of society; or
(b) is in arrears of prescribed subscription fee and a period of 45 days is over after delivering notice to such members to such effect, or
(c) has been convicted of a cognizable offence and sentenced to a term exceeding three months; or
(d) has incurred any of the disqualifications as may be prescribed by the general body.

Powers and Functions of the Governing Body

(i) To admit new members and to remove or expel existing members subject to approval of general body.
(ii) To raise funds as per provisions of its bye laws
(iii) To invest funds for furtherance of the objectives of the society
(iv) To appoint salaried or non-salaried officers for the conduct of working of the society in accordance with the rules framed by society for the purpose and to define their duties.
(v) To institute, defend or compromise legal proceedings etc., subject to approval of general body
(vi) To dispose off applications of membership
(vii) To maintain true accounts of money received and expended and accounts of the assets and liabilities.
(viii) To prepare for submission to the annual general meeting
       (a) Balance sheet
       (b) Receipt and disbursement statement
       (c) Details of movable and unmovable property acquired by the society
       (d) Details of money received and source thereof and money expended and the object or purposes for which sums/money are expended
       (e) Annual budget and annual report of the society for approval
       (f) Amendment of bye-laws if any and annual work programme for approval
(ix) To prepare statements of accounts required at audit and place them before the auditors.
(x) To prepare and submit all statements and returns required by Registrar in such form as required

(xi) To maintain register of members up to date

(xii) To facilitate inspection of book and audit of accounts of the society by those entitled to inspect/audit them

(xiii) To convene annual general meeting in due time

(xiv) To examine and take prompt actions in cases of all arrears and defaults of the society

(xv) In general, to carry out the management of the society in accordance with its bye laws.

Quorum and Notice of Meetings

(a) The quorum for the governing body meeting shall be at least two-thirds of its members

(b) The quorum for the general body meeting shall be one half or two third of its member whichever is less

(c) The society shall send at least 15 days notice for such meetings to its members along with agenda notes. A meeting may be called by serving notice through regular mail, e-mail, fax or any other mode of communication available.

Such minutes of the meetings shall be communicated to all the members within 30 days of the said meetings.

Officers/Executives of the Society their Role and Functions

- President

  (i) To preside over the periodical/quarterly meetings of the governing body/general body of society and to exercises general supervision over the activities of the society and to regulate the proceedings of the meeting to set out the aims and objects of the society and shall also permit for discussion if necessary, any other subject items moved before him by the members.

  (ii) He shall be treated as the Head of Society and shall decide any matter by casting his decisive vote in case of a tie. The President shall convene meeting of the Society in the event of resignations, insolvency or insanity of any office-bearer/member, within the period of a week of all 2/3rd members requisitioning for a meeting. All member of the society along with all other executives of the society shall also be invited for the meeting.

  (iii) He shall give necessary directions and instructions to the General Secretary and Treasurer for the proper and smooth working, management, supervision, and administration of the society.
(iv) He may authorize for the expenditure up to ₹ 5000/ (Rupees Five Thousand only) for social benefits/activities and the expenditure so incurred should be got approved by the society at its next meeting and the receipt of such expenditure must be presented in the meeting for the record of society.

(v) He shall keep copies of all official records and documents related to the members of the society and the copies of all other important records and documents of the society

(vi) If, in the opinion of the president, any emergency has arisen which require immediate action, he can take such action as he deems fit and necessary and inform the some to the members of the Governing Body and get it notified in the nest meeting in due course.

The Functions Powers and Duties of the President

The functions powers and duties of the President are as follows:

(i) The President of the Society shall be the president of the Governing Body, who shall act as the chief executive officer of the society and will be assisted by a Governing Body and such staff appointed for the purpose to discharge his administrative and financial functions.

(ii) Subject to the regulation and the general control and supervision of the General Body and the Governing Body, the entire executive administrative and financial authority to manage the affairs of the Society shall vest in the President.

(iii) To preside at all the meetings of the General Body and the Governing Body and of all other committees and subcommittees of which he/she is a member to take votes, to declare the result of voting, to determine the order in which the several proposed should be laid before General Body/Governing Body and generally to supervise the conduct of business.

(iv) To counter sign cheques issued by the Secretary/Treasurer or other authorized officers of the society.

(v) The control, supervise, advice and direct all establishments belonging to the society and departments under the control of the society.

(vi) The carry out day to day administration and all affairs of the society.

(vii) To appoint temporarily one or more of the life members of the society to act for him or to delegate all or any functions performed by him to such person(s). The President may co-opt Secretary Executive members to function for the society and determine their status and terms of reference.

(viii) To take upon herself/himself the duties of the absentees.

(ix) To grant such scholarship awards, honours and commendation as she/he is empowered to do by the condition of the award.
NOTES

(x) To suspend or to fine, take suitable action against any member of the ministerial or officer staff of the society as prescribed from time to time being appointing authority of the society.

(xi) To perform such other functions duties as may, from time to time, be entrusted to him by the society/Governing Body.

(xii) To sanction all expenditure within the budget or as per delegation by the Governing body not covered by the sanctioned budget.

(xiii) The President may, in consultation with the secretary and in anticipation of the approval of the Governing Body, incur/Sanction all or any such expenditure in case of urgency or otherwise, not covered by the sanctioned budget.

(xiv) In case of office bearers leaving the station or otherwise being unable to attend to her/his work, the President will make necessary arrangements for the performance of her/his duties, till the return of the office bearer or till the next meeting of the Governing body.

(xv) In addition to powers mentioned above, the Governing Body may be rules, guidelines, instructions etc. delegate additional powers to the President, who may make such further delegation if considered necessary, to any office bearer. Head of the department or any officer, as deem necessary by her/him.

(xvi) The decision of the President on any question relating to the conduct of business at any meeting shall be final unless it is dissented from by 3/4th of the member present at the meeting. But votes shall not be taken on any such question by the President unless a prior requisition is made in writing by at least five members present for such voting.

Vice President

In the absence of President, the Vice-President shall use all the powers of President and perform all such duties assigned to him by the president or governing body from time to time.

Secretary

(i) The secretary shall be overall in-charge of entire administrative records of the society and carry out the all correspondence of the society.

(ii) He shall administer the affairs of the Society in consultation with the President.

(iii) He shall convene and arrange the all periodical and other meetings of the society in consultation with the President.

(iv) He shall prepare and present the Annual Report together within audited statements of the Accounts of the Society before the General Body meeting of the Society.
(v) He shall maintain a register containing the names and addresses of the all members of the society, issue notice of the meeting in consultation with the President and record the minutes of the meeting. He will be responsible for assigning the work of all activities of the Society and shall conduct correspondence on the behalf of the society.

(vi) He has authority to incur expenditure in accordance with the regulations of the society, such expenditure should be reported in the next meeting of the society for its approval.

(vii) To submit a report pertaining to the working of society for the preceding year at the annual General Meeting and execute contracts on behalf of the society as and when authorised to do so by the Governing Body.

(viii) To keep and maintain all records (excluding cash transactions and accounts) and perform all correspondence on the behalf of society.

• Treasurer

The Treasurer shall be over all in-charge of the cash transactions and accounts of the society.

(i) He shall be responsible for the proper maintenance of the Accounts of the society i.e., prepare and finalize the Annual statement of accounts at the end of every financial year and submit it in the annual general body meeting of the society after its approval from the society and duly audited (along with the Auditor’s report and comments thereof, if any)

(ii) To keep and update the accounts of the society on regular basis pertaining all transitions of money received and paid, and he shall be responsible for the proper maintenance of the accounts of the society and for this purpose he shall record all the receipts/payment of income and expenditure regularly in the cash book and shall place it before the governing body of the society in its next meeting.

(iii) He shall deal with the Bank (s) and all financial institutions, according to the directions of the governing body of the society.

(iv) He shall be responsible for making all collections, receipts of cash/cheque from members of society as subscription/registration fees, fines, penalties and other payments and receipts of any other financial and non-financial assistance from the centre or state Government/NGO/National or International Agencies/Bank/Company and any other legal entity or individual and issue receipts there of on behalf of the society.

(v) The Treasurer may keep cash in hand as prescribed by the governing body of the society and deposit the remaining or surplus amount in the bank.
The Appointment and Removal of Staff of the Society

All persons who are paid out of funds of the society, regular, or part time/contractual/target based or any other salaried persons shall be the employees of the society. Such rules, instructions, and guidelines as are issued by the society or governing body or the President for time to time shall govern them. The governing body may appoint such administrative, technical, ministerial or any kind of staff as is required to run the office or offices or other establishments run under or by the society and to fix such term and conditions of service including pay, allowances, benefits, etc., as is determined either by regulations, instructions, guidelines or other appropriate way as well as the classification, control, conduct and appeal mechanism of the employees from time to time. Provided that the normal age of superannuation of the staff is fifty-eight years but President, in the interest of the society, and with the approval of General Body, may grant extension in service to deserving employees, from time to time, as considered necessary and appropriate by her/him. No extension shall be granted to any employee beyond the age of sixty years provided further that the president may delegate his/her all or specific powers to such officers of the society, for the control of the administration of the staff as deems fit. The competence for removal of staff and officers shall vest in the governing body after affording adequate opportunity of being heard, on the following grounds if he/she is found guilty-

(i) for misconduct, violation of the Rules and Regulations and misappropriation/embezzlement of funds/properties of the society
(ii) on conviction for a cognizable offence and sentenced to a term exceeding 3 months
(iii) for indiscipline and breach of trust etc.

5.4.3 Status, Amalgamation and Dissolution of Societies

The status of a society is that in a suit by or against a society registered under the Act that society can be validly represented by the office bearers. Society may sue or be sued in the name of its president chairman principal secretary, trustees or other office bearers or any other person as determined by the rules and regulations of the society or in the name of such persons as are appointed by the governing body.

Amalgamation of Societies

Section 12 of the principal Act provides for amalgamation of a society with any other society either wholly or partially. Such amalgamation has to be for the better utilisation of the properties of the society. The amalgamation of the societies can be done only if the governing bodies of the societies considers it advisable for the better utilisation of the properties or for any other cause. The procedure lead
down in section 12 is mandatory. The procedure constitutes following steps which
must be complied with for the purpose:

(i) Submission of the proposal of amalgamation by the governing body to
members of the society by a written or printed report.
(ii) Ten days’ notice should be given to the members for holding special general
meeting to consider the proposal of amalgamation.
(iii) Consideration of the proposal by the special general meeting convened for
the purpose
(iv) Resolution of the special general meeting by adopting the proposal of
amalgamation by not less than 3/5 majority of the members of the society.
(v) Convening another special general meeting after a month.
(vi) Confirmation of the resolution passed at first special general meeting in
second special general meeting by 3/5 of the member present at the second
special general meeting.

The majority of a body cannot alter the fundamental principles of the body
unless such a power is specially reserved.

An amalgamation or division of a society shall not prejudice any right of a
creditor of the society.

Dissolution of Society

Dissolution of a society may become necessary for various reasons such as where
the objects for which the society was formed have been fulfilled on the purposes
for which society was formed have become irrelevant or that members are otherwise
willing to dissolve that society for utilisation of the assets of the society for some
other or better use. The procedure for dissolving a society is laid down in section
13 of the principal Act of 1860 and is comparatively easier than the procedure laid
down for alteration, abridgment or extension of the purpose of the society. The
members of the society have to determine by a 3/5 the majority that it shall be
dissolved. Here they have two options to decide.

Either is may be dissolved forth with a time may be agreed upon when the
society shall stand dissolved

The members, therefore, should pass a resolution at the special general
meeting of the society convened for this purpose where they should transact the
following business:

(a) Decide by 3/5th majority that the society should be dissolved.
(b) Decide whether it will be dissolved forthwith or at a later time agreed
upon by them.
(c) Decide steps that shall be necessary for disposal of property and
settlement of the claims and liabilities of the society, according to the
rules of the society.
(d) Authorise the governing body to dispose of the property of the society and settle claims and other liabilities.

**Settlement of Disputes**

In the event of dispute arising among the members of the governing body or the members of the society in regard to disposal of property, the governing body or its members or members of the society may refer the dispute for adjustment of the affairs of the society is situated. The Court shall make such orders in the matter as it may deem requisite.

Check Your Progress

6. What is the minimum number of members that must be present in any governing body?

7. State the term of office of the members of the committee under the Societies Registrations Act, 1860.

8. Whose duty is it to prepare and present the Annual Report together within audited statements of the Accounts of the Society before the General Body meeting of the Society?

5.5 **ANSWERS TO CHECK YOUR PROGRESS QUESTIONS**

1. Trusts are generally divided into two categories simple trusts and special trusts. In a simple trust, the trustee is a passive depository of the property with no active duties expected there of. A simple trust is created when one person conveys property to another upon trust for the benefit of some person, giving no directions to the receiver of the property.

2. A Trust is accepted by any words or acts of the Trustee indicating with reasonable certainty such acceptance.

3. The Societies Registration Act, 1860 lays down procedure for registration of societies for various bonafide purposes stated in the Act.

4. As a universal rule that the law recognises no purpose as charitable unless it is of a public character, that is to say a purpose must, in order to be charitable be directed to the benefit of the community or a section of the community.

5. A registered society is a legal person just as an individual but with no physical existence. As such it can acquire and hold property and can sue and be sued.

6. There should be at least two members of any governing body. In Himachal Pradesh, Tamil Nadu and Andhra Pradesh there should be at least three members of the governing body.
7. The term of office of the members of the committee shall not exceed three years from the date of their appointment.

8. The secretary shall prepare and present the Annual Report together with audited statements of the Accounts of the Society before the General Body meeting of the Society.

5.6 SUMMARY

- A trust is an obligation annexed to the ownership of property and arising out of a confidence reposed in an accepted by the owner on declared and accepted by him for the benefit of another on of another and the owner.

- The person who reposed or declared the confidence is called the author of the Trust. The person who accepts the confidence is called the Trustee. The person for whose benefit the confidence is accepted is called the beneficiary.

- Section 3 of the India Trusts Act, 1882 defines a Trust as an obligation resting on the owner of a property for the benefit of another. The definition does not set out any distinction between an equitable and legal ownership administered in law court.

- Trusts are generally divided into two categories: simple trusts and special trusts.

- The distinction between a Private and Public Trust is that where in the Private Trust the beneficiaries are specific individuals, in the Public Trust, they are the general public of a class as in they constitute a body.

- A Trust is accepted by any words or acts of the Trustee indicating with reasonable certainty such acceptance instead of accepting a Trust, the intended Trustee may, within a reasonable period disclaim it and such disclaimer shall prevent the Trust property from vesting in him.

- A society has been described as a company on association of persons generally incorporated united together by mutual consent to deliberate determine and act jointly for some to include club, institution or organisation or Association of persons by what so ever name called.

- The Societies Registration Act, 1860 lays down procedure for registration of societies for various bonafide purposes stated in the Act.

- The Societies Registration Act is a central legislation and has been adopted by most of the State Governments with/without certain amendments. Some of the states who have adopted the Act have also framed their Rules, for implementation of the Act.

- Any seven or more persons associated for any literary, scientific or charitable purpose may by subscribing their names to a memorandum of association
A society can be formed for the promotion of literature, science on the fine arts or the diffusion of useful knowledge, political education or for charitable purposes. Section 20 of the Societies Registration Act 1860 specifies the purposes for which societies may be registered under the Act.

The registration of a society under the Act of 1860 gives it the status of a legal entity or a juridical person. When the society is registered, it and its members become bound to the same extent as if each member had signed the memorandum. Once registration is effected, objects of a society as are in consistent with the provisions of the Act become in operative.

The governing body of the society is the brain of the society; the activities of the society are managed, executed, and supervised by the governing body. The governing body is required to act within the framework of the objects of the society as well as to carry out the statutory duties laid down in the Act.

Officers/Executives of the Society include: President, Vice President, Secretary, Treasurer, among others.

Section 12 of the principal Act provides for amalgamation of a society with any other society either wholly or partially. Such amalgamation has to be for the better utilisation of the properties of the society. The amalgamation of the societies can be done only if the governing bodies of the societies consider it advisable for the better utilisation of the properties or for any other cause.

Dissolution of a society may become necessary for various reasons such as where the objects for which the society was formed have been fulfilled; the purposes for which the society was formed have become irrelevant, or that members are otherwise willing to dissolve that society for utilisation of the assets of the society for some other or better use.

In the event of dispute arising among the members of the governing body or the members of the society in regard to disposal of property, the governing body or its members or members of the society may refer the dispute for adjustment of the affairs of the society is situated. The Court shall make such orders in the matter as it may deem requisite.

5.7 KEY WORDS

- **Trust**: It is an obligation annexed to the ownership of property and arising act of a confidence reposed in an accepted by the owner on declared and accepted by him for the benefit of another or of another and the owner.

- **Society**: It has been described as a company on association of persons generally incorporated united together by mutual consent to deliberate
determine and act jointly for some to include club, institution or organisation or Association of persons by what so ever name.

- **Purpose**: In the context of societies, it refers to the main object on the central area of the society as distinguished from its detailed activities which are obviously directed towards the purpose.

## 5.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

### Short Answer Questions
1. Why is the legal status through registration required for societies?
2. List the states which have their own law for regulation of societies in their states.
3. Differentiate between registered and unregistered societies.
4. Write a short note on the procedure to be followed for registration of society after the draft preparation of Memorandum, Rules and Regulations.
5. Write a short note on the eligibility and rights of members of a society.
6. Briefly explain the provisions related to executive committee in the Societies Registration Act.
7. What are the rules regarding quorum and notice of meetings of the governing body under the Societies Registration Act?
8. Write a short note on the amalgamation and dissolution of societies.

### Long Answer Questions
1. Examine in detail the important elements in the creation of Trust.
2. Compare a society and a company.
3. Who are eligible to form a society by subscribing to the memorandum of a society?
4. Discuss the purpose for which a society can be formed.
5. Describe the appointment, term of office, powers, functions and disqualification of governing body of a society.
6. Examine the role and functions of the Officers/executives of the society.

## 5.9 FURTHER READINGS

NOTES


UNIT 6  INTRODUCTION TO SOCIAL POLICY

**Structure**
- 6.0 Introduction
- 6.1 Objectives
- 6.2 Definition, Need and Evolution of Social Policy
- 6.3 Constitutional Base for Social Policy
- 6.4 Sources and Instruments of Social Policy
- 6.5 Answers to Check Your Progress Questions
- 6.6 Summary
- 6.7 Key Words
- 6.8 Self Assessment Questions and Exercises
- 6.9 Further Readings

**6.0 INTRODUCTION**

Typically, a policy is considered to be a rule or a principle that helps to guide decisions that are taken and which help in attaining outcomes that are rational. Policy can also be looked at being a ‘Statement of Intent’ or a ‘Commitment’ to the people. A policy may be a mechanism which is administrative; it may involve financial management; or it may be political in nature which is formed for the purpose of attaining specific goals.

The formulation of policies is a central and prime function of any government. In this light, the final quality of any policy will be dependent on the capability of the government that has formulated it to direct the policymaking process. There is no clear view of what constitutes this capacity, nor is there a clear view of what the process of policy formulation actually involves. Due to these two factors, it has been difficult to even know how to improve the process of policy formulation.

We do know that those departments that are associated with social policy formulation perform various activities such as:

- Analysing and reviewing existing policies to determine possible gaps in service delivery
- Evaluating the impact of proposed policies with regard to service delivery
- Initiating research to support matters of policy formulation
- Piloting new policies to determine long-term sustainability
- Providing education and advocacy services
- Providing implementation guidelines
- Participating in the formulation of policies and legislations at the national and provincial levels
Before we look at the various facets of social policy, it is important to remember that a social policy framework is critical in determining the performance of various components including firms, farmers, households, public sector bodies and other economic units. So, the quality of the policy framework has a direct impact on a country’s economic development.

In this unit, you will learn the definition, need and evolution of social policy, the constitutional basis for social policy and the sources and instruments of social policy.

6.1 OBJECTIVES

After going through this unit, you will be able to:

- Describe the definition, need and evolution of social policy
- Explain the constitutional basis for social policy
- Discuss the sources and instruments of social policy

6.2 DEFINITION, NEED AND EVOLUTION OF SOCIAL POLICY

We were introduced to social policy in Unit 1. Let us discuss it in detail here.

Social policies constitute an important part of Central Government, and state governments’ development plans. Whether it is a developed country, developing country or underdeveloped country, social policies play a key role in guiding any country towards prosperity and development. But, what actually is social policy and how does it help the government in dealing with the social problems of the society?

In essence, social policy is a complex web of related policies, schemes and institutions that are concerned with the social conditions of the citizens and impact of economic activities on the state. The idea of social policy rests on the foundation of social justice and equality. As a whole, it refers to government policies and practices that continuously work for the well-being of the members of society, especially in the areas of healthcare, human services, criminal justice, equality, education and labour.

How does it help the government in dealing with social problems?

Social policies lay out the groundwork and provide direction and guidance to the government’s pursuits and efforts in bringing positive social changes in the society. For laying a solid groundwork to bring positive social changes, social experts (members of Parliament [MPs]/members of legislative assembly [MLAs] and government representatives), who frame social policies, do lot of research on economic and social realities prevailing in various regions of the country. Intense
research helps the policymakers in foreseeing various problems and hindrances in the implementation of the policy and also helps in framing innovative rules and provisions which would help social policy in achieving its desired goals.

Goals and Objectives of Social Policies

The primary objectives of social policies are:

- **Poverty relief**: No citizen or household in the society should fall below a minimum standard of living. Minimum standard of living refers to the economic situation; wherein a member is able to fulfill the basic necessities of life which include food, clothing and shelter.

- **Social insurance**: Ensures that no member or citizen faces unacceptably large drop in their living standard. This can be achieved through policies on unemployment benefits and healthcare benefits.

- **Reduction of inequality**: Works continuously for reducing economic inequality prevailing in the society. In India, there are many social policies working to redistribute basic necessities towards individuals/families with lower incomes.

- **Dignity and self-respect**: Cash and healthcare benefits should be delivered; especially to the vulnerable sections of the society so as to preserve their individual dignity and self-respect.

- **Social solidarity and unity**: Helps in fostering social solidarity and unity by helping weaker sections, such as scheduled castes and scheduled tribes, to integrate with the rest of the society.

Relationship between Social Policy and Economic Policy

All countries in the world formulate their economic policy to increase the economic welfare of the people. The economists believe that it is the responsibility of the government and monetary authorities to steer the economy towards increased economic welfare.

The general view is that an economy would move naturally towards maximum economic welfare and full employment when its markets are allowed to operate freely. The modern policymakers believe that the objectives of economic policy should be as follows:

- Stable and sustainable economic growth and development
- Stability in prices
- Employment for everyone
- Equitable distribution of income
- Care for the environment
- Development of a mixed economy with a strong public sector, especially in key areas of the economy.
• Promotion of balanced regional development, with a narrowing of economic difference across regions.

These broad objectives have been evident from the very early stages of planning in India. Over time they have taken more concrete shape as distinct objectives. The government of India has taken up various policies from time to time for the welfare of people.

There is no denying that economic policies and social policies are interrelated. It is a fact acknowledged worldwide that economic condition greatly determines the social condition of any country. For example, if a particular country is continuously failing on the economic front because of anti-development policies, it will surely face shortage of funds for investment in social areas like education, health and poverty reduction.

Experts say that implementation of social policies requires millions of rupees, and these millions come to the government through important economic activities like tax collections, foreign direct investment (FDI) revenue, foreign exchange reserves and export revenue.

The deep financial prowess, which has been achieved due to two decades of economic growth, has given India the freedom and confidence to formulate ambitious social policies for the welfare of its people.

However, in recent years the economic policies of India as well as many countries across the world have faced severe criticism for their sheer failure to boost inclusive growth in the society. It is true that two decades of economic growth (triggered by the reforms of 1992) has given India financial platform to launch social policies; however, it is equally true that two decades of growth was exclusive rather than inclusive in nature. The benefit of India’s stock market boom or the millions earned in revenue through FDI never reached the masses of poor Indians. Today even the supporters of economic reforms openly accept that only people living in the upper and middle levels of India’s social pyramid benefited from the reforms.

Also, the growth of Naxalism in the last one decade reflects India’s failure in providing social justice to the millions of poor. India’s poor performance in key social areas also forces us to rethink on the current economic policies pursued by the government. Today many social and economic experts have already started talking about ‘economic policies with human face’; policies that will lead to inclusive growth, incorporating each and every section of the society.

The debate on economic policies with human face has gained strength not just in India but world over, as the entire world is reeling under economic recession, which has already led to unprecedented rise in poverty and unemployment level in developed countries.

The growing social crisis all around the world has forced us to raise one pertinent question: Do market- or capitalist-oriented economic policies guarantee
100 per cent social welfare of the society? There is no definite ‘yes’ or ‘no’ answer to this question. But there is definitely an urgent need, especially for developing countries, to introspect into their economic policies.

We are all proud of India’s phenomenal rise in the information technology (IT) sector or the phenomenal growth India’s telecom industry has witnessed in the last one decade. However, there exists ‘another India’ beyond the realm of India’s market-driven economy. This ‘another India’ is called rural India, where millions of Indians are still struggling to live a life of dignity and self-respect. The benefits of Indian economic and social policies need to reach these millions of people who are living at the grassroot level of India. The formulation and implementation of policies like NREGA, Right to Education Act and Sarva Shiksha Abhiyan is surely a right step towards mass development of rural India. We need more such policies which will surely help rural India to stand on its feet.

6.3 CONSTITUTIONAL BASE FOR SOCIAL POLICY

The Indian Constitution is unique in its content and spirit. Though borrowed from almost every constitution of the world, the Indian Constitution has adopted several salient features that distinguish it from the constitutions of other countries. The Indian Constitution reflects the spirit of social and economic justice. In fact, the genesis of all the social policies and legislations formulated after Independence lies in the very spirit of Indian Constitution.

For example, in the Preamble to the Indian Constitution the term justice embraces three distinct forms of justice—social, economic and political—which form the very foundation of a just and fair society. Social justice denotes the equal treatment of all citizens without any social discrimination based on caste, colour, race, religion and sex. In other words, it means that no privileges will be extended to any person or section of the society.

Economic justice denotes that citizens should not face any discrimination on the basis of economic factors. It emphasizes removing glaring inequalities in wealth and income from the society.

Finally, political justice implies that all citizens should have an equal voice in the shaping of the government as well as the running of the government.

Apart from political, economic and social justice, the Preamble also mentions liberty and equality. It states that there should be freedom of thought and expression, which is integral to an individual’s freedom in the society. Furthermore, the Preamble envisages a society based on the principle of equality, wherein an individual’s status and opportunities are not determined by the virtues of caste, religion, colour, race, etc.
Social Policy Elements in the Constitution of India

Preamble

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure 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 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.

The Indian Constitution also successfully incorporates some of the relevant and important Articles of the Directive Principles of State Policy (DPSP) impacting on the promotion of a just and fair socio-economic order. Following are some of the important Articles of the Directive Principles of State Policy.

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

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

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

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

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

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength; and
(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

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

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

Article 45—Provision for free and compulsory education for children.

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

Also, the following provisions of the chapter on Fundamental Rights ensure civic equality:

(a) Equality before the law (Article 14).
(b) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15).
(c) Equality of opportunity in matters of public employment (Article 16).
(d) Abolition of untouchability (Article 17).
(e) Abolition of titles (Article 18).

Check Your Progress

1. What is the foundation of the idea of social policy?
2. Are social and economic policies interrelated? Give at least one reason to support your answer.
3. What are “economic policies with humane face”?
4. What does Article 41 of the Indian Constitution talks about?

6.4 SOURCES AND INSTRUMENTS OF SOCIAL POLICY

From an academic point of view, social policy encompasses elements of various concepts and fields of social science such as public management, policy analyses, programme evaluation, political economy, sociology and economics. It uses those aspects from each concept and field that are involved with problems of governmental operations, management and administration. Though it has a lot to
do with economics and political science, the study of social policy is a distinct subject with respect to its focus on the application of theory to practice.

Conventionally, again from an academic point of view, social policy as a field has kept its focus on a nation’s domestic policy. In present times, since the late twentieth and twenty-first centuries, with the setting in of economic globalization there is a need to have a subset of social policy which focuses on global governance with special attention to its relation to those issues that go beyond national borders. These issues encompass economic development, nuclear proliferation, terrorism and change in climate to name a few.

We now look at some of the approaches that are adopted by policymakers while formulating social policies.

Unified Social Policy

Before we look at the unified theory of social policy/unified field theory of social policy it is interesting to note that in physics a ‘unified field theory’ provides a detailed explanation of all physical forces including gravity, electromagnetism and atomic quantities in space and time. Credit for the origin of this term is given to Albert Einstein.

As you have learnt before, social policy encompasses elements of various concepts and fields of social science including public management, policy analysis, programme evaluation, political economy, sociology and economics.

Several attempts have been made towards a unified field theory of social policy. We now discuss these aspects and try and define the unified field theory of social policy.

In social policy, the ‘fields’ refer to a collection of values held by people, and the power relationships which implement these values. So, in sociology there is a study of human relationships; in political science there is a study of human power; and in economics there is a study of utility along with the importance attached to goods, happenings and relationships. Can all these aspects be unified to come up with a theory that will benefit society?

Ethics need to be at the very core and need to form a basis of a unified theory of social policy or even of social science. Man is a moral creature who selects his actions with purpose so that they result in the consequences that he intended in the first place. These chosen consequences may be neutral, evil or good. Among interacting humans, there exists an inherent ethical field.

In his work, ‘A Unified Field Theory of Social Policy’, Fred E. Foldvary says:

‘A unified theory of human action needs a universal ethic and it exists as laid out by philosopher John Locke who recognized the supreme moral prescription that one ought not to coercively harm another. The harm rule, grounded in human equality, has been recognized and described by philosophers such as those from ancient Greece, and it has been at the core of religious ethics such as the Ten Commandments, as in ‘thou shalt not steal’.”
Moral rules that form human relationships and also provide a justification for governance and making recommendations for coming up with an appropriate social policy are based on an universal ethic. For instance, for a natural moral law pertaining to wealth to be implemented, what is also required is economic theory. The foundation of economics has as its categories production factors and inputs, with labour and land being the critical factors. Built into moral equality is the assumption that there will be masters and no slaves. Each individual will be a self-owner—completely owning his personal labour and wage. Thus, a creation will belong to its creator.

However, natural resources are not subject to self-ownership. This leads to the notion of equality that nature’s benefits should be properly owned by all individuals. According to Henry George, an economist and social philosopher, based on economics there exist land rent and a market price of natural benefits in a free market. Rent is an economic field that is implied and it stems from population and land, whether or not the payment of rent is explicitly made or not.

Land rent goes up based on public works plus associated civic services available to communities. This rental is the property of the creators, through a contract or in its absence. Hence, those who hold the title of the land pay back the rental value to governmental agents of the ultimate providers, the citizens and residents.

Fee payable for services that are specific and the rent given provide a morally correct revenue source for governance.

In physics, power refers to the rate at which work is done and increase in mass times is called ‘force’. To elaborate, we accelerate human action by applying force to a human mass, thereby modifying its direction and/or its velocity.

What is available in society to get work done is either people’s voluntary action or getting them to do the work by force. The field of power is augmented when people are in a group and each individual’s power of authority becomes integrated into political power or the physical ability to exert force. The government needs to exert power to enforce universal ethics; it needs to implement penalties for coercive harm to others and also for offenses such that non-harmful human action is neither taxed nor restricted. According to universal ethics, what is needed is a totally free market in which true free trade can take place.

According to universal ethics, a market is a purely voluntary action of economy. With the policy being judged by the same ethics that determine a market, a pure and free market is inherently ethical and it is morally evil to make even the slightest intervention in this free market. The theory of a free-market economy, specifically that which is propounded by geo-classical and Austrian schools, says that in a pure free market there is a maximization of human welfare which leads to a sort of harmony among economics and ethics. A policy which is evil in a moral sense will also be damaging in the economic sense.
In what ways can governance that is morally proper and has optimum policies be created? This is where the economic theory of public choice comes in. James Buchanan is considered the main theorist of the economic theory of public choice. Public choice goes with the central concept of ‘transfer seeking’ or ‘rent seeking’. What this implies is that powerful factions that dominate the government will seek and take subsidies. With the benefits being concentrated in a countable number of hands there is transfer seeking and all of the social cost that arises from every privilege that is granted is thinly spread between voters, consumers and taxpayers. A mass democracy inherently comes with the concept of transfers with millions of its voters being ignorant.

Hand in hand with the theory of public choice, political science makes available a cure for transfer seeking. Voting in a small group is the opposite of mass democracy because in small group voting, the political body is split into very small neighbourhood cells which are similar to the cells in a human body. Each citizen has the right to vote for a council of representatives only in the cell to which he belongs. In this way the huge campaign funds needed by a mass democracy are eliminated. The next level of representatives is elected by a group of neighbourhood councils which too is a small group. The entire process is bottom-up.

However, even in small group voting some transfer seeking does exist though it is to a much lesser extent as compared to mass democracy. In small group voting, granting of transfers is also much less since the councils at the higher level are monitored by the next lower level; council members can also be recalled and replaced by the next lower level at any time. In small group cellular democracy, political power is divided into small pieces with each piece reflecting the values of local communities in the best possible manner. These values need to be kept in check by the liberty prescribed by the universal ethic and compiled into a constitution. All this goes to show that a unified theory of ethics exists and that public-choice economics and political science provide the political structure that implements universal ethics in policy in the best and most sustainable manner.

**Integrated and Sectoral Social Policies**

We have explained the importance of social policy in the development of society. However, in recent times there have been debates and discussions at a global level on how the effectiveness of social policy can be improved. These debates and discussions have given birth to a new concept: social integration and cross-sectoral policies. This new concept sees development from a different perspective. Social integration and cross-sectoral policies are actually two different concepts though they are deeply inter-linked as well as interdependent.

Firstly, social integration is not a policy but a process that wants policymakers to see social problems from a different perspective. People who support social integration want policymakers to acknowledge the fact that vulnerable and disadvantaged sections in society are a by-product of power relations, politics,
institutions and values that enable elites and the well-off to maintain their exclusive position. From this perspective, the disadvantaged are not simply excluded from mainstream society, but they are also included in households, communities and markets on unequal terms. This often happens through discrimination, abuse, violence and exploitation. Therefore, what is a must for social integration is transforming social values and institutions that perpetuate unequal relations rather than simply providing help to the disadvantaged groups so that they can gain access into mainstream society.

**Social integration** enforces and promotes actions that try to redefine existing social contracts so that a more equitable society is created. What are the methods through which social integration can be pursued? Is there a practical way to integrate society on the basis of equality? Political and social scientists claim that to integrate society on the basis of equality, we need to pay attention three different, but interlinked, processes. These are:

- Recognizing diverse social groups, cultures and identities to promote respect, dignity and cooperation;
- Representing different political voices so that the interests of different groups are taken into account in decision-making and in the allocation of resources; and
- Redistributing socio-economic resources between individuals and groups to prevent deep disparities and fragmentation on the basis of wealth, ethnicity, region, gender, age or other social identities.

There is another method which can strengthen the process of social integration. This method is called the ‘cross-sectoral policy’.

**Cross-Sectoral Policy**

We have understood that social integration and cross-sectoral policies are interdependent. Cross-sectoral policies provide a broad platform on which social-integrated policies can be built. The key challenge for policymakers supporting cross-sectoral policies is formulating different policies (social, political and economic) that are coherent and compatible with each other. This means that critical policies, whether social or political, should not be formulated in isolation, as policies formulated for a particular sector may have implications for another sector.

For example, it is generally assumed that human rights and development policies belong to different and separate domains (i.e., they are seen in isolation). While development policy is seen from the prism of economic and social needs, human rights are seen from the prism of political rights. However, if we see from the perspective of a cross-sectoral policy then human rights, even though they fall under the political policy, have wider implications for the social and political needs of the people. For instance, any state that grossly violates human rights cannot fulfil the social and economic needs of its people. Hence, to prosper economically and socially the state should first acknowledge the human rights of its people.
One of the reasons why social integration and cross-sectoral policies are deeply interlinked is because they both see development holistically, i.e., they do not see development as a fragmented process but as an integrated process where social, politics and economics are not just interlinked but are also interdependent.

Social Policy Formulation

How is social policy formulated in India? The exercise of policy formulation is a lengthy process which goes through various stages. In India there are basically three stages through which a social policy has to pass to become legislation:

(i) Cabinet nodal
(ii) All party discussion
(iii) Parliament nodal (upper house or lower house)

Social policy formulation

The main official players involved in formulating policy include cabinet ministers, political parties and the president while interest groups are the most significant non-official actors in the formulation of social policy.

Before a policy or a bill goes for the Cabinet’s sanction, it is formulated by the concerned ministry. For example, a policy or bill pertaining to environmental issues is formulated by the environment ministry. The policy is basically formulated by members of the Indian Administrative Services (IAS) and other officials under the ministry after taking into consideration the views of the Cabinet minister and coalition parties if the government is a coalition. After the completion and supervision of the bill, it goes to the Cabinet for approval.

Cabinet nodal: The Cabinet (officially known as the Union Council of Ministers in India) is a collective decision-making body of the Government of India. It consists of the Prime Minister and 35 Cabinet ministers. The Cabinet is the ultimate decision-making body of the executive wing in India. When a bill or a policy is presented in a meeting of Cabinet ministers, each minister representing his or her political party puts forward his or her views on the bill or the policy. A Cabinet discussion on a bill or a policy is important, especially when the government is run by coalition parties. For the stability of the Union government, the Prime Minister representing the principal political party (with the highest number of members of Parliament [MPs] in the Lok Sabha) has to consider divergent views of all the coalition partners. If there is no objection to the bill from any Cabinet minister or coalition partner, it is forwarded to Parliament for sanction.

All party discussion: The situation for an all party discussion arises when the coalition partners in the government are critical of the bill. This leads to a situation where the government does not have the required numbers to pass the bill in the Lok Sabha. To overcome this situation, the Prime Minister calls for an all party meeting for which even opposition parties are invited. In the all party meeting,
the government tries to reach out to everyone, especially its coalition partners whose support for the bill is critical. If the government is able to convince the concerned parties and succeeds in getting the required numbers, then the bill is presented on the floor of Parliament, otherwise it is postponed for an indefinite period.

**Parliament:** The last and final stage in the passage of a bill is both the houses of Parliament—the Lok Sabha (lower house) and the Rajya Sabha (upper house). The bill has to pass the litmus test in the Lok Sabha and only then is it forwarded to the Rajya Sabha for sanction. In most cases, the government presents a particular bill on the floor of Parliament only if it is sure that it has the required numbers to get it passed.

After the bill is passed by both the houses of Parliament, it is signed by the President of India. Without the President’s signature no bill can become legally binding or become a legislation in India.

After the President’s signature the bill finally becomes legislation or policy.

**Role of Interest Groups**

So far we have looked at the role played by official actors in forming policy. Official actors comprise of Cabinet ministers, political parties, the President, etc. Now we will look at the non-official actors who play an equally important role in forming policy. Although there are many non-official actors, we focus only on two of them—interest groups and social workers.

In a democratic society, interest groups are organizations which attempt to influence society. These interest groups are also called ‘special interest groups’ or ‘pressure groups’. An interest group is defined as any association of individuals or organizations which is formed on the basis of one or more shared concerns. All interest groups share a desire of affecting government policy to either benefit themselves or their causes. An interest group’s goal can be narrow or broad. In case of a narrow goal its aim is to provide benefits to only the group’s members, while if the goal is broad-minded then the interest group forwards the cause of a large section of society.

There are certain conditions under which interest groups thrive. For instance, it has been observed by the political scientists that where political parties are weak in principles and organization, pressure groups usually flourish, whereas where political parties are strong in principles, interest groups usually do not thrive. In India, the political system is quite weak as Indian democracy blatantly support to vote bank politics and often puts narrow-minded regional interests over national interests. Therefore, interest groups play a vital role in India’s democratic society. In fact today their role has widened beyond the conventional area of social issues to include critical areas like national defence and foreign policies.
5. What needs to be at the very core and need to form a basis of a unified theory of social policy?
6. What do people who support social integration want policymakers to acknowledge?
7. State the key challenge for policymakers supporting cross-sectoral policies.
8. List the three stages through which a social policy has to pass.

1. The idea of social policy rests on the foundation of social justice and equality.
2. Economic policies and social policies are interrelated as economic condition determines the social condition of any country. Social policies require money which comes to the government through economic activities. For example, if a country does not perform on the economic front, it will face shortage of funds for investment in social areas like education, health and poverty reduction.
3. ‘Economic policies with human face’ are policies that will lead to inclusive growth, incorporating each and every section of the society.
4. Article 41 of the Indian constitution talks about: Right to work, to education and to public assistance in certain cases.
5. Ethics need to be at the very core and need to form a basis of a unified theory of social policy or even of social science.
6. People who support social integration want policymakers to acknowledge the fact that vulnerable and disadvantaged sections in society are a by-product of power relations, politics, institutions and values that enable elites and the well-off to maintain their exclusive position.
7. The key challenge for policymakers supporting cross-sectoral policies is formulating different policies (social, political and economic) that are coherent and compatible with each other. This means that critical policies, whether social or political, should not be formulated in isolation, as policies formulated for a particular sector may have implications for another sector.
8. In India there are basically three stages through which a social policy has to pass to become legislation:
   (i) Cabinet nodal
   (ii) All party discussion
   (iii) Parliament nodal (upper house or lower house)
6.6 SUMMARY

- Social policies constitute an important part of Central Government, and state governments’ development plans. Whether it is a developed country, developing country or underdeveloped country, social policies play a key role in guiding any country towards prosperity and development.

- Social policies lay out the groundwork and provide direction and guidance to the government’s pursuits and efforts in bringing positive social changes in the society. For laying a solid groundwork to bring positive social changes, social experts (members of Parliament [MPs]/members of legislative assembly [MLAs] and government representatives), who frame social policies, do lot of research on economic and social realities prevailing in various regions of the country.

- The primary objectives of social policies are: Poverty relief, Social insurance, Reduction of inequality, Dignity and self-respect, and Social solidarity and unity.

- All countries in the world formulate their economic policy to increase the economic welfare of the people. The economists believe that it is the responsibility of the government and monetary authorities to steer the economy towards increased economic welfare. The general view is that an economy would move naturally towards maximum economic welfare and full employment when its markets are allowed to operate freely.

- There is no denying that economic policies and social policies are interrelated. It is a fact acknowledged worldwide that economic condition greatly determines the social condition of any country.

- The Indian Constitution is unique in its content and spirit. Though borrowed from almost every constitution of the world, the Indian Constitution has adopted several salient features that distinguish it from the constitutions of other countries. The Indian Constitution reflects the spirit of social and economic justice. In fact, the genesis of all the social policies and legislations formulated after Independence lies in the very spirit of Indian Constitution.

- From an academic point of view, social policy encompasses elements of various concepts and fields of social science such as public management, policy analyses, programme evaluation, political economy, sociology and economics. It uses those aspects from each concept and field that are involved with problems of governmental operations, management and administration. Though it has a lot to do with economics and political science, the study of social policy is a distinct subject with respect to its focus on the application of theory to practice.
Some of the approaches that are adopted by policymakers while formulating social policies include: Unified Social Policy, Moral rules, Integrated and Sectoral Social Policies and Cross-Sectoral Policy.

The exercise of policy formulation is a lengthy process which goes through various stages. In India there are basically three stages through which a social policy has to pass to become legislation:
- Cabinet nodal
- All party discussion
- Parliament nodal (upper house or lower house)

6.7 KEY WORDS

- Social policies: A complex web of related policies, schemes and institutions concerned with social conditions of citizens and impact of economic activities on state.
- Social justice: It denotes the equal treatment of all citizens without any social discrimination based on caste, colour, race, religion and sex.
- Social integration: It enforces and promotes actions that try to redefine existing social contracts so that a more equitable society is created.

6.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions
1. List the goals and objectives of social policies.
2. Write a short note on the relationship between social and economic policy.
3. Briefly explain the justices mentioned in the Preamble to the Indian Constitution.
4. What are the social policy elements in the Constitution of India?

Long Answer Questions
1. Describe the approaches that are adopted by policymakers while formulating social policies.
2. Explain the social policy formulation process in India.
6.9 FURTHER READINGS


UNIT 7  SOCIAL POLICIES

Structure
7.0  Introduction
7.1  Objectives
7.2  Constitutional Provisions for Marginalized Communities
    7.2.1  Scheduled Castes-Dalits
    7.2.2  Scheduled Tribes
    7.2.3  Other Backward Classes (OBCs)
7.3  Answers to Check Your Progress Questions
7.4  Summary
7.5  Key Words
7.6  Self Assessment Questions and Exercises
7.7  Further Readings

7.0  INTRODUCTION

A study of the history of human civilization shows that the foundation of any strong society is based on social justice. The concept of social justice rests on the idea that all human beings are equal irrespective of their caste, creed and class. Since centuries, societies across the globe have been trying to create a better world—a world without poverty and social injustice. But despite centuries of efforts, social injustice still exists across the world.

Class and caste discrimination, atrocities against women, child labour and atrocities against minorities are some of the prominent social injustices that are still prevalent in most countries across the world. To fight and eradicate these age-old social injustices, modern societies have enacted various laws and legislations, the main purpose of which is creating a humanistic society that is based on the idea of social justice and equality, where every citizen is able to live a life with dignity and self-respect.

7.1  OBJECTIVES

After going through this unit, you will be able to:

- Analyse the provisions enacted for marginalised communities in India
- Discuss the special provisions enacted for the SCs and STs in the field of education
- Assess the provisions enacted by the government for the economic development of the SCs
7.2 CONSTITUTIONAL PROVISIONS FOR MARGINALIZED COMMUNITIES

Let us begin by trying to understand the concept of marginalized communities. As per Webster’s online dictionary, to marginalize is to ‘relegate to an unimportant or powerless position within a society or group’. The Encyclopedia of Public Health defines marginalization as, “To be marginalized is to be placed in the margins, and thus to be excluded from the privilege and power found at the center”. In sociology, therefore, marginalization is the process through which people are marginalized or isolated from the mainstream society. Thus, marginalized people are excluded from the mainstream and thus denied full participation in the socio-cultural, economic and political spheres and equal access to resources of a particular society.

Marginalization is, thus, a means of labeling that distinguishes the powerless from the powerful and is a political construct that is used for legislative purposes. More often than not, the marginalized people have very limited opportunities and means for survival. They, thus, have a very low standard of living and are continuous victims of a variety of crimes, prejudices and human rights violations. The Dalits, the STs and the OBCs are all marginalized from mainstream upper caste Hindu society in our country, and this marginalization, especially on the basis of caste is historically rooted. As a result of prolonged marginalization over generations and centuries, these communities have been lying at the bottom most rung of development since the Independence of our country from the hands of the British. After India’s Independence, it became the major imperative for the new and maiden government to begin speedy upliftment of these peoples. Thus, a large array of governmental provisions began to be made through numerous acts and legislations to help these people out of their miserable lives. We will now proceed to the provisions made for each of these three marginalized communities separately after tracing the evolution of these communities through history.

7.2.1 Scheduled Castes-Dalits

Dalits make about 16.2 per cent of the Indian population and are concentrated in the states of West Bengal, Bihar, Tamil Nadu, Andhra Pradesh and Uttar Pradesh mainly. They are the most impoverished of the Indian population by any measure of human development and as a result have been recipients of a number of positive discriminatory policies of the Indian government since independence, such as equality before law through Article 14, abolition of untouchability through Article 17.

Who are the Dalits or Schedules Castes? We need to go back to our history books to understand the origin of the community of Dalits. Dalits have obviously emerged out of the caste system where they were at the bottom most rung of the varna system according to the Hindu religious scriptures, which is actually considered to fall outside the four-fold caste system of the Brahmans, Kshatriyas,
Vaishyas and Shudras. The Shudras are traditionally believed to have been created from the feet of Lord Brahma, the creator of the universe, according to the religious scriptures. The Manusmriti specifically reiterates ideas of pollution and purity through gradation of the varnas and sub-castes or jatis within each varna. The Dalits, being even below the Shudras signifies how extremely lowly they were considered to not even be included in the varna system. They have been historically engaged in the most impure of professions such as sweepers, scavengers, or dom, i.e., those who burn dead bodies. They have had to endure strict prescriptions such as not even to let their shadows fall on a non-Dalit by accident so that they would not risk the relative purity of the castes above them. From the ancient times till today, the Dalits have been victims of a variety of societal injustices that have led them to be one of the most brutally underdeveloped people of India. After Independence, the government of India took notice of the abysmal condition of Dalits and began, especially because of the influence of Dr B.R. Ambedkar, to provide legislative provisions for the upliftment of the Dalits, a word that in Sanskrit literally means ‘broken’ or ‘crushed’.

Constitutional Provisions for SCs

The term Scheduled Caste (SC) was introduced in the Government of India Act of 1935. The Act created certain criteria, mainly economic, educational and social deprivation, on the basis of which a particular caste was considered for inclusion in the SC category. A caste must occupy a low position in the varna system, must be inadequately represented in the government, trade and commerce and industry, they must have very low levels of educational attainment if at all any and they must be marginalized or isolated both physically and socially from the rest of the community, for that caste to be included in the SC category.

Dalits, along with other marginalized communities like the STs and OBCs are all eligible for positive discrimination through a variety of legislations and Constitutional provisions in order to achieve the government’s aim of empowerment and upliftment of the downtrodden. The Untouchability Offence Act of 1955, renamed as the Protection of Civil Rights Act (PCR) in 1976 and the Scheduled Castes and Scheduled Tribes Prevention of Atrocities Act of 1989 are two such legislations. Another example is the Integrated Rural Development Programme that was started to identify rural poor families to help them increase their incomes through credit-based productive assets. Also, because the SCs form a large proportion of those involved in forced labour, various provisions have been made for the remission of that as well. Also, programmes are aimed at the educational upliftment of this community that suffers from high dropout rates, poor quality education, infrastructural inadequacies; job security through reservation of seats in the government bodies is another example of affirmative action that aims at the betterment of the position of Dalits.

The greatest mishap of human rights in case of the Dalits has been the rampant untouchability of this whole caste by the rest of the society. They could not access
public facilities, they could not enter temples, they could not learn the Vedas and religious scriptures, they could not educate themselves, they could use only specific types of utensils made of the cheapest material, made to do bonded labour, sometimes for no pay at all, centuries of impoverishment thus needed to be undone to bring the Dalits at par with the mainstream society. The Government of India has therefore kept it a prerogative to remove untouchability, which, as mentioned above is achieved through the Untouchability Offence Act of 1955. Various other provisions have been made for the Dalits throughout our Constitution. Some of them are as follows:

**Article 14** ensures equality before law or equal protection of laws within the Indian territory.

**Article 15** is regarding the prohibition of discrimination on the basis of religion, race, caste, sex or place of birth. Article 15(4) and 15(5) are specifically for the advancement of the socially and educationally backward SCs and STs.

**Article 16** delineates rights regarding the equality of opportunity in matters of public employment. Articles 16(4A) and 16(4B) are specific to the SCs and STs.

**Article 17** abolishes untouchability and forbids its practice. Any form of untouchability still practiced is a punishable offence under law.

**Article 19** ensures the freedom of speech and expression, the right to assemble, move throughout the Indian territory, for all citizens.


**Article 46** states ‘The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation’.

**Article 330** reserves seats for the SCs and STs in the House of the People or the lower house of the parliament and stipulates what proportion of seats will be reserved for each category and **Article 332** does the same at the legislative assembly level. **Articles 334 and 335** also stipulate provisions for SCs and STs.

**Article 338** is the National Commission of Scheduled Castes which has been created to cater to the specific needs of the Dalits. It consists of the chairperson, vice chairperson and three other members who are all appointed by the president and are at the service of the Dalits for their upliftment, development and grievance redressal.

**Article 340** appoints a commission to investigate the conditions of the backward classes, namely the SCs and STs.
Article 341 gives the president to deem certain classes as SCs on the basis of certain criteria.

Parts III, IV, VI, XIV, XVI and XIX of the Constitution of India list numerous special provisions for Dalits and STs.

Other Provisions
The Government of India has set up numerous committees, offices and other administrative and monitoring bodies in order to implement the provisions for the SCs and STs made in the Indian Constitution, at the union level as well as the state and union territory level. Many incentives are made available to the Dalits and STs for their upliftment such as awards, special courts for just and speedy redressal of grievances, etc. Several policies for their employment, economic development and educational development have also been made available by the Government of India. They are as follows:

Affirmative Action: This is basically the reservation of seats for SCs and STs in public employment and educational bodies, as well as in the lower and upper houses of the parliament. Article 16 describes what the policy of reservation entails. The reservation policy has certain relaxations and concessions for the recruitment of SCs and STs in employment, such as those for carrying out separate interviews for direct recruitment of SCs and STs, or concessions for examinations held for recruitment. There are institutional safeguards to ensure the proper implementation of these benefits for SCs and STs, such as the National Scheduled Caste Finance and Development Corporation (NSCFDC) and the Dr Ambedkar Foundation, among many others.

Educational Provisions: There are many provisions made by the Indian Constitution and implemented through the union and state governments to ensure development of the education condition of Dalits. They are as follows:

National Policy on Education (NPE), 1986, modified in 1992: It was created to help achieve a minimum level of education at the primary, middle and secondary levels and also aim at overall development of personality of Dalit children, among others. The following provisions have been made under this policy in Part IV ‘Education for Equality’.

The Education of Scheduled Castes
The central focus in the SCs’ educational development is their equalization with the non SC population at all stages and levels of education, in all areas and in all the four dimensions—rural male, rural female, urban male and urban female.

The measures contemplated for this purpose include:

(i) Incentives to indigent families to send their children to school regularly until they reach the age of 14

(ii) Pre-matric scholarship scheme for children of families engaged in occupations such as scavenging, flaying and tanning to be made applicable
from class I onwards. All children of such families, regardless of incomes, will be covered by this scheme and time-bound programmes targeted on them will be undertaken.

(iii) Constant micro planning and verification to ensure that the enrolment, retention and successful completion of courses by SC students do not fall at any stage, and provision of remedial courses to improve their prospects for further education and employment.

(iv) Recruitment of teachers from Scheduled Castes.

(v) Provision of facilities for SC students in students’ hostels at district headquarters, according to a phased programme.

(vi) Location of school buildings, Balwadis and Adult Education Centres in such a way as to facilitate full participation of Scheduled Castes.

(vii) The utilization of Jawahar Rozgar Yojana resources so as to make substantial educational facilities available to the Scheduled Castes, and

(viii) Constant innovation in finding new methods to increase the participation of the Scheduled Castes in the educational process.

Many other provisions for the educational upliftment of the SCs have been made. For example, the UGC provides special assistance through coaching to prepare SC/ST community for the National Eligibility Test (NET) exam. Those who qualify NET, among them 50 candidates are awarded fellowships for higher studies through JRF in Humanities and Sciences. There is also relaxation of marks for the SC/ST candidates during appointment as lecturers and also to appear for the NET.

- **Alternative and innovative education**, especially for girls and for the extremely backward and unserved areas have also been made available along with formal education for the Dalits.

- **Central Sector Scheme of Upgradation of Merit of SC Students**: It was started in 1987-88 to provide 100 per cent central assistance to the states and union territories for the educational needs of the SC students in classes IX and X, through special coaching. It also prepares them for competitive exams. The package is ₹ 15,000 per student per year in this scheme.

- **Centrally Sponsored Coaching and Allied Scheme**: This scheme provides funds for Pre-Examination Training Centres (PETCs) that train SC students for competitive exams like the Union Public Service Commission (UPSC), State Service Commission (SSC), in order to improve the SC representation in the public services. This scheme has been modified in 2001 to ‘Coaching and Allied Assistance for Weaker Sections including Scheduled Castes, Other Backward Castes and Minorities’.
Social Policies

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- **Pre-Matric Scholarships (PMS)** for the children of SCs involved in unclean professions like scavenging. Different scholarship amounts are given right from class I to X.

- **Post-Matric Scholarships** for SC students to continue higher education in recognized institutions in the country through a range of concessions, reimbursements and maintenance allowances.

- **Book Banks** have also been created for SC students pursuing higher education, especially those in the field of science and technology, and for the visually impaired. These book banks can be used only by those students who already receive the post matriculation scholarships however.

- **Hostel Schemes**: the centre shares cost in different proportions with the states and union territories, and with NGOs, to fund the building of hostels for SC girls and boys. Land for the hostels is to be given for free for the construction of these hostels by the states and union territories.

- **National Overseas Scholarship**: This non-plan scheme awards meritorious SC students with 17 scholarships to study overseas, especially in those subjects that do not have adequate infrastructure to be studied on a higher level in our country. Yearly two way passage grants are also provided.

- **Dr Ambedkar National Merit Scholarship** is being awarded to 208 meritorious SC and ST students, 104 for each community, since 2003.

**Economic Development**: The major thrust area of the policies for economic development has been private ownership of assets for the SCs since they have historically been banned from owning property. Through this the government aims at empowerment of the SC community. Moreover, improving employability of the SCs has also been a thrust area, achieved through training them for job skills, registering them with employment exchange. Many employment generation programmes such as the Integrated Rural Development Programme (IRDP) associated programmes like Training of Rural Youth for Self Employment (TRYSEM), Development of Women and Children in Rural Areas (DWCRA), Supply of Improved Tool kits to Rural Artisans (SITKRA), have been initiated by the government to improve the employment situation of SCs and STs. These schemes all ensure reservation of seats for SC/ST community members.

Employment generating policies such as the Jawahar Rozgar Yojana reserve specific amounts of funds to be spent only on the SCs/STs. The Jawahar Gram Samriddhi Yojana (JGSY) is designed to improve the quality of life of the rural poor by providing them with additional gainful employment opportunities, in which too 22.5 per cent of the funds have been reserved for SC/ST upliftment. The Swaranjayanti Gram Swarozgar Yojana (SGSY) is a holistic programme, encompassing all other employment generating programmes initiated by the government to push rural poor above the poverty line within certain designated years. It provides training and assistance to the rural poor for this purpose for
them to become ‘swarozgars’ or self-employed. This scheme requires at least 50 per cent of the swarozgaris to come from the SC and ST communities.

Improved access to civic amenities such as drinking water, electricity, sanitation and housing, is provided through schemes such as Indira Aawas Yojna (IAY) and the Ambedkar Gram Vikas Yojna (AGVY). The IAY allots houses to the SCs in the name of a female member of the beneficiary households, thus aiming at women’s empowerment as well. Villages with more than 30 per cent of its population belonging to the SC/ST community are termed Ambedkar Villages as per the AGVY and special care is taken to implement development programmes on an urgent basis in such villages. The National Commission for SC and ST (NCSCST) aims at improving access to land through a variety of land reforms for the SC/ST community, distribution of surplus land among the SC/ST, increased private ownership of land, etc.

Moreover, the Department of Telecommunication has created Sanchar Dhabas to aid in employment generation for the rural people. Numerous schemes for assistance of a variety of occupational groups among the SCs have also been created. Schemes have been initiated for small and marginal farmers, agricultural labourers, traditional dais who are mostly aged SC women, weavers and other artisans, brick kiln labourers, fishermen, the unorganized labour force in the urban sector, scavengers, etc. The Scavengers Living Conditions Enquiry Committee and the Committee on Customary Rights to Scavenging are two examples of provisions made for the liberation and rehabilitation of scavengers who are generally always Dalits. The scavengers are also protected under the Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act of 1993 is another legislative aid for the upliftment of scavengers.

The Ministry of Social Justice and Empowerment and the Ministry of Planning are dedicated to design strategies for the upliftment of SC/ST community. The government has created several bodies like the National Commission for Scheduled Castes (NCSC), National Commission for Safai Karamcharis (NCSK) and the National Safai Karamcharis Finance and Development Corporation (NSKFCDC) for investigating and monitoring the provisions and safeguards issued for the SC/ST community, for investigating grievances, recommending programmes aimed at eliminating inequalities faced by the safai karamcharis and redress their grievances and complaints, and to aim at overall development of the sweepers, both social and economic and financial.

**Fund Allocation Mechanisms:** Quite a few methods have been designed to ensure proper flow of funds to the SC/ST developmental schemes from various sources. For example, the 6th five year plan saw the introduction of the Special Component Plan (SCP) that would identify the general sectors schemes that would be beneficial for the SCs and work out a design to channelize resources and funds for the SC community’s development. Special Central Assistance (SCA) is provided to the state SCPs for further assistance in the challenge to uplift SC/ST
Central government ministries also separately formulate SCPs in their annual plans and work toward implementation of benefits through these SCPs by allocating funds. The National Scheduled Caste and Scheduled Tribe Finance and Development Corporation (NCSCSTFDC) provides loans to SCs and also provides them with financial assistance for income generating activities at discounted rates. The Scheduled Caste Development Corporations (SCDCs) in the states act as links between poor SC entrepreneurs and financial institutions to facilitate easy attainment of funds for their businesses. Public sector banks are another means through which funds are allocated for the development of SCs and STs. Nationalized banks are required to channelize a minimum of 10 per cent of their total advance for the benefit of the weaker sections.

### 7.2.2 Scheduled Tribes

Most of the provisions made in the Constitution of India for the benefit and development of Scheduled Castes are also at the same time applicable for the upliftment of the Scheduled Tribes. Hence, following are the specific provisions made exclusively for the STs.

As per Article 342 of the Indian Constitution, Scheduled Tribes are defined as follows:

- The president may with respect to any state or Union Territory, and where it is a state, after consultation with the governor thereof, by public notification, specify the tribes or tribal communities which shall for the purposes of this Constitution be deemed to be Scheduled Tribes in relation to that state or Union Territory as the case may be.
- Parliament may by law include in or exclude from the list of Scheduled Tribes specified in a notification issued under clause (1) any tribe or tribal community or part of or group within any tribe or tribal community, but save as aforesaid a notification issued under the said clause shall not be varied by any subsequent notification.

In plain words, Scheduled Tribes are the tribal communities residing in different parts of India. They form about 8.6 per cent of the total population of India and like the Dalits. They too face a large number of deprivations and prejudices from the rest of the Indian population. They are among the most socio-economically backward people of our country owing to decades of isolation and being robbed of their original ways of life and occupation, and continuous attempts to incorporate them into the mainstream society without being sensitive to their culture and heritage and way of life.

Apart from the provisions discussed in the previous section, Article 338 (A) ensures the creation of a National Commission for Scheduled Tribes which consists of a chairperson, a vice-chairperson and three other members whose explicit duties relate to the development and upliftment of the ST population and
looking after all their complaints and needs and grievances and strives for their speedy redressal.

**Article 339** enlists stipulations regarding the control of the centre over the administration of the Scheduled Areas and also over the welfare of the STs.

The North-Eastern states which have the maximum concentration of STs have been given special provisions in Part XXI of the Constitution of India.

**NPE, 1992** lists several measures to ensure the betterment of the condition of education among the STs.

The following measures will be urgently taken to bring the Scheduled Tribes on par with others:

(i) Priority will be accorded to opening primary schools in tribal areas. The construction of school buildings will be undertaken in these areas on a priority basis under the normal funds for education, as well as under the Jawahar Rozgar Yojana, Tribal Welfare Schemes, etc.

(ii) The socio-cultural milieu of the STs has its distinctive characteristics including, in many cases, their own spoken languages. This underlines the need to develop the curricula and devise instructional materials in tribal languages at the initial stages, with arrangements for switching over to the regional language.

(iii) Educated and promising Scheduled Tribe youths will be encouraged and trained to take up teaching in tribal areas.

(iv) Residential schools, including Ashram Schools, will be established on a large scale.

(v) Incentive schemes will be formulated for the STs, keeping in view their special needs and lifestyles. Scholarships for higher education will emphasize technical, professional and para-professional courses. Special remedial courses and other programmes to remove psycho-social impediments will be provided to improve their performance in various courses.

(vi) Anganwadis, non-formal and adult education centres will be opened on a priority basis in the areas predominantly inhabited by the STs.

(vii) The curriculum at all stages of education will be designed to create an awareness of the rich cultural identity of the tribal people as also of their enormous creative talent.

Direct Benefit Transfer to ST students through Post Matriculation Scholarship, Top Class Educational Scholarship and Rajiv Gandhi National Fellowship are also made available for the educational benefit of ST students.

Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act of 2006 recognizes and vests rights regarding forest use and occupations in the forest land to the STs and other forest dwellers, who have historically been living in the forests and are dependent on it for survival.
Financial aid is also provided through various schemes of the government for the implementation of the legislations for ST upliftment in the states and union territories.

7.2.3 Other Backward Classes (OBCs)

As discussed in section earlier, a lot of the Constitutional provisions for SCs and STs are also equally applicable for the OBCs, who are socially and educationally backward from the rest of the population. They are neither SCs nor STs and do not follow any single religion either. All those who were backward but not part of the categories of Scheduled Castes and Scheduled Tribes have been grouped into OBC category. The Mandal Commission was the first ever proper attempt by the government to organize the upliftment of the OBCs through quotas and reservation of seats for the deprived classes of SC, ST and OBC. Matters regarding the OBCs were looked after by the Backward Classes Cell (BCC) of the Home Ministry until 1985. In 1985 the new Ministry of Welfare, which was renamed as the Ministry of Social Justice and Empowerment in May 1998, began to look after the affairs of the OBCs as well as the SCs, STs and minorities.

The National Commission for Backward Classes Act, 1993 led to the establishment of the National Commission for Backward Classes dedicated to the development of the OBCs. The National Commission for Backward Classes Rules, 1994, also has more or less similar objectives. The National Backward Classes Finance and Development Corporation has been created to look into the fund allocations to developmental programmes for the OBCs, and assist them in skill development and self-employment opportunities in agriculture and allied activities, small business sector, artisan and traditional occupations, technical and professional trades or courses, transport and service sectors. Numerous welfare programmes and schemes are in place for the welfare of the OBCs, such as:

- Construction of hostels for OBC boys and girls
- National fellowship (NF) for OBCs
- National Overseas Scholarship for meritorious OBC students as well as passage grants
- Pre-matric scholarship
- Post-matric scholarship
- Assistance to NGOs that work in the area of OBC upliftment

The OBCs too, like the SCs and STs are recipients of affirmative action policies and thus they too have certain proportion of seats reserved for them in public administration, educational institution and public employment in proportion with their population in the concerned states and union territories. They are entitled to 27 per cent reservation of seats in the public sector employment bodies as well as in educational institutions.
Other provisions include appointment of commissions to investigate the conditions of OBCs as per Article 340, safeguards relating to public sector employment and educational institutions through Articles 15 and 16.

Therefore, a large number of legislative and Constitutional benefits have been made available for the Dalits, Scheduled Tribes and Other Backward Classes. The real challenge lies in the proper implementation of these benefits so that the resources and advantages actually reach the target population rather than get channelized elsewhere due to corruption and vested interests. Strong vigilance committees are therefore essential to make sure that these communities are recipients of the Constitutional provisions created for their up upliftment.

Denotified Tribes (DNTs), also known as Vimukta Jati, are the tribes that were listed originally 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 their occupation is “conducive to settled way of life.” The denotified tribes were reclassified as “habitual offenders” in 1959.

The name “Criminal Tribes” is itself a misnomer as no definition of tribe denotes occupation, but they were identified as tribes “performing” their primary occupation. The first census was in 1871 and at that time there was no consensus nor any definition of what constitutes a “tribe”. The terms “tribe” and “caste” were used interchangeably for these tribes.

Check Your Progress

1. Who are the Scheduled Tribes?
2. Which categories of people are categorized as Other Backward Classes?
3. Why has the National Backward Classes Finance and Development Corporation been created?
4. What is the other name for denotified tribes?

7.3 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. Scheduled Tribes are the tribal communities residing in different parts of India. They form about 8.6 per cent of the total population of India.
2. The other backward classes are neither SCs nor STs and nor do not follow any single religion. All those who were backward but not part of the categories of Scheduled Castes and Scheduled Tribes have been grouped into OBC category.

3. The National Backward Classes Finance and Development Corporation has been created to look into the fund allocations to developmental programmes for the OBCs, and assist them in skill development and self-employment opportunities in agriculture and allied activities, small business sector, artisan and traditional occupations, technical and professional trades or courses and transport and service sectors.

4. Denotified Tribes (DNTs) are also known as Vimukta Jati.

7.4 SUMMARY

- As per Webster’s online dictionary, to marginalize is to ‘relegate to an unimportant or powerless position within a society or group’. Marginalization is, thus, a means of labeling that distinguishes the powerless from the powerful and is a political construct that is used for legislative purposes.
- Dalits make about 16.2 per cent of the Indian population and are concentrated in the states of West Bengal, Bihar, Tamil Nadu, Andhra Pradesh and Uttar Pradesh mainly.
- The term Scheduled Caste (SC) was introduced in the Government of India Act of 1935.
- The greatest mishap of human rights in case of the Dalits has been the rampant untouchability of this whole caste by the rest of the society.
- The UGC provides special assistance through coaching to prepare SC/ST community for the National Eligibility Test (NET) exam.
- Most of the provisions made in the Constitution of India for the benefit and development of Scheduled Castes are also at the same time applicable for the upliftment of the Scheduled Tribes.
- Scheduled Tribes are the tribal communities residing in different parts of India. They form about 8.6 per cent of the total population of India and like the Dalits.
- The OBCs too, like the SCs and STs are recipients of affirmative action policies and thus they too have certain proportion of seats reserved for them in public administration, educational institution and public employment in proportion with their population in the concerned states and union territories. They are entitled to 27 per cent reservation of seats in the public sector employment bodies as well as in educational institutions.
Denotified Tribes (DNTs), also known as Vimukta Jati, are the tribes that were listed originally 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.

7.5 KEY TERMS

- **Marginalized Communities**: They are the Dalits or Scheduled Castes, Scheduled Tribes and Other Backward Classes. These are the groups of people who have faced deprivation on social, economic and political levels for generations due to isolation from the mainstream society as a result of the age old caste system that put these peoples at the bottom must rung in society.

- **Affirmative Action**: It is policy of positive discrimination towards the members of the marginalized communities to help in their development.

7.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

**Short Answer Questions**

1. What are the Constitutional provisions enacted for the marginalized communities in India?
3. What are the reasons for the poor primary education system in India?

**Long Answer Questions**

1. Who are the marginalized communities in India? What provisions have been enacted for them by the Indian government?
2. Discuss the special provisions given to the SCs and STs in the field of education.
3. Assess the provisions enacted by the government for the economic development of the SCs.
7.7 FURTHER READINGS


UNIT 8  SOCIAL POLICIES AND PROGRAMMES

8.0  INTRODUCTION

The term social welfare is usually confusing, we normally confuse social welfare with social service, social work or social reform and moreover because all these terms are often used as synonyms. But social welfare is entirely a different term from all these. To understand it clearly we need to understand all these terms separately. Primary education becomes the key to economic development of a country. Usually, studies are emphasized on the final output such as literacy, enrolment etc., instead of the delivery of the entire primary education system.

Poverty is one of the major problems in India. A major percentage of the population lives at or under subsistence levels. This means that 70-90 per cent of their incomes go towards food and related consumption. Thus, in terms of social security support for health, education, housing, etc., becomes critical. The irony of the situation is that India has one of the largest private health sectors in the world with over 80 per cent of ambulatory care being supported through out-of-pocket expenses.

The Government of India has tried to make many laws, policies, welfare measures so as to provide women with their rights, some of which have achieved success while some of them have been a failure. When we talk of the Dalits and tribes in India, we all know and understand that these groups have faced the worst
situations, they have been denied the major right of living, they have been denied entry in the temples, they have been provided with the dos and don’ts according to which they have lived or else they have faced the consequences. The Government of India has tried to make their life easier by giving them equal access to all the rights that they have been denied till now.

8.1 OBJECTIVES

After going through this unit, you will be able to:

- Analyse the various constitutional provisions enacted for children
- Describe the status of women in India before and after independence
- Discuss the different programmes launched for weaker sections of society
- Describe the various problems faced by tribals
- Examine the status of the aged and the disabled

8.2 WOMEN AND CHILDREN

The department of Women and Child Development has been set up to assist the women and children in improving their socio-economic status by associating them with different developmental activities. The primary aim of this department is to provide necessary infrastructure for comprehensive development of women’s and children’s potential and thus help them to play a significant role in the development process as participants and beneficiaries.

Children welfare

‘Child is the father of man’—William Wordsworth. Children are our first priority not because they are the most vulnerable, but because the foundation for lifelong learning and human development are laid in the most crucial years of early childhood. Children constitute principle assets of any country. Children’s development is as important as the development of material resources and the best way to develop national human resources is to take care of children. India has the largest child population in the world. All efforts are being made by India for the development and welfare of children. Significant progress has been made in many fields in assuring children their basic rights. However, much remains to be done. The country renews its commitment and determination to give the highest priority to the basic needs and rights of all children. Children are most vulnerable to exploitation and abuse. A lot more has to be done for the health, nutrition and education of children. It is unfortunate that girls in particular face debilitating discrimination at all stages. Therefore, specific concentration is being given to the efforts to improve the life and opportunities of the girl child.
8.2.1 Indian Constitution and Welfare of Children

There are several constitutional provisions for children. These include the following:

- Article 14: provides that the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
- Article 15(3): provides that, ‘Nothing in this article shall prevent the State for making any special provision for women and children.’
- Article 21: provide that no person shall be deprived of his life or personal liberty except according to procedure established by law.
- Article 21A: directs the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.
- Article 23: prohibits trafficking of human beings and forced labour.
- Article 24: prohibits employment of children below the age of fourteen years in factories, mines or
- Article 25-28: provides freedom of conscience, and free profession, practice and propagation of religion.
- Article 39(e) and (f): provide that the State shall, in particular, direct its policy towards securing to ensure that the health and strength of workers, men and women and the tender age of children are not abused and that the citizens are not forced by economic necessity to enter avocations unsuited to their age or strength and that the children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that the childhood and youth are protected against exploitation and against moral and material abandonment.
- Article 45 envisages that the State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

Legislations

There are several legislations pertaining to children. These include the following:

- The Pre-Conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994.
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- The Guardian and Wards Act, 1890.
- The Commissions for Protection of Child Rights Act, 2005

Policies for Children

National policy for children, 22-08-1974: The National Policy for Children was adopted on 22 August 1974. This policy lays down that the state shall provide adequate services towards children, both before and after birth and during the growing stages for their full physical, mental and social development. The measures suggested include amongst others, a comprehensive health programme, supplementary nutrition for mothers and children, free and compulsory education for all children up to the age of 14 years, promotion of physical education and recreational activities, special consideration for children of weaker sections like SCs and STs, prevention of exploitation of children, etc.

National charter for children: The Government of India adopted the National Charter for Children which has been prepared after obtaining the views/comments and suggestions of the state governments/UT administrations, concerned ministries and departments and experts in the field. The National Charter is a statement of intent embodying the government’s agenda for children. The document emphasizes Government of India’s commitment to children’s rights to survival, health and nutrition, standard of living, play and leisure, early childhood care, education, protection of the girl child, empowering adolescents, equality, life and liberty, name and nationality, freedom of expression, freedom of association and peaceful assembly, the right to a family and the right to be protected from economic exploitation and all forms of abuse. The document also provides for protection of children in difficult circumstances, children with disabilities, children from marginalized and disadvantaged communities, and child victims. The document while stipulating the duties of the state and the community towards children also emphasizes the duties of children towards family, society and the Nation. The National Charter for Children was notified in the Gazette of India on 9 February 2004.

National plan of action for children 2005: Ministry of Women and Child Development has prepared a National Plan of Action for Children 2005 after harmonizing the goals for children set in the UN General Assembly Special Session on Children held in 2002 and the monitorable targets set in the Tenth Five Year Plan, and goals for children in related ministries/departments. The Action Plan has been prepared in consultation with concerned ministries and departments, States/Union territory Governments, Non-Governmental Organizations and experts. The National Plan of Action includes goals, objectives, strategies and activities for improving nutritional status of children, reducing IMR and MMR, increasing enrolment ratio and reducing dropout rates, universalization of primary education,
increasing coverage for immunization etc. The Prime Minister's Office is quarterly monitoring the National Plan of Action for Children 2005 on the basis of eight parameters. These are as under:

- Reduce IMR to below 30 per 1000 live births by 2010
- Reduce Child Mortality Rate to below 31 per 1000 live births by 2010
- To reduce Maternal Mortality Rate to below 100 per 100,000 live births by 2010
- Universal equitable access and use of safe drinking water and improved access to sanitary means of excreta disposal by 2010
- 100 per cent rural population to have access to basic sanitation by 2012
- To eliminate child marriages by 2010
- To eliminate disability due to poliomyelitis by 2007
- To reduce the proportion of infants infected with HIV by 20 per cent by 2007 and by 50 per cent by 2010, by ensuring that 80 per cent of pregnant women have access to ante natal care, and 95 per cent of men and women aged 15-24 have access to care, counselling and other HIV and prevention services.

Schemes/projects

Several ministries and departments of the Government of India are implementing various schemes and programmes for the benefit of children. Some of the schemes and programmes being implemented by the Ministry of Women and Child Development are as under:

**Integrated child development services (ICDS) scheme**

**Rajiv Gandhi national creche scheme for the children of working mothers:**

The Ministry of Women and Child Development has launched a new Crèche Scheme w.e.f. 1.1.2006 by merging the National Crèche Fund with the Scheme of Assistance to Voluntary Organisations for Crèche for Working and Ailing Women’s Children and also to revise the financial norms from Rs.18,480/- to Rs. 42,384/- per crèche per annum. The Scheme provides crèche services to the children of age group of 0 to 6 year, which includes supplementary nutrition, emergency medicines and contingency. The Scheme has been named as Rajiv Gandhi National Crèche Scheme for the Children of Working Mothers. These crèches will be allocated to the Central Social Welfare Board, Indian Council for Child Welfare and Bhartiya Adim Jati Sevak Sangh in the ratio of 80:11:9. The priority will be given to uncovered districts/areas and tribal areas while extending the scheme to maintain balance regional coverage. The Eligibility criteria under the Revised Scheme have also been enhanced from Rs 1800/- to Rs.12,000/- per month per family. So far about 25605 crèches have been sanctioned including 5137 crèches sanctioned under erstwhile National Crèche Scheme up to 20 November 2006.
Nutrition Component of Prime Minister Gramodya Yojana and Nutrition Programme for adolescent girls in 51 districts being implemented with additional central assistance given by the planning commission, directly and indirectly contribute to promoting nutrition of children. A National Nutrition Mission has been set up under the chairpersonship of Hon’ble Prime Minister vide notification dated 31 July 2003 with a view to enable policy direction to concerned departments of the government for addressing the problem of malnutrition in a mission mode.

An integrated programme for street children is being implemented by the Ministry of Women and Child Development specifically for those children who are on streets and homeless such as the rag picking and vagabond children. The Scheme aims at providing full and wholesome development of children without homes and family ties. The children without homes and family ties and children especially vulnerable to abuse and exploitation such as children of sex workers and children of pavement dwellers are the target group for this Programme. Financial assistance is provided to the NGOs who are eligible and working for the welfare of the street children, for formal and non-formal education, shelter home, vocational training to children, nutrition, health care, sanitation and hygiene, safe drinking water, education and recreational facilities and protection against abuse and exploitation.

**Integrated programme for juvenile justice:** The programme is being implemented by the Ministry of Social Justice and Empowerment with a view to providing care to children in difficult circumstances and children in conflict with the law through government institutions and through NGOs. Some special features of the scheme areas are as follows:

- Establishment of a National Advisory Board on Juvenile Justice
- Creation of a Juvenile Justice Fund.
- Training, orientation and sensitization of Judicial, administrative police and NGOs responsible for implementation of JJ Act.
- Institutional care shall be used but only as a last measure by enlarging the range of suitable alternatives.
- Financial assistance to bring about a qualitative improvement in the existing infrastructure.
- Expansion of non-institutional services such as sponsorship, foster care, probation etc as an alternate to institutional care.

**Childline India foundation (CIF):** It has been set up as a nodal organization, supported by Government of India, to monitor and ensure the qualitative development of the child line service across the country. Child line is a toll free telephone service (1098) which anyone can call for assistance in the interest of children. It has prescribed minimum quality standards for the services to be provided by its partner organizations that are implementing child line programmes.
in various cities of the country. It initiates preparatory activity that precedes the initiation of child line service in any city. CIF is also involved in awareness and advocacy in order to strengthen the efforts relating to child welfare.

Recent initiatives

The commissions for protection of the child rights act 2005: The government has notified the Commissions for Protection of Child Rights Act 2005 in the Gazette of India on 20 January 2006 as Act No. 4 of 2006. The Act envisages setting up a national commission at the national level and the state commissions at the state level. The proposed commission would be set up for proper enforcement of children’s rights and effective implementation of laws and programmes relating to children. The National Commission for Protection of Child Rights will be a statutory body to be set up under the Commissions for Protection of Child Rights Act. The proposed commission will have a chairperson and six other members, including two women members, a member secretary and other supporting staff. The chairperson would be a person of eminence in the field of child development. The members would be the experts in the field of child health, education, child care and development, juvenile justice, children with disabilities, elimination of child labour, child psychology or sociology and laws relating to children. The officers and the staff of the commission will be provided by the central government. The proposed commission would be set up for proper enforcement of children’s rights and effective implementation of laws and programmes relating to children.

The functions of the commissions are as follows:

- Examine and review the safeguards provided by constitution or any law for the protection of child rights and recommend measures for their effective implementation
- Present to the central government, annually reports upon the working of those safeguards.
- Examine all factors that inhibit the enjoyment of rights of most vulnerable children and children in need of special care and protection
- Study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendation for their effective implementation in the best interest of children.
- Undertake and promote research in the field of child rights
- Spread child rights literacy among various sections of the society and promote awareness
- Inspect any juvenile custodial home, or any other place of residence or institution meant for children for the purpose of treatment, reformation or protection and take up with these authorities for remedial action
• Inquire into complaints and take suo motu notice of matters relating to:
  o deprivation of child’s rights;
  o non-implementation of laws for protection and development of children;
  o non-compliance of policy decisions, guidelines or and to provide relief
to such children,
  o or take up the issues arising out of such matters with appropriate
  authorities; and
  o Such other functions as it may consider necessary for the promotion
  of child rights

The powers of the commission include the following:
• Summoning and enforcing the attendance of any person and examining
  him on oath;
• Requiring the discovery and production of any document;
• Receiving evidence on affidavits;
• Requisitioning any public record or copy thereof from any court or office;
  and
• Issuing commissions for the examination of witnesses and documents.
• Forwarding any case to a Magistrate having jurisdiction to try the same
  and the Magistrate to whom any such case is forwarded shall proceed
to hear the complaint against the accused
• Recommending to the concerned Government or authority the initiation
  of proceedings for prosecution or such other action as deem fit against
  the concerned person/s
• Approaching the Supreme Court or the High Court concerned for such
  directions, orders or writs as that Court may deem necessary;
• Recommending to the concerned Government or authority for the grant
  of such interim relief to the victim or the members of his family as the
   Commission considers necessary.

State Commissions for Protection of Child Rights:
• The bill also provides that state governments may constitute state
  commissions for Protection of Child Rights in their State and designate
  a State level and other district level children’s Court in their respective
  State.
• The bill has similar provisions for state commissions in respect of their
  constitution, reporting, functions and powers.

With the alleviation of the status of Department of Women and Child
Development to an independent Ministry headed by the Minister of State having
independent charge it was necessary to change the above provision to make the
Minister in charge of the Ministry or Department of Women and Child Development as the Chairperson of the Selection Committee for the selection of the Chairperson of the National Commission for Protection of Child Rights. Hence, the commissions for Protection of Child Rights (Amendment) Bill 2006 were prepared which has been passed by both the Houses of Parliament in the Winter Session. The commission will be set up once the above Amendment Bill is assented to by the President which would enable the Ministry of Women and Child Development to select the chairperson and members of the commission for its constitution.

The initiatives are being taken for constitution of the national commission for Protection of Child Rights. The Rules for implementation of the provisions of the Act in respect for national commission for Protection of Child Rights have been notified on 31 July 2006. Ministry of Finance has also approved certain number of posts for the National Commission. Initiatives have been taken for appointment of member secretary and staff for the national commission.

**Offences against children (prevention) bill:** Child abuse involves several aspects, such as, sexual exploitation, economic exploitation, domestic violence, trafficking for prostitution, corporal punishment at school, and others. Therefore, the ministry felt a need to have a dialogue on the issue so as to ascertain the views from all quarters and to formulate a consensus in order to address the issue more adequately and effectively. Accordingly few consultations have been made with voluntary organizations and experts dealing with the subject. It has been decided after consultation to constitute a small group consisting of representative from government, NGOs, legal experts and social workers which will go into all aspects of the subject and after considering all existing legal provisions and others available on the subject and formulate draft legislation to address all issues pertaining to child abuse. After wide consultations a draft bill for offences against children was prepared and circulated to the state governments for their comments and views. After obtaining the comments of the concerned ministries and departments a draft cabinet note has been referred to Law Ministry for their vetting. The proposal will be placed before the cabinet shortly.

**Child budgeting:** The key objectives of the endeavour would be to analyse budgetary provisions on social sector, to identify the magnitude of budgetary allocations made by the centre/state governments on schemes meant for addressing specific needs of children, to examine the trend in child specific expenditure etc. The main agenda for the exercise of child budgeting is to review resource allocations related to children; explore ways to increase budgetary allocations for children; assess budget utilization rates for social sector and child specific programmes, identify blockages and constraints to effective utilization; identify methods for tracking expenditure and monitoring performance to ensure that outlays translate into outcomes for children.

**Proposed integrated programme for child services:** As per the 2001 Census, there were 427 million children in the country. There are millions of children
Social Policies and Programmes

NOTES

Living in the difficult circumstances. The child protection programme in India is shared between various ministries, which have been implementing the schemes and programmes to reach out to varied groups of vulnerable children with complex and diverse needs. The important schemes and programmes for such children include Programme for Juvenile Justice, Integrated Programme for Street Children, Shishu Grih Scheme, Scheme for Working Children in Need of Care and Protection, General Grant-in-Aid Scheme, Childline Service, Rajiv Gandhi National crèche scheme for the children of working mothers, Pilot Project to Combat the Trafficking of women and Children for Commercial Sexual Exploitation in Destination Areas, etc. However, experiences with the implementation of existing programmes and policies has brought out a large number of shortcomings in the system.

Integrated child protection scheme: In view of the gaps identified and recommendations and suggestions received from various quarters it has decided to combine the existing child protection schemes under one integrated scheme titled ‘Integrated Child Protection Scheme’. The proposed scheme aims to provide for care and protection of all the children in conflict with law and children in need of care and protection. It would involve steps to strengthen families and prevent them to breakup leading children to become homeless and without care and protection. At the same time, children already outside the mainstream need to be provided support beginning from emergency outreach services to final rehabilitation with their families/society. Details of the Scheme are being worked out which is proposed to be implemented in the Eleventh Plan.

8.2.2 Women’s Welfare

Women are beginning to face several problems in today’s time. Ranging from being treated as only sex symbols to having to live the stereotype of ‘you have to be skinny to be beautiful’, the last thing women need is another rising problem. Unfortunately for women and even society though, one exists. It is thought that race and especially the lack of education contribute to the likeness of welfare usage. In today’s society, education is one of the most important things a person can attain, no matter the area the person lives in. To uplift the status of women in society it is necessary to introduce schemes and government provisions in India.

Status of women in India before and after independence

There is no doubt that since the dawn of history woman has been denied her due. She has always been treated as inferior to man. In India her status has been particularly low. When we talk about women status, we can take two main points into consideration: First, the extent of actual control enjoyed by women over their lives. Secondly, the extents to which they have access to decision making processes and are effective in positions of power and authority.

In ancient India: A women in the ancient society is respected and was given due important in the society. The Vedas find importance of the women
In the Vedic period, women education was prevalent. In Vedic period, education system was very developed and the main subject taught was the Veda. The Veda or the six Vedangas were taught including the performance of sacrifice, correct pronunciations, knowledge of prosody, etymology, grammar and Jyothisa or the science of calendar. Women education in ancient India produced women with significant authority. Ancient India texts describe the influence of women in the society.

In medieval India: The Indian women’s position in the society further deteriorated during the medieval period when Sati among some communities, child marriages and a ban on widow remarriages became part of social life among some communities in India. The Muslim conquest in the Indian sub-continent brought the purdah practice in the Indian society. Among the Rajputs of Rajasthan the Jauhar was practiced. In some parts of India, Devadasis or the temple women were sexually exploited. Polygamy was widely practiced especially among Hindu Kshatriya rulers. In many Muslim families women were restricted to Zenana areas.

In British rule: During the British rule, a number of changes were made in economic and social structures of our society. Though the ‘quality of life’ of women during this period remained more or less the same, some substantial progress was achieved in eliminating inequalities between men and women in education, employment, social rights and so on. Some social evils such as child marriage, sati system, devadasi system, purdah system, prohibition on widow remarriage act etc. which was a great hurdle in the path of women’s progress were either controlled or removed by suitable legislation.

After independence: The status of Indian women radically changed since independence. Both the structural and cultural changes provided equality of opportunities to women in education, employment and political participation. With the help of these changes exploitation of women, to a great extent, was reduced. It is true that women in independent India are comparatively in a respectable position. Some of the problems which have been haunting the community of women for centuries are not found now. These developments boosted the moral and self-confidence of women. But there are many problems which women’s are facing in today’s India for example violence against women, health problems, problems related to female education, etc.

Welfare of women through legislation

Welfare schemes for women in India: Under Article 15(3), the Constitution of India allows for positive discrimination in favour of women. The article, under right to equality, states ‘Nothing in this article shall prevent the State from making any special provision for women and children’. In addition, the directive principles of State Policy 39(a) state that: ‘The State shall, in particular, direct its policy towards securing that the citizens, men and women equally, have the right to an adequate means of livelihood.’

The rashtriya mahila kosh: (National Credit Fund for Women) was set up in 1993 to make credit available for lower income women in India. More recent programmes initiated by the Government of India include the Mother and Child Tracking System (MCTS), the Indira Gandhi Matrivta Sahyog Yojana Conditional Maternity Benefit plan (CMB), and the Rajiv Gandhi Scheme for Empowerment of Adolescent Girls – Sabla.

Mother and child tracking system (MCTS): The Mother and Child Tracking System, launched in 2009, helps monitor the health care system to ensure that all mothers and their children have access to a range of services, including pregnancy care, medical care during delivery, and immunizations. The system consists of a database of all pregnancies registered at health care facilities since 1 December 2009, and all births since 1 December 2009.

The Indira Gandhi matrivta sahyog yojana conditional maternity benefit plan (CMB): Indira Gandhi Matrivta Sahyog Yojana (IGMSY), Conditional Maternity Benefit (CMB) is a scheme sponsored by the national government for pregnant and lactating women age 19 and over for their first two live births. The programme, which began in October 2010, provides money to help ensure the good health and nutrition of the recipients. As of March 2013 the programme is being offered in 53 districts around the country.

Rajiv Gandhi scheme for empowerment of adolescent girls – SABLA: The Rajiv Gandhi Scheme for Empowerment of Adolescent Girls – Sabla is an initiative launched in 2012 that targets adolescent girls. The scheme offers a package of benefits to at-risk girls between the ages of 10 and 19. It is being offered initially as a pilot programme in 200 districts. The programme offers a variety of services to help young women become self-reliant, including nutritional supplementation and education, health education and services, and life skills and vocational training.

Rashtriya mahila kosh: Rashtriya Mahila Kosh (The National Credit Fund for Women) was created by the Government of India in 1993. Its purpose is to provide lower income women with access to loans to begin small businesses.

Priyadarshini: Priyadarshini, initiated in April 2011, is a programme that offers women in seven districts access to self-help groups.
8.3 DEVELOPMENT AND IMPLEMENTATION OF PROGRAMMES FOR WEAKER SECTIONS

Dalit is a designation for a group of people traditionally regarded as untouchable. Dalits are a mixed population, consisting of numerous social groups from all over India; they speak a variety of languages and practice a multitude of religions. There are many different names proposed for defining this group of people, including *Panchamas* (‘fifth varna’), and *Asprushya* (‘untouchables’). The word ‘Dalit’ may be derived from Sanskrit, and means ‘ground’, ‘suppressed’, ‘crushed’, or ‘broken to pieces’. It was perhaps first used by Jyotirao Phule in the nineteenth century, in the context of the oppression faced by the erstwhile ‘untouchable’ castes of the twice-born Hindus.

According to Victor Premasagar, the term expresses their ‘weakness, poverty and humiliation at the hands of the upper castes in the Indian society.’

The contemporary use of Dalit is centered on the idea that as a people they may have been broken by oppression but they survive and even thrive by finding meaning in the struggle of their existence towards human dignity.

Mohandas Gandhi adopted the word Harijan, translated roughly as ‘Children of God’, to identify the former untouchables. But this term is now considered derogatory when used to describe Dalits. In addition the terms ‘Scheduled Castes and scheduled Tribes’ (SC/ST) are the official terms used in Indian Government documents to identify former ‘untouchables’ and tribes. However, in 2008 the National Commission for Scheduled Castes, noticing that ‘Dalit’ was used interchangeably with the official term ‘scheduled castes’, called the term ‘unconstitutional’ and asked state governments to end its use. After the order, the Chhattisgarh government ended the official use of the word ‘Dalit’.

**History of Dalits**

In the context of traditional Hindu society, Dalit status has often been historically associated with occupations regarded as ritually impure, such as any involving leatherwork, butchering, or removal of rubbish, animal carcasses, and waste. Dalits worked as manual labourers cleaning streets, latrines, and sewers. As a result, Dalits were commonly segregated, and banned from full participation in Hindu social life. For example, they could not enter a temple or a school, and were required to stay outside the village. Elaborate precautions were sometimes observed.
to prevent incidental contact between Dalits and other castes. Discrimination against Dalits still exists in rural areas in the private sphere, in everyday matters such as access to eating places, schools, temples and water sources. It has largely disappeared in urban areas and in the public sphere. Some Dalits have successfully integrated into urban Indian society, where caste origins are less obvious and less important in public life. In rural India, however, caste origins are more readily apparent and Dalits often remain excluded from local religious life, though some qualitative evidence suggests that its severity is fast diminishing.

**Modern India:** Since 1950, India has enacted and implemented many laws and social initiatives to protect and improve the socio-economic conditions of its Dalit population. By 1995, of all jobs in India, 17.2 per cent of the jobs were held by Dalits, greater than their proportion in Indian population. Of the highest paying, senior most jobs in government agencies and government controlled enterprises, over 10 per cent of all highest paying jobs were held by members of the Dalit community, a tenfold increase in 40 years. In 1997, India democratically elected K. R. Narayanan, a Dalit, as the nation’s President. In the last 15 years, Indians born in historically discriminated minority castes have been elected to its highest judicial and political offices. The quality of life of Dalit population in India, in 2001, in terms of metrics such as access to health care, life expectancy, education attainability, access to drinking water, housing, etc. was statistically similar to overall population of modern India. In 2010, international attention was drawn to the Dalits by an exhibition featuring portraits depicting the lives of Dalits by Marcus Perkins.

### 8.3.1 Problems Faced by Dalits in India

The varna system which existed during the vedic period, in course of time degenerated into the caste system. Since then, the scheduled castes/dalits also known as ‘untouchables’ have been suffering from various social, legal, economic, educational, and other disabilities. For centuries they were denied political representation, legal rights, civic facilities, educational privileges and economic opportunities. Even today the Scheduled Castes are not free from problems.

#### The social restrictions and inabilities of the Scheduled Castes

The Scheduled Castes or the Harijans suffered for centuries from a number of social disabilities among which the following may be noted:

- **Lowest status in history:** They are considered to be unholy, inferior, and low and are looked down upon by the other castes. They have been stigma of untouchability. They have been treated as the servants of the other castes people. They were kept at a distance from other caste people.

- **Education disabilities:** The Harijans were forbidden from taking up to education during the early days. Sanskrit education was denied from them. Even today majority of them are illiterate and ignorant.
• Civic disability: For a long time untouchables castes were not allowed to use public places and avail of civic facilities such as villages wells, ponds, temples, hotels, schools, hospitals, etc. They were forced to live on the outskirts of the towns and villages during the early days. Even today they are segregated from other spatially. Some lower caste people were not allowed carry umbrellas, to wear shoes or golden ornaments and to milk cows.

• Religious disabilities: The Dalits also suffers from religious disabilities even today. They are not allowed to enter temples in many places. The Brahmmins, who offer their priestly services to some lower castes, are not prepared to officiate in the ceremonies of the ‘untouchable’ castes.

• Economic disabilities: Due to social and religious disabilities, people of scheduled caste have to face many type of economic disabilities. They have to face many problems in life due to these economic disabilities. The propertied people are comparatively less in them. Majority of them depends on agriculture but only few of them own land. For Harijan the selection of occupation is limited. They are not allowed to do work allotted to the upper castes. Majority of them are landless labourers. More than 90.1 of the agricultural labourers in India belong to the depressed classes.

• Political disabilities: The untouchables hardly participate in the political matters. They were not allowed to take part in political and administrative functions of the state. Under the British rule, they were given the right to vote for the first time. After independence equal political opportunities and rights have been provided for Harijans also. Politically, the Harijans are yet to become an organized force.

8.3.2 Measures for the Welfare of Scheduled Castes
The government of independent India has been trying to uplift the Scheduled Castes and Scheduled Tribes right from its very inception. The government attempts to promote the welfare of the SCs and STs can be classified into two groups. (a) Constitutional and legislative measures and (b) other welfare measures and programmes.

Constitutional and legislative measures
The Government of India has taken many steps to uplift the status of scheduled castes people. The constitution ensures the protection and assures the promotion of interest of SCs and STs and other weaker section of the population in the fields such as (a) political representation, (b) representation in services, (c) economic development, (d) socio-cultural safeguards and (e) legal support.

- The preamble of the constitution of India declares that it assures equality, promotes fraternity, guarantees liberty and ensures justice to one and all.
- Article 15,16,17,38 and 46 guarantee that the state shall not discriminate between person on account of their religion and caste or class.
• Article 46 promotes educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
• Article 330 reserves representation for Scheduled Castes and Scheduled Tribes in the House of the People.
• Article 334 relates to reservation of seats and special representation to cease after fifty years (Originally reservation was made for ten years and it was extended four times, the present period of expiry being 2000 A.D.)
• Article 335 mentions the claims of Scheduled Castes and Scheduled Tribes to services and posts.
• Article 338 empowers the Central Govt. to appoint a National Commission for Scheduled Castes and Scheduled Tribes.
• Article 339 empowers the President to appoint a Commission to report on the administration of the Scheduled Areas and the welfare of Scheduled Tribes in the States.
• Article 341 empowers the President to specify the castes, races or tribes deemed as Scheduled Castes in a particular State or Union territory.
• Article 342 empowers the President to specify the tribes or tribal communities deemed to be Scheduled Tribes in a particular State or Union territory.

Legislative measures for the removal of untouchability

The government has been taking up the required legislative measures for the removal of untouchability. In pursuance of the provision of the Article 17 of the constitution practice of untouchability a punishable offence, the Parliament passed the Untouchability Offences Act, 1955. It was later substituted by the Protection of Civil Rights Act, 1976. According to this act, the offences of untouchability include the following.

Offences of Untouchability as per the ‘Protection of Civil Rights Act, 1976’.

(i) Committing any kind of social injustice, such as denying access to any shop, restaurant, public hospital, educational institution or any place of public entertainment.
(ii) Preventing a person, on the grounds of untouchability, from entering a place of worship and offering prayers, or from drinking water from a public well or spring.
(iii) Refusal to sell goods or render services to a person on the grounds of untouchability is an offence punishable with imprisonment for six months or a fine upto Rs. 500 or both.
(iv) Enforcing occupational, professional, trade disabilities in the matter of enjoyment of any benefit under a charitable trust, etc.
Other welfare measures and programmes for the upliftment of Scheduled Castes

- **Appointment of a national commission for the welfare of scheduled castes.** A national commission for the Scheduled Castes and Scheduled Tribes has been set up by the central government to safeguard the interests of the SCs and STs. It functions as an advisory body on issue and policies related to the development of the SCs and STs. The state governments have separate departments to look after the welfare of the SCs and STs. Their administrative set up varies from state to state.

- **Educational opportunities.** Due attention is paid to extend the educational opportunities of SCs and STs and hence special provisions have been made in this regard. Free education, free distribution of books, stationery, uniform etc., giving scholarships, banking loan facilities, providing mid-day meal, arranging for free boarding and lodging facilities, reserving seats for SCs and STs in all the government and government aided institutions, etc are some of the concrete steps which the Government has taken in this regard.

- **Centrally sponsored schemes.** In addition to the above, there are some centrally sponsored schemes also for the educational benefit of both SCs and STs. (i) Free coaching and training for various competitive examinations (IAS, IPS, IFS, etc.) to increase their representation in various services. (ii) Scholarships for providing financial assistance for higher education. [Government spent 66.5 crore rupees for this purpose in the year 1993-94. The University Grants Commission (UGC) and the Ministry of Education had earmarked 15 per cent of their budget for this purpose during the 6th plan — 1980-85]. WO Construction of hostels for providing residential facilities to SCs and STs studying at college and university level. (iv) Financial assistance to those SC and ST students going to reputed research institutes for research work. (v) Providing Text-books to those studying in medical and engineering courses. (vi) Scholarships and passage grants for higher education out-side India.

- **Expansion of economic opportunities.** Government has taken up economic programmes also for the benefit of SCs and STs. Examples: Landless SC labourers are allotted land. Land reforms have been undertaken to bring benefits of land ownership for them. Poor SC farmers are supplied with seeds, agriculture implements, fertilizers, pesticides, interest-free loans, pair of bullocks for ploughing, subsidy for developing dairy farming, poultry farming, piggery, animal husbandry, handicrafts, spinning and weaving. The ‘loan-mela’ programme of Rajiv Gandhi Govt. [11984-89] also provided small loans for the poorer section to help them to earn money through some secondary sources such as toy-making, basket-making, agarbatti and beedi-rolling, tailoring, shoe-making, etc.
Expansion of employment opportunities and reservation. In order to enhance the economic position of the SCs and STs the constitution has provided for the reservation in services. Reservation of jobs operates in the all-India services, central government, state governments, and government owned and managed public sector units and institutions. Reservation exists in all these for the SCs and STs to the tune of 15 per cent and 7.5 per cent respectively. Several State Governments have introduced reservation for OBC’s (Other Backward Classes) also.

In government services, special quotas are also allotted to them. The reservations are also extended to promotions to higher positions to facilitate their adequate representation. Concessions such as relaxation in the standards of suitability, relaxation of the qualification and experience, have also been provided to them.

Other welfare programmes

- **Drinking water facility**: In SCs colonies and in the areas where they are found in large number, drinking water facility is provided through the construction of wells and bore wells.

- **Medical facility**: Free medical check-up facility is provided for the SCs. Those who undergo family planning operations are given financial assistance for purchasing required medicines and energizing tonic.

- **Janata houses**: In various States the SCs are given financial assistance to have their own houses. In States like Karnataka and Tamil Nadu low caste houses having all minimum required facilities, known as ‘janata’ houses are built for them at state expense.

- **Liberation of bonded labourers**: A large number of bonded labourers particularly belonging to the SCs have been liberated. As per the report of the labour Department of the Central Government in 1983 about 1.13 lakh bonded labourers (out of a total of 1.61 lakh) were liberated etc their bondage with the Governmental assistance.

- **Sulabh shauchalaya scheme**: This has been launched in several States for converting dry Latrines into water-borne latrines in order to liberate SC scavengers and rehabilitate them into better occupations.

Voluntary organizations

In addition to the governmental schemes and instruments, some of the voluntary organizations are also playing an important role in promoting the welfare of the SCs. examples- (1) Harijan Sevak Sangh [New Delhi], (2) Indian Depressed Classes League [New Delhi], (3) Hind Sweepers Sevak Sangh [Delhi], (4) Servants of Indian Society [Poona], (5) Indian Red Cross Society [New Delhi,
Social Policies and Programmes

8.3.3 The Scheduled Tribes

The second largest group of the backward classes of the unprivileged section consists of about 7.42 crore of Scheduled Tribes who constitute 8.8 of the total population (1991 Census Report), The Scheduled Tribes, and generally called tribal people, survived with their unchanging ways of life for centuries. The tribal people were the earliest among the present inhabitants of India. They are still in primitive stage and are far from the impact of modern civilization. They live in the forest areas, hilly regions, mountainous places and deep valleys. They are known by various names such as—primitive tribes, animists, jungle people, adivasis’, aboriginals, and original inhabitants of India and so on Dr. Das and Das have referred to them as ‘submerged humanity’. Gandhiji called them Girijans. The Constitution of India has referred to them as the ‘Scheduled Tribes’.

Distribution of Scheduled Tribe

The tribal population is divided into three zones, namely; North-Eastern Zone, the Central Zone and the Southern Zone.

- North-Eastern Zone. This zone consists of the sub-Himalayan region and the hills and mountain ranges of North-Eastern frontiers of India. The tribals of this zone mostly belong to the Mangled race and speak languages belonging to the Tibeto-Chinese family. This zone is inhabited by tribes such as—Gurung, Limbu, Lepcha, Aka, Mishmi, Mikir, Rabha, Kachari, Garo, Khasi, Chakma, Naga, Angami, Sema, Pham, Chang and so on.

- The Central Zone. The tribal groups of this zone are scattered all over the mountain-belt between the rivers Nannada and Godawari. The main tribes of this area are the Gonds, Munda, Kandhi, Baiga, Bhil, bhuiyan Bhumji, Koli, Savara, Kharia, Oraon, Ho, Santal, Juong and so on.

- The Southern Zone. This zone fall south of the river Krishna. The tribals of this zone are regarded as the most ancient inhabitant now living in India. This zone consist of the tribes like- Chenchu, Kota, Kurumba, Badaga, Toda, Kadar, Malayan, Muthuvan, Urali, Koya, Soliga, Kanikkar, Paniyan, Yerava, etc.
8.3.4 Tribal Problems

The tribals of India are faced with a number of problems among which the following may be noted.

- **The problem of geographic separation:** The tribals of India are in a way geographically separated from the rest of the population. Some of them are living in the unapproachable physical areas such as deep valleys, dense forests, hills, mountains, etc. It is difficult for them to establish relations with others, and hence, socially they are far away from the civilized world. This kind of physical as well as social isolation or seclusion has contributed to various other problems.

- **Cultural problems:** The tribal culture is entirely different from the way of life of the civilized people. The tribals fail to understand the civilized people, their customs and practices, beliefs and attitudes and so on. They are suspicious towards the civilized people. During the British rule some foreign Christian missionaries made an attempt to propagate their religion in some of the tribal areas, particularly in the North-Eastern provinces. They even try to impose their culture on them. Even today such an attempt is going on. On the other hand, the Ramakrishna Mission, R.S.S., the Vishwa Hindu Parishad and other organizations are spreading Hinduism in these areas. Some of the tribal leaders have now started popularizing the tribal religion. These different propagandas have created a great confusion for them. The cultural gap between the civilized and the tribal people is coming in the way of the assimilation and integration of the tribal people into the mainstream of the national life of India.

- **Social problems:** The tribals have their own social problems also. They are traditional and custom-bound has become the victims of superstitious beliefs, outmoded and meaningless practices and harmful habits. Child marriage, infanticide, homicide, animal sacrifice, exchange of wives, black maps other harmful practices are still found among them. They believe in ghosts and spirits, they have keen desire to maintain all these practices in general, and their individual tribal character. Hence it is said that ‘the tribals are the tribesmen first, the tribesmen last and the tribesmen all the tone’.

- **Economic problems:** The tribal people are economically the poorest people in India. Majority of them live below the poverty line. The tribal economy is based on agriculture of the crudest type. The main problems of the tribals are explained below. The innocence, illiteracy and helplessness of the tribals are exploited by the outsiders. About 90 per cent of the tribals are engaged in cultivation and most of them are landless and practice shifting cultivation. They need to be helped in adopting new methods of cultivation. A good portion of the land in the tribal areas has been legally transferred to non-tribals. Tribals demand that this land should be returned to them. In fact, the
tribals had earlier enjoyed much freedom to use the forest and hunt their animals. They are emotionally attached to the forests for they believe that their gods, spirits live in forests.

- **Educational problems**: Illiteracy is a major problem among the tribals. More than 80 per cent of them are illiterate. Literacy among them has increased from 0-7 per cent in 1931 to 11-30 per cent in 1970 and to 16-35 per cent in 1981. This shows more than 3/4 of the tribals are illiterate. They have no faith in formal educational organization. Many of them do not know anything about education, schools, colleges, universities, degrees, etc. They feel no urge to educate their children. Since most of the tribals are poor, education appears to be a luxury for them. In the case of those people who are engaged in agriculture, their minor children are also engaged in it. The illiterate parents do not consider it as their primary responsibility to give education to their children. The medium of instruction is another hindrance to the promotion of education among the tribes. Most of the tribal languages do not have a script of their own. Hence the children are obliged to learn things in a language which is foreign to them. Even in tribal areas the number of tribal teachers is very less and hence communication problems always arise between the students and the teachers. The curriculum of education is another main problem. The existing curriculum, as experts nightly have pointed out, is not suited and has little relevance to the tribal people.

- **Problem of health and sanitation**: Due to illiteracy and ignorance the tribals are not able to appreciate modern concept of health and sanitation. They do not take much care pertaining to their own health. They believe that diseases are caused by hostile spirits and ghosts. They have their own traditional means of diagnosis and cure. Good number of them fall a prey to the diseases such as skin disease, forest fever, typhoid, TB, leprosy, malaria, venereal diseases, small pox, etc. Contact with outsiders further added to a few more diseases in the tribal areas. Example: It is observed that the Todas of Niligiri Hills have been suffering from some modern diseases like venereal diseases, diabetes, blood pressure, etc. after coming into touch with the British who made Niligiri Hills one of their summer resorts. These diseases take a heavy toll on tribal life. Their suspicion and lack of faith in modern doctors have made them not to avail themselves of the modern medical facilities.

- **Problem of separatism**: The ‘divide and rule’ policy adopted by the British did a lot of damage to the tribal community of India. The British had superimposed their own administrative patterns in tribal areas and deprived the tribals of their traditional methods of interacting with people. The ‘Criminal Tribes Act’ which the British had introduced gave an impression that the tribals were either ‘criminals’ or ‘anti-social beings’. The tribal groups such as Kolis, Mundas, Khasis, Santals. Naga, etc, who fought against the British
were branded as ‘dacoits’ and ‘robbers’. The British government which wanted to humble these tribal and ‘correct’ them gave direct encouragement to the foreign Christian missionary activities especially in the Central and the North-Eastern Zone.

8.3.5 Tribal Welfare Activities

The tribals constitute a sizeable proportion (8.8 per cent) of the total population of India. The tribals are also the citizens of India and hence promotion of their welfare is of equal importance. Not only have the central and the state governments undertaken various steps in this regard, but also various voluntary organizations have evinced interest in this task. Organizations such as the Bharatiya Adim Jail Sevak Sangh, the Bhil Seva Mandal, The Kasturba Gandhi National Memorial Trust, the Indian Red cross Society, the Vishwa Hindu Parishad, The Ramakrishna Mission are some of them. The Government through its Department of Tribal Welfare and through its Five-Year Plans has been trying to elevate the tribals from the state of ignorance, illiteracy and poverty. Some of the tribal welfare measures of the Government may be examined here.

Constitutional safeguards

The Constitution of India has made various provisions to safeguard the interests of the tribals:

(a) Article 15 of the Constitution provides rights and opportunities to all the citizens of India (including the tribals) without any discrimination.

(b) Reservation in employment is made for the tribals under Article 16(4), 320(4) and 335.

(c) Seats have been reserved for them in the legislatures (in Lok Sabha and State Vidhana Sabhas) under Articles 330, 332 and 334.

(d) Under Article 19(5) the tribals can own property and enjoy it in any part of the country.

(e) According to the Article 275 a large amount of money can be taken from the Consolidated Fund of India to be spent on tribal welfare activities.

(f) Article 338 empowers the President of India to appoint a Commissioner to look after the tribal welfare activities.

(g) Under Article 339(2) the Central Government can give directions to the States in the formulation and execution of tribal welfare plans, projects and programmes.

(h) Under Article 275(i) the Centre is required to give grants-in-aid to the States for approved schemes of tribal welfare.

(i) Article 164 empowers the State Governments to appoint a separate minister to look into the welfare of the tribals.
(j) Article 46 consists of provisions that protect the economic and educational interests of the tribals.

(k) Article 224 gives instructions to the administration to take special care to protect tribal interests in 'Scheduled Tracts' or 'areas'.

(l) Article 342 gives power to the President of India to declare on the recommendation of the Governor some groups or communities as 'scheduled tribes'. It also gives details on the basis of which new groups could be recommended as 'scheduled tribes' entitled them for all the constitutional benefits.

Committees and commissions

In addition to the constitutional provisions mentioned above, the government appoints committees, commissions and study teams from time to time to look into the way in which the target groups are making use of the constitutional provisions, the problems faced by them and to suggest measures for further improvement. Examples of some commissions and study terms: (a) Backward Classes Commission 1953-55, headed by Kaka Kalelkar; (b) the ihatiy ream of Social Welfare and Welfare of Backward Classes [1953-55] headed by Renuka Ray, (c) Scheduled Areas and Scheduled Tribes Commission — 1960-61 under the chairmanship of U.N Dhebar.

Economic programmes and facilities

Majority of the tribals are extremely poor and economically backward. Various economic programmes and projects have been undertaken to improve their economic position.

- **Development through five-year plans.** The Government spent Rs. 30 crore, Rs. 80 crore, Rs. 101 crore, Rs. 172 crore and Rs. 257 crore on tribal welfare activities during the 1st, 2nd, 3rd, 4th and 5th Five-Year Plans respectively. Integrated Tribal Development Projects [ITDPs] evolved for the tribal development during the 5th plan [1974-79] cover today 19 states/union territories and 374 lakh tribal populations.

  The amount allocated for the tribal sub-plans in the 5th plan was Rs. 1100 crore, in the 6th plan [1980-85] it was Rs. 5,535 crore and in the 7th Plan [1985-90] it was Rs. 10,500 crore.

  **Specific objectives** set forth under the tribal sub-plan strategy were: (i) raising production in the field of agriculture, small industries, horticulture and animal husbandry; (ii) elimination of exploitation of tribals in money lending, bondage, forest, liquor vending, etc; (iii) development of education and training programmes; (iv) development of tribal areas; (v) upgradation of environment of tribal areas.
• **Establishment of ‘lamps’**: Large-sized multi-Purpose Co-operative Societies. These co-operative societies are established in the tribal areas for giving productive and unproductive loans, for sale of surplus produce and purchase of necessities of life to the tribal people. Through these societies the tribals are supplied with unproved seeds, agricultural equipments, chemicals and fertilizers, pesticides etc, the societies are striving to relieve the tribals from the exploitation of middlemen, contractors and money lenders.

• **20-point programme** focused its attention on the development of the scheduled tribes, including assisting the tribal families economically to enable them to come cover the poverty line.

• **Encouragement to crafts and flame industries.** Encouragement is given to the existing and such new endeavors are also encouraged. Examples: (i) In West Bengal, tribals are encouraged to develop silk industry. A training institute is established in Darjeeling to give proper training to those engaged in sericulture (ii) In Bihar, M P, Orissa and West Bengal; wax industry is encouraged among the tribals of these provinces. (iii) Madhya Pradesh Government is helping its tribals to prosper in their economic pursuit of collecting beedi leaves.

**Educational facilities**

Measures to provide educational facilities to the ST have been taken by the government. Schools are established in some tribal areas. In the first Five-Year Plan itself about 1000 schools were opened in the tribal areas. Education up to 10th standard has been made completely free for them. The students belonging to S.T. are getting various concessions such as free tuition, stipends, scholarships, free supply of text books, stationery and other equipment. In some places mid-day meals are also supplied. Free boarding and lodging facilities are provided for them. For the S.T and S.C, 20 per cent of the seats are reserved in technical education and relaxation is made in respect of age limit and qualifying marks.

• There are Ashrama Schools for providing basic education and vocation training for S.T. In these schools education and training is given in areas such as agriculture, forestry, animal husbandry, poultry, farming, bee keeping, handicrafts etc.

• Pre-Examination Training Centers for S.C. and S.T. are established in some places to help them to appear for UPSC Examinations and for I.A.S. and I.P.S. Examinations. The 1971 Census Report indicates that literacy has gone down in some tribal areas, while it has registered a slight progress in some other areas. Even in 1981 the literacy campaign could reach only 16.35 per cent of the tribals. In some cases 100 per cent of the expenses of the students may have to be met by the Government.
**Medical facilities**: Various medical facilities have been provided for the tribals in the tribal areas. In some places hospitals are established and in many places mobile hospital facilities have been provided. Many preventive and curative measures to combat the diseases like malaria, leprosy, forest fever forest, typhoid, smallpox, skin diseases, etc., are undertaken. Medical camps are organized in tribal area to enable the tribals to realize the importance of modern medical facilities.

**Research work into the problems of the tribals**: Tribal Research institutes, which undertake intensive studies of tribal arts, culture and customs and problems have been set up in Bihar, Madhya Pradesh, Orissa, Gujarat, Kerala, Maharashtra, Tamil Nadu, Andhra Pradesh, U P, Rajasthan and West Bengal. The research work done in this field has thrown light on the tribal life and problems.

**Role of voluntary organizations**: The tribal welfare is not the concerns of the government alone. Private organizations and individuals interested in the task of the tribal upliftment must also be given due encouragement in this regard. Takkar Bapu and Gandhi ji have shown that individuals and voluntary organizations with social commitment can do a lot for the welfare of the tribals.

### 8.4 AGED

Old age brings deterioration of physical strength, mental instability and weakening of money power along with negligence from the younger generation. Incidents of senior citizens being thrown out of their homes or being looted are frequently heard. We come across incidences of old parents or grandparents being sent away to old-age homes by their children or grandchildren and not being visited at all.

Seeing all these problems, the Ministry of Social Justice and Empowerment, Government of India constituted the ‘National Council for Older Persons’ in May 1999 to make policies that would benefit the older people. The policy stipulated that the State Governments will take initiative to provide concessions, relief and facilities to the senior citizens so that they can improve their quality of life. The policy also stipulates the government to ensure that the public facilities that have been extended to the senior citizens are user friendly. The policy provides a comprehensive picture of the various facilities that need to be provided to senior citizens, such as financial security, health care, protection of life and property, etc.

Increase in human life expectancy has resulted in the increase of older persons in the age group of 80 and above. The demographic profile depicts that in the years 2000–2050, population in 60 years and above will increase by 326 per cent and those in the age bracket of 80 plus by 700 per cent. A Committee was formed under Dr Mohini Giri to formulate new policies for older people. The Committee submitted the draft in the name of ‘National Policy on Senior Citizens 2011’ on 30 March 2011. This policy addresses issues concerning senior citizens living in urban
and rural areas with special emphasis on the special needs of the ‘oldest old’ and older women.

The policy endeavours to strengthen integration between generations, facilitate interaction between the old and the young as well as strengthen bonds between different age groups. It also emphasizes on the development of a formal and informal social support system to increase the capacity of the family to take care of senior citizens so that they continue to live in the family. The policy seeks to reach out in particular to the senior citizens living in rural areas who are dependent on family bonds, understanding by the younger generations and their support.

Some of recommendations of the Committee area as given below:

- Mainstream the concerns of senior citizens, especially older women, and bring them into the national development debate.
- Promote income security, homecare services, old age pension, healthcare insurance schemes, housing and other programmes/services.
- Promote care of senior citizens within the family and to consider institutional care as a last resort.
- Work towards an inclusive, barrier-free and age-friendly society.
- Recognise senior citizens as a valuable resource for the country and protect their rights and ensure their full participation in society.
- Promote long-term savings instruments and credit activities in both rural and urban areas.
- Encourage employment in income generating activities after superannuation.
- Support organizations that provide counselling, career guidance and training services, etc.

The Committee has also suggested the areas of intervention to be made by Central Government/State Governments towards implementation of the policy objectives.

### 8.5 HANDICAPPED

Disability is the consequence of some form of impairment in the human body structure, either physical or mental. It leads to limitations in carrying out ‘normal’ activities of daily living and consequently causes participation restrictions. The Indian Government has implemented numerous plans and schemes for the benefit of the disabled people. There are also a large number of organizations that are functioning under the Ministry of Social Justice and Empowerment for the welfare of the disabled. These organizations are divided into the categories of statutory bodies, national institutes, public sector undertakings, and composite regional
centres for persons with disabilities and public-private partnership. The organizations under each category are as follows.

1. Statutory bodies

- **Office of the Chief Commissioner for Persons with Disabilities**: Its main function is to safeguard the rights of and facilities for persons with disabilities.
- **National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities**: Its function is to empower people with disabilities to live full and independent lives, provide support to registered organizations providing need-based services to the disabled and develop procedures to appoint legal guardians for such persons.
- **Rehabilitation Council of India (RCI)**: The main functions of this body are to regulate and monitor the training of rehabilitation personnel, promote research in the area of rehabilitation of the disabled, and to maintain a Central Rehabilitation Register.

2. National Institutes

- **Ali Yavar Jung National Institute for the Hearing Handicapped (AYJNIHH)**: The institute was established on 9 August 1983 to work towards developing manpower, research, clinical and therapeutic services and outreach and extension services for the welfare of people with disabilities.
- **Pandit Deen Dayal Upadhyay Institute for the Physically Handicapped (IPH)**: It was set up on 12 November 1976 to train professionals for the rehabilitation of the persons with orthopaedic disabilities, and to conduct research and outreach programmes on this subject.
- **National Institute of Mentally Handicapped (NIMH)**: This organization develops care models for the welfare of the mentally handicapped persons, conducts research in this area and promotes the development of human resources, through training, to work for rehabilitation of these people.
- **National Institute of Visually Handicapped (NIVH)**: Its function is to conduct, coordinate and sponsor the education for the rehabilitation of the blind and visually handicapped through vocational training, teacher training, production of Braille books, research and development of service modules, and producing other aids and appliances as needed.
- **National Institute for the Orthopaedically Handicapped**: It functions to develop and train manpower who work for the rehabilitation of people with locomotor disabilities, provide services in rehabilitation such as physiotherapy, restorative surgery, aids and appliances for better locomotion.
- **National Institute for Rehabilitation Training and Research (NIRTAR)**: It undertakes sponsors and coordinates training personnel who
deal with rehabilitation, conducts research regarding surgery for the orthopaedically handicapped and also undertakes bio-medical research in the field. Apart from these, it also provides vocational training, placement and rehabilitation of the physically challenged or disabled. It also develops models of service delivery programmes for these people.

- **National Institute for Empowerment of Persons with Multiple Disabilities (NIEPMD):** Established in 2005, this organization works towards need based rehabilitation of people with multiple disabilities by helping them in achieving empowerment and also aiding their family members to cope with the situation. The institute provides training to rehabilitation personnel, develops service delivery models, gives aid and support to NGOs working in this field and also carries out research in the area.

- **Indian Sign Language Research and Training Centre (ISLRTC):** This centre operates as an autonomous body within the Indira Gandhi National Open University (IGNOU). The main functions of the centre are to study, develop and propagate sign language and also to assure training and teaching of the language so that this language gains its rightful social place in the areas of linguistics, education, and in culture and society as a whole.

3. Public Sector Undertakings (PSUs)

- **Artificial Limbs Manufacturing Corporation of India (ALIMCO):** This not for profit organization functions to manufacture artificial limbs, accessories, and other rehabilitation aids for the disabled at a reasonable cost, and also provides these products to hospital and other rehabilitation institutions, and also to individual persons. It also functions as a nodal agency to distribute gifts received from other countries for the aid of the disabled.

- **National Handicapped Finance and Development Corporation (NHFDC):** This organization functions to encourage self-employment among persons with disabilities, extends loans to them for the upgradation of their entrepreneurial skills and also for undertaking technical, vocational or professional training, as well as assisting them in marketing their finished products.

4. Composite Regional Centres for Persons with Disabilities (CRCs)

- The Ministry of Social Justice and Empowerment has set up seven of these centres all over the country to provide preventive and promotional rehabilitation for the disabled, such as education, employment, vocational training, research and development in the field and training rehabilitation professionals.

5. Public Private Partnership (PPP)

- **Indian Spinal Injury Centre:** The main function of this centre is to provide rehabilitation services to those with spinal cord injuries and other related conditions.
ailments. It carries out reconstructive surgery, stabilization operations, physical and psycho-social rehabilitation as well as vocational rehabilitation services. It also carries out research and development in the field.

Check Your Progress

3. What is the main function of the Indian spinal injury centre?
4. State some of the problems of the tribals.
5. What are the three zones in which the tribal population is divided into?
6. What are the categories of the government attempts to promote the welfare of the SCs and STs?

8.6 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. There are several legislations pertaining to children. These include the following:
   - The Pre-Conception and Pre-natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994.

2. The special features of the integrated programme for juvenile justice are as follows:
   - Establishment of a National Advisory Board on Juvenile Justice
   - Creation of a Juvenile Justice Fund.
   - Training, orientation and sensitization of Judicial, administrative police and NGOs responsible for implementation of JJ Act.
   - Institutional care shall be used but only as a last measure by enlarging the range of suitable alternatives.
   - Financial assistance to bring about a qualitative improvement in the existing infrastructure.
   - Expansion of non-institutional services such as sponsorship, foster care, probation etc as and an alternate to institutional care.

3. The main function of the Indian Spinal Injury Centre is to provide rehabilitation services to those with spinal cord injuries and other related ailments. It carries out reconstructive surgery, stabilization operations, physical and psycho-social rehabilitation as well as vocational rehabilitation services. It also carries out research and development in the field.
psycho-social rehabilitation as well as vocational rehabilitation services. It also carries out research and development in the field.

4. The innocence, illiteracy and helplessness of the tribals are exploited by the outsiders. About 90 per cent of the tribals are engaged in cultivation and most of them are landless and practice shifting cultivation. They need to be helped in adopting new methods of cultivation. A good portion of the land in the tribal areas has been legally transferred to non-tribals.

5. The tribal population is divided into three zones, namely; North-Eastern Zone, the Central Zone and the Southern Zone.

6. The government attempts to promote the welfare of the SCs and STs can be classified into two groups. (a) Constitutional and legislative measures and (b) other welfare measures and programmes.

8.7 SUMMARY

- The department of Women and Child Development has been set up to assist the women and children in improving their socio-economic status by associating them with different developmental activities. The primary aim of this department is to provide necessary infrastructure for comprehensive development of women’s and children’s potential and thus help them to play a significant role in the development process as participants and beneficiaries.

- The National Policy for Children was adopted on 22 August 1974. This policy lays down that the state shall provide adequate services towards children, both before and after birth and during the growing stages for their full physical, mental and social development.

- Ministry of Women and Child Development has prepared a National Plan of Action for Children 2005 after harmonizing the goals for children set in the UN General Assembly Special Session on Children held in 2002 and the monitor able targets set in the Tenth Five Year Plan, and goals for children in related ministries/departments.

- The government has notified the Commissions for Protection of Child Rights Act 2005 in the Gazette of India on 20 January 2006 as Act No.4 of 2006. The Act envisages setting up a national commission at the national level and the state commissions at the state level.

- With the alleviation of the status of Department of Women and Child Development to an independent Ministry headed by the Minister of State having independent charge it was necessary to change the above provision to make the Minister in charge of the Ministry or Department of Women and Child Development as the Chairperson of the Selection Committee for
the selection of the Chairperson of the National Commission for Protection of Child Rights.

- Child abuse involves several aspects, such as, sexual exploitation, economic exploitation, domestic violence, trafficking for prostitution, corporal punishment at school, and others. Therefore, the ministry felt a need to have a dialogue on the issue so as to ascertain the views from all quarters and to formulate a consensus in order to address the issue more adequately and effectively.

- Women are beginning to face several problems in today’s time. Ranging from being treated as only sex symbols to having to live the stereotype of ‘you have to be skinny to be beautiful’, the last thing women need is another rising problem.

- Unfortunately for women and even society though, one exists. It is thought that race and especially the lack of education contribute to the likeliness of welfare usage. In today’s society, education is one of the most important things a person can attain, no matter the area the person lives in.

- Dalit is a designation for a group of people traditionally regarded as untouchable. Dalits are a mixed population, consisting of numerous social groups from all over India; they speak a variety of languages and practice a multitude of religions. There are many different names proposed for defining this group of people, including Panchamas (‘fifth varna’), and Asprushya (‘untouchables’).

- The word ‘Dalit’ may be derived from Sanskrit, and means ‘ground’, ‘suppressed’, ‘crushed’, or ‘broken to pieces’. It was perhaps first used by Jyotirao Phule in the nineteenth century, in the context of the oppression faced by the erstwhile ‘untouchable’ castes of the twice-born Hindus.

- In the context of traditional Hindu society, Dalit status has often been historically associated with occupations regarded as ritually impure, such as any involving leatherwork, butchering, or removal of rubbish, animal carcasses, and waste. Dalits worked as manual labourers cleaning streets, latrines, and sewers.

- The varna system which existed during the vedic period, in course of time degenerated into the caste system. Since then, the scheduled castes/dalits also known as ‘untouchables’ have been suffering from various social, legal, economic, educational, and other disabilities. For centuries they were denied political representation, legal rights, civic facilities, educational privileges and economic opportunities.

- The government of independent India has been trying to uplift the Scheduled Castes and Scheduled Tribes right from its very inception. The government attempts to promote the welfare of the SCs and STs can be classified into two groups. (a) Constitutional and legislative measures and (b) other welfare measures and programmes.
Old age brings deterioration of physical strength, mental instability and weakening of money power along with negligence from the younger generation. Incidents of senior citizens being thrown out of their homes or being looted are frequently heard. We come across incidences of old parents or grandparents being sent away to old-age homes by their children or grandchildren and not being visited at all.

Increase in human life expectancy has resulted in the increase of older persons in the age group of 80 and above. The demographic profile depicts that in the years 2000–2050, population in 60 years and above will increase by 326 per cent and those in the age bracket of 80 plus by 700 per cent.

Disability is the consequence of some form of impairment in the human body structure, either physical or mental. It leads to limitations in carrying out ‘normal’ activities of daily living and consequently causes participation restrictions. The Indian Government has implemented numerous plans and schemes for the benefit of the disabled people.

### 8.8 KEY WORDS

- **Dalit**: Dalit, meaning “broken/scattered” in Sanskrit and Hindi, is a term mostly used for the ethnic groups in India that have been kept depressed by subjecting them to untouchability.
- **Childline India**: It is a project of Ministry of Women and Child Development. Childline India foundation is a non-government organisation in India that operates a telephone helpline called Childline, for children in distress.

### 8.9 SELF ASSESSMENT QUESTIONS AND EXERCISES

#### Short Answer Questions
1. Write a short note on child welfare.
4. What is child budgeting?

#### Long Answer Questions
1. Analyse the various constitutional provisions enacted for children.
2. Describe the status of women in India before and after independence.
3. Discuss the different programmes launched for weaker sections of the society.
4. Describe the various problems faced by the tribals.
5. ‘There are a large number of organizations that are functioning under the Ministry of Social Justice and Empowerment for the welfare of the disabled.’ Discuss the statement.

8.10 FURTHER READINGS

UNIT 9 SOCIAL LEGISLATION

Structure
9.0 Introduction
9.1 Objectives
9.2 Social Legislation as an Instrument of Social Change
9.3 Answers to Check Your Progress Questions
9.4 Summary
9.5 Key Words
9.6 Self Assessment Questions and Exercises
9.7 Further Readings

9.0 INRODUCTION

The laws that are used to promote the common good, generally by protecting and assisting the weaker members of the society are termed as social legislation. Government enforce such laws to assist the unemployed, the infirm, the disabled and the elderly. The unit aims at analysing the social legislation as an instrument of social change. In addition to elucidating the meaning and concept of social legislation, this unit also aims to explain the relation between law and social change, the usefulness of social legislations to solve caste issue, social legislations for women welfare, and efficacy of minority rights. You will also study the positive methods to deal with factors that resist positive social changes.

9.1 OBJECTIVES

After going through this unit, you will be able to:

- Interpret the concept of social legislation
- Discuss the aims and need of social legislation
- Describe the factors affecting resistance to social change
- Analyse the means of dealing with social resistance

9.2 SOCIAL LEGISLATION AS AN INSTRUMENT OF SOCIAL CHANGE

Social legislation is ‘a set of laws’ designed to uplift and protect the economic and social position of those groups in society which because of age, race, sex,
physical or mental disability or lack of economic power, cannot achieve dignified standards of living for themselves.

The aims of social legislations in India include:
- Women welfare
- Child welfare
- Development of Scheduled Castes
- Welfare of Other Backward Castes
- Welfare of people with disabilities
- Welfare of labour
- Housing welfare

The need for social change in India

We have already explained that social legislations are an important instrument for bringing about desirable social changes. But, before touching on the role of social legislations in India we will briefly discuss the history of social problems in the country. This is important in understanding the nature and root causes of social problems that India is facing today. Almost all the social problems have evolved over centuries through religious superstitions and dogmatic beliefs. Social evils like the caste system, polygamy, the purdah system, ban on widow remarriages, no education for females, female infanticide and child marriages have been practiced since centuries in Indian society. Many social experts believe that these social evils were responsible for keeping India captive to under-development and poverty. While in the fourteenth and fifteenth centuries many Western civilizations made huge strides towards progress and development, India kept languishing under the burden of its social problems.

In the nineteenth century, British education brought Western ideas of liberty and social justice to Indian shores. As these ideas spread across Indian society, many social thinkers were convinced that India would not be able to start a new chapter of development and prosperity unless it freed itself from social dogmas and accepted Western ideas like social justice and liberty. So by the beginning of the twentieth century India had started witnessing social movements and uprisings. Many prominent social reformers like Raja Ram Mohan Roy, B.R. Ambedkar, Mahatma Gandhi and Phule started movements for eradicating social evils. These social reformers were convinced that India’s prosperity will not be ensured only through freedom from British Raj, but with freedom from age-old dogmas. Hence, before India achieved freedom in 1947, social movements to eradicate social evils like the caste system, child marriages and the sati system had gathered momentum. When India achieved freedom in 1947, its forefathers enshrined social justice and equality as fundamental rights in the Indian Constitution.

India’s first Prime Minister Pandit Jawaharlal Nehru’s dream was to see India walking shoulder-to-shoulder with developed countries in the Western world.
To make his dream come true he enacted many social legislations. Successive governments after Pandit Nehru also followed the same path. All the social legislations enacted since India’s Independence point towards one fact: India needs social change for development and progress.

Correlation between Law and Social Change

In this section we will briefly look at some of the great Western thinkers who theorized the role of law in bringing about important social changes in society.

Emile Durkheim was the first social thinker who theorized the role of law in bringing social change. He said that law was an important means for enforcing a collective conscience. According to another important social thinker Roscoe Pound, law was social control exercised through systematic application of the force of a politically organized society. On a lighter note, Bertra Russel explained that the good behaviour of even the most exemplary citizens owes much to the existence of laws and legislations.

From the views of these social thinkers, we can conclude that the foundations of a successful society are based on the efficacy of its legislations and laws.

Laws and legislations as an instrument of change

So far we have learnt that social legislations and law-enforcing institutions play a pivotal role in bringing about desirable social changes in society. Now we will look at some of the important social legislations passed after India’s Independence.

India is an outstanding example of how social legislations can be used as an effective instrument to bring about important social changes in society. The promulgation of the Indian Constitution was the first step in the direction of the social welfare of Indian society. As India moved towards the twenty-first century, it enacted various legislations for the upliftment of its downtrodden and underprivileged population. We now look at some of the important social legislations passed in post-Independent India. Please note that we will only cover those social legislations which have had an impact on India’s social system. We will take up social legislations pertaining to the welfare of Schedule Castes (SCs), welfare of women, education, etc.

Social Legislations for Scheduled Castes

Caste system is still considered to be one of biggest social evils in India. Under an unjust caste system, shudras (the fourth and final caste in the varna system) were treated as outcasts in Hindu society. For centuries, they were socially ostracized, economically exploited and were denied human dignity and a sense of self-worth. B.R. Ambedkar, one of the greatest social reformers, termed the Hindu caste system as one of the worst forms of human enslavement in the history of mankind.

In Independent India, the socio-economic development and protection of Scheduled Castes from discrimination and exploitation was given high priority in
the Indian federal state. Today Scheduled Castes are not just protected by legal legislations but also through constitutional rights. In 1950 when India adopted its own Constitution, it ensured constitutional safeguards for millions of Scheduled Caste people.

The Constitution of India says that the state shall not discriminate against any citizen on grounds of religion, race, caste, or place of birth. The Directive Principles explain that the state shall promote with special care the educational and social interests of Scheduled Castes/Tribes and shall protect them from social injustices and other forms of exploitation.

The Constitution of India further says that the state shall not discriminate against any citizen on grounds of caste [Article 15(1)]. Untouchability has been abolished and its practice in any form is forbidden (Article 17). The Constitution empowers the state to make provisions for reservations in educational institutions [Article 15(4) and (5)], and in appointments for posts in favour of SCs [Article 16(4), 16(4A), 16(4B) and Article 335]. Reservation of seats for SCs in the Lok Sabha is provided under Article 330. Constitutional rights for SCs were further assisted by social legislations adopted by successive governments.

**Efficacy of Social Legislation**

So far we have learnt about the need for social change in India and various social legislations that have been passed over the years to tackle social problems. Now we will examine how far these social legislations have succeeded in bringing about social changes in Indian society.

**Efficacy of social legislations to solve caste issue**

Overcoming caste discrimination was always going to be challenging for the Indian judiciary as well as for its federal government mainly because the caste system has been deeply perpetuated in the Indian psyche as it has been in practice for centuries. But, today—after more than 60 years of Independence—we can say that India has managed to uplift millions of Scheduled and Backward Caste people through constitutional rights and social legislations.

Many social experts argue that providing reservations (as provided by the Indian Constitution) for SC and OBC communities in educational institutes and government jobs has helped in overcoming caste barriers. In addition, social legislations such as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, have also helped in bringing down caste atrocities across India.

Many social experts and sociologists, however, believe that India’s laudable achievements in overcoming caste discrimination are restricted to urban cities as in major parts of rural India caste discrimination is still being practiced. Constitutional rights and even social legislations have failed in safeguarding the rights of lower caste communities living in rural areas. Many sociologists believe that social
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legislations will fail in meeting desired goals unless rural India changes its caste-ridden mindset. Lack of education and economic development in rural India are also cited as the main reasons for the failure of social legislations.

**Efficacy of the Right to Education Act**

Many experts lauded the enactment of this Act as it aimed at providing free elementary education to downtrodden and under-privileged children. It is believed that India will usher a new era of social development if this act is implemented successfully. However, the noble intentions of this act have already been undermined by many skeptics as basic educational infrastructure in large parts of rural India is still poor.

Many educational experts believe that the Right to Education Act will not be able achieve its desired goals unless fundamental problems such as urban-rural divide, absence of quality education in rural India, economic disparities and commercialization of education are resolved. It was only in 2010 that this Act was passed in both houses of Parliament, and so it will be unfair to judge its efficacy and success as it needs a time span of at least a decade to meet its ambitious goals.

**Efficacy of social legislations for women welfare**

Social legislations have undeniably played a pivotal role in the social and economic development of women after India’s Independence. The impact of social legislations on women’s welfare has been such that it has helped millions of Indian women live a life of dignity and self-respect. Today Indian women are not only socially and economically empowered, they have also become role models in various spheres of human life.

On the flip side, millions of women in rural India are still deprived of privileges guaranteed to them by various social legislations, and hence they are subjected to atrocities and sexual harassment even today. Literacy rates among rural women are low. With the advent of the corporate culture in India, incidents of sexual harassment of women at the workplace have picked up in recent years. Overall, social legislations have succeeded in uplifting the social lives of millions of women across India, but lot of work still needs to be done especially for the upliftment of marginalized women across rural India.

**Efficacy of minority rights**

It has already been mentioned that the Constitution provides many articles and provisions for safeguarding minorities. However, these constitutional rights have been constantly challenged by religious fundamentalists as India has experienced religious riots and violence since its Independence. The 1984 anti-Sikh riots in Delhi, the 1992–93 Mumbai riots and the 2000 Gujarat riots are some of the major religious riots that have taken place in independent India. These riots not only shook the foundation of India’s secularism but also minorities’ faith in the
Indian Constitution. Social experts and political analysts say that besides constitutional rights and legal Acts, religious tolerance should also be practiced by both majority and minority religions as this will lead to religious harmony and also deter religious violence against minorities.

Resistance to Social Change

We have explained that legislations though imbedded with legislative powers fall short of achieving desirable goals because of various factors. We will now look closely at these factors.

(i) Economic factors: Many sociologists believe that any region or area riddled with economic under-development is less likely to accept social change. A region suffering from economic under-development is usually riddled with problems like low literacy, poverty, superstitions and ignorance. These problems directly or indirectly hinder the region’s social progress. Such a social situation is clearly visible in India’s rural areas which are still untouched by the economic prosperity of modern India and are still following rigid dogmas and ethics of a traditional Indian society. Rural India’s economic under-development has meant that it still falls within a traditional social structure, and hence social evils like caste, sati and gender bias still persist in these areas.

(ii) Culture factors: Certain social changes face resistance because they are perceived to be against society’s cultural ethos.

(iii) Vested interests: Most social legislations fail to meet their goals because they are against the interests of certain vested groups. These vested groups benefit from the existing social structure and hence fear any social change within society.

(iv) Population: India is the most populous country in the world which makes distribution of social justice a daunting task. Many sociologists believe that India neither has the machinery nor the manpower to distribute social justice to its millions of citizens and hence advantages and privileges of social legislations do not reach its core population.

(v) Lack of political will power: Many experts cite lack of political will power both by the Union and the state governments as a major deterrent in social change. The lack of political will power includes the government’s apathy or unwillingness to make any radical social changes because of fear of backlash or hurting popular sentiments.

(vi) Social apathy: Sociologists believe that only law-enforcing states cannot ensure successful implementation of legislations as friendly cooperation from society is equally important. However, society’s apathy towards social issues seems to have increased in the era of globalization and consumerism as people have become more individualistic and self-seeking.
Means of Dealing with Social Resistance

Needless to say any resistance to positive social change will only hinder India’s prosperity and growth and therefore all the deterring factors need to be dealt with and overcome systematically. We now list some positive methods to deal with factors that resist positive social changes.

(i) *Economic development in rural India:* Even today nearly 80 per cent of India’s population lives in rural areas. This means that nearly 80 per cent of India’s population still has a rigid mindset of a traditional social system which validates social evils like caste and gender discrimination. Experts believe that economic prosperity is the only way of overcoming the rigid and dogmatic mindset of rural India. This belief is vindicated by the social situation in urban India, where economic prosperity has helped in breaking many social barriers.

(ii) *Social awareness programmes in rural India:* Social awareness programmes are as important as economic schemes. It is presumed that rural India can successfully free itself from the shackles of a traditional and rigid mindset if it gets due assistance through social awareness programmes. Implementation of social programmes like inter-caste marriages and schemes for female education will help in breaking social barriers.

(iii) *Participation of the media:* The media is one of the important pillars of society, and hence its role in creating awareness about social problems is important. News journals and media houses can play a positive role in overcoming social barriers and biases and thereby paving the way for major social changes in society.

(iv) *Participation of society:* Moral consciousness of the entire society has to rise and stand up against social issues. This will speed up the progress of social development and distribution of social justice in India.

(v) *Exerting pressure on the government:* It has been observed that exerting positive social pressure on the government results in the passing of crucial and important social bills. Exerting and maintaining pressure on the government is an effective way of dealing with the government’s apathy towards social problems. The recent social movement for the passing of the Lok Pal Bill is a fine example of how society can exert pressure for positive social change on the government.

Check Your Progress

1. What is social legislation?
2. Name the social thinker who theorized the role of law in bringing social change.
3. What social legislations were passed in post-independent India?
4. What is the main objective of the Right to Education Act?
9.3 Answers to Check Your Progress Questions

1. Social legislation is ‘a set of laws’ designed to uplift and protect the economic and social position of those groups in society which because of age, race, sex, physical or mental disability or lack of economic power, cannot achieve dignified standards of living for themselves.

2. Emile Durkheim was the first social thinker who theorized the role of law in bringing social change.

3. The social legislations pertaining to the welfare of Schedule Castes (SCs), welfare of women, education, etc. were some of the important social legislations passed after India’s independence.

4. The Right to Education Act is aimed at providing free elementary education to downtrodden and under-privileged children. It is believed that India will usher a new era of social development with the successful implementation of this act. However, the noble intentions of this act have already been undermined by many sceptics as basic educational infrastructure in large parts of rural India is still poor.

9.4 SUMMARY

- Social legislation is ‘a set of laws’ designed to uplift and protect the economic and social position of those groups in society which because of age, race, sex, physical or mental disability or lack of economic power, cannot achieve dignified standards of living for themselves.

- Almost all the social problems have evolved over centuries through religious superstitions and dogmatic beliefs. Social evils like the caste system, polygamy, the purdah system, ban on widow remarriages, no education for females, female infanticide and child marriages have been practiced since centuries in Indian society.

- Many prominent social reformers like Raja Ram Mohan Roy, B.R. Ambedkar, Mahatma Gandhi and Phule started movements for eradicating social evils.

- Emile Durkheim was the first social thinker who theorized the role of law in bringing social change. He said that law was an important means for enforcing a collective conscience. According to another important social thinker Roscoe Pound, law was social control exercised through systematic application of the force of a politically organized society.

- Social legislations pertaining to the welfare of Schedule Castes (SCs), welfare of women, education, etc. are some of the important social legislations passed in post-Independent India.
In Independent India, the socio-economic development and protection of Scheduled Castes from discrimination and exploitation was given high priority in the Indian federal state.

Lack of education and economic development in rural India are also cited as the main reasons for the failure of social legislations.

The impact of social legislations on women’s welfare has been such that it has helped millions of Indian women live a life of dignity and self-respect. Today Indian women are not only socially and economically empowered, they have also become role models in various spheres of human life.

Any resistance to positive social change will only hinder India’s prosperity and growth and therefore all the deterring factors need to be dealt with and overcome systematically.

Some positive methods to deal with factors that resist positive social changes are economic development in rural India, social awareness programmes in rural India, participation of the media and society, and exerting pressure on the government.

9.5 KEY WORDS

- **Social Change**: It refers to a concept which involves alteration of the social order of a society.
- **Social Legislation**: It refers to the laws that seek to promote the common good, generally by protecting and assisting the weaker members of society.
- **Social Resistance**: It refers to a social phenomenon in which disadvantaged, exploited, and dominated groups contest the dominating practices.

9.6 SELF ASSESSMENT QUESTIONS AND EXERCISES

**Short Answer Questions**

1. Mention the aims of social legislation in India.
2. Briefly mention the impact of social legislations on women’s welfare.
3. What is correlation between law and social change?
4. What are the social legislations to solve caste issue?

**Long Answer Questions**

1. What is the need of social change in India? Support your answer with appropriate reasons.
2. Why social laws and legislations are considered as an instrument of change? Discuss.
3. Discuss the factors influencing the resistance to social change.

9.7 FURTHER READINGS
UNIT 10 CONSTITUTIONAL BASIS FOR SOCIAL LEGISLATION

Structure
10.0 Introduction
10.1 Objectives
10.2 Fundamental Rights
10.3 Directive Principles of State Policy
10.4 Answers to Check Your Progress Questions
10.5 Summary
10.6 Key Words
10.7 Self Assessment Questions and Exercises
10.8 Further Readings

10.0 INTRODUCTION

In the previous unit, you learnt how social legislation has a great bearing on social change. In this unit, you will be introduced to the constitutional basis of social legislation. In India, this takes the form of Fundamental rights and Directive Principles of State Policy. A constitution is the fundamental law of the state. It contains the principles upon which the government is founded. Unlike other laws, the constitution may be changed, or amended, only in special ways. The Constitution of India was framed by a Constituent Assembly. The Constituent Assembly was set up as a result of the negotiations between the Indian leaders and members of the British Cabinet Mission on 19 February 1946. After much debate, the Constituent Assembly adopted the Constitution on 26 November 1949 and it came into effect on 26 January 1950. It is for this reason that 26th January is celebrated as the Republic Day in India.

10.1 OBJECTIVES

After going through this unit, you will be able to:

- Identify the Fundamental Rights defined in the Indian Constitution
- Examine Directive Principles of State Policy as welfare goals of the State

10.2 FUNDAMENTAL RIGHTS

Fundamental Rights which are a part of the Indian Constitution, pertain to the State’s obligation towards its citizens. The section of the Indian Constitution which deals with fundamental rights and duties is constituted in a Bill of Rights. The Bill of
Rights is a legal document which deals with the rights of the citizens and protects their rights from any infringement. In this section, you shall read about fundamental rights in the light of their features and the different factors associated with them. The fundamental rights of a citizen have been defined in Part III of the Indian Constitution and can be summarized as the basic human rights of all citizens. Every individual has access to these rights irrespective of caste, creed, gender, race or religion. Similarly, fundamental duties are outlined in Part IV-A of the Indian Constitution and deal with the moral obligations of all citizens towards the State. This is not only to ensure the unity of India as one nation but also to see to it that the spirit of patriotism prevails amongst all citizens of a state. Unlike fundamental rights, the duties of a citizen are not legally enforceable. The centre and state governments have the power to frame and pass laws.

The Constitution is the basis of all governments worldwide. In simple terms, constitutional provision is a specific benefit offered and protected by law. Constitutional provisions assist in formulating and establishing laws and therefore create a balance between the state and centre. Laski had rightly remarked that every state is known by the rights that it maintains. The Constitution of India, assuring the dignity of the individual, provided for the deepest meaning and essence and for the greatest motivation to incorporate ‘fundamental rights.’ As Granville Austin observed:

The fundamental rights, therefore, were to foster the social revolution by creating a society egalitarian to the extent that all citizens were to be equally free from coercion or restriction by the state or by society privately. Liberty was no longer to be a privilege of the few.

The inclusion of a chapter on fundamental rights in the Constitution was symbolic of the great aspirations of the Indian people. In fact, it is these rights that offer the main justification for the existence of a state. The demand for a Charter of Rights in the Indian Constitution had its deep-seated roots in the Indian National Movement. The inclusion of rights in the Constitution rested on three major reasons:

(a) to keep a check on the arbitrary action of the executive
(b) to reach to the desired goal of socio-economic justice
(c) to ensure security to minority groups in India

The final shape to the fundamental rights was given by the Advisory Committee for reporting on minorities, fundamental rights and on the tribal and excluded areas, under the Chairmanship of Sardar Patel, which the Constituent Assembly accepted and adopted to make Part III of the Constitution.

The pertinent question that arises here is as to why the rights in Part III alone are considered fundamental. There are other rights as well that are important and even justifiable, for example, the right to vote under Article 325. The justification goes that the rights in Part III are:

(a) More in consonance with the natural rights
Constitutional Basis for Social Legislation

The Constitution of India contained seven fundamental rights originally. But the Right to Property was repealed in 1978 by the Forty-Fourth Constitutional Amendment bill during the rule of the Janata Government. These fundamental rights constitute the soul of the Constitution and thereby provide it a dimension of permanence. These rights enjoy an esteemed position as all legislations have to conform to the provisions of Part III of the Constitution. Not only this, its remarkable feature is these rights encompass all those rights which human ingenuity has found to be essential for the development and growth of human beings.

The Constitution classifies fundamental rights into six categories:

- Right to equality (Articles 14–18)
- Right to freedom (Articles 19–22)
- Right against exploitation (Articles 25–28)
- Right to freedom of religion (Articles 25–28)
- Cultural and educational rights (Articles 29–30)
- Right to constitutional remedies (Article 32)

Right to Equality (Article 14)

Article 14 declares that the State shall not deny any person the equality before the law or the equal protection of laws within the territory of India. As interpreted by the courts, it means that though the state shall not deny to any person equality before law or the equal protection of law, it shall have the right to classify citizens, provided that such a classification is rational and is related to the object sought to be achieved by the law.

- **Equality before law**: Equality before law does not mean an absolute equality of men which is a physical impossibility. It means the absence of special privileges on grounds of birth, creed or the like in favour of any individual. It also states that individuals are equally subjected to the ordinary laws of the land.

- **Equal protection of laws**: This clause has been taken verbatim from the XIV amendment to American constitution. Equal protection means the right to equal treatment in similar circumstances both with regard to the legal privileges and liabilities. In other words, there should be no discrimination between one person and another, if their position is the same with regard to the subject matter of legislation. The principle of equal protection does not mean that every law must have a universal application for all persons, who are not by nature, circumstance or attainments (knowledge, virtue or money) in the same position as others.
Varying needs of different classes or persons require separate treatment and a law enacted with this object in view is not considered to be violative of equal protection. The Constitution, however, does not stand for absolute equality. The State may classify persons for the purpose of legislation. But this classification should be on reasonable grounds. Equal protection has reference to the persons who have the same nature, attainments, qualifications or circumstances. It means that the State is debarred from discriminating between or amongst the same class of persons in so far as special protection, privileges or liabilities are concerned. Thus, equal protection does not require that every law must be all-embracing, all-inclusive and universally applicable.

**Prohibition of discrimination (Article 15)**

Article 15(1) prohibits discrimination on certain grounds. It declares, ‘The state shall not discriminate against any citizen on ground only of religion, race, caste, sex, place of birth or any of them.’ This discrimination is prohibited with regard to ‘(a) access to shops, public restaurants, hotels and places of public entertainment; or (b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public’. Article 15 has, however, to notable exceptions in its application. The first of these permits the State to make special provision for the benefit of women and children. The second allows the State to make any special provision for the advancement of any socially and educationally backward class of citizens or for scheduled castes and scheduled tribes. The special treatment meted out to women and children is in the larger and long-term interest of the community itself. The second exception was not in the original Constitution, but was later on added to it as a result of the First Amendment of the Constitution in 1951. While freedom contained in Article 14 is available to all persons, that in Article 15 is available only to the citizens and, therefore, it cannot be invoked by non-citizens.

Article 15(2) proclaims that no citizen shall, on grounds only of religion, race, caste, sex and place of birth be subject to any disability, liability, restriction or condition with regard to:

- Access to shops, public restaurants, hotels and places of public entertainment
- The use of wells, tanks, bathing ghats, roads and places of public resort, maintained wholly or partly out of State funds or dedicated to the use of the general public. The prohibition in this clause is leveled not only against the State but also against private persons.

Article 15(3) provides that the State shall be free to make any special provision for women and children. This sub-article is in the nature of an exception in favour of women and children. Thus, the provision of free education for children up to a certain age or the provision of special maternity leave for women workers is not discrimination. However, discrimination in favour of women in respect of
political rights is not justified, as women are not regarded as a backward class in comparison to men for special political representation.

Article 15(4) allows the State to make special provision for the advancement of any socially and educationally backward classes of citizens, including the scheduled castes and the scheduled tribes. The State is, therefore, free to reserve seats for them in the legislature and the services. This Article only allows the State to make special provisions for these classes. Inserted under Ninety-Third Constitutional Amendment Act, this clause conferred on the State the power to make any special provision by law for the advancement of any socially and educationally backward class or for the scheduled castes or the scheduled tribes in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions.

Equality of opportunity (Article 16)

Article 16(1) reads: ‘There shall be equality of opportunity for all citizens in matters relating to employment to any office under the State.’ It confers on every citizen, a right to equality of economic opportunity, and subsequently provides that no citizen shall be discriminated against in this respect on grounds only of religion, race, caste, descent, place of birth or any of them. However, an equality of opportunity is only between equals, i.e. between persons who are either seeking the same employment or have obtained the same employment. In other words, equality means equality between members of the same class or employees, and not between members of different classes.

Article 16 (2) reads: ‘No citizen shall, on grounds only of religion, race, caste, sex, descent, place or birth, residence or any one of them be ineligible for or discriminated against in respect of any employment or office under the State.’

Article 16 (3) says that the President is competent to allow states to make residency as a necessary qualification in certain services for ensuring efficiently of work.

Article 16 (4) allows the State to reserve appointments in favour of a backward class of citizens which in its opinion is not adequately represented in the services under the State. The Supreme Court had held that such reservation should generally be less than 50 per cent of the total number of seats in a particular service. Over and above the minimum number of reserved seats member of backward classes are free to compete with others and be appointed to non-reserved seats, if otherwise, they are eligible on merit.

Article 16 (5) allows the State to provide that in case of appointment to religious offices, or offices in religious institutions, the candidates shall possess such additional qualifications or be members of that religious institution. This is an exception to the general rule that the State shall not discriminate on ground of religion in providing equal economic opportunities to the citizens.
Although Article 16 guarantees equality of opportunity in matters of public employment, for all citizens and is expected to provide a bulwark against considerations of caste, community and religion, the result so far has been far from satisfactory.

Social equality by abolition of untouchability (Article 17)

Complete abolition of untouchability was one of the items in Mahatma Gandhi’s programme for social reform. The present Article adopts the Gandhian ideal without any qualification in abolishing untouchability and in forbidding its practice.

It also declares that the enforcement of any disability arising out of untouchability shall be an offence punishable in accordance with law. The practice of untouchability is a denial of human equality in an acute form. In pursuance of Article 17, the Parliament has enacted the Untouchability Offences Act, 1955, which was later amended in 1976. It prescribes punishment for the practice of untouchability, in any form, up to a fine of ₹ 500 or an imprisonment of 6 months or both, depending upon the seriousness of the crime.

Social equality by abolition of titles (Article 18)

Article 18 seeks to prevent the power of the State to confer titles from being abused or misused for corrupting the public life, by creating unnecessary class divisions in the society. The object of the Article is to prevent the growth of any nobility in India. Creation of privileged classes is contrary to the equality of Status promised to all citizens by the Preamble to the Constitution.

Article 18(1) declares: ‘No title, not being a military or academic distinction shall be conferred by the State’. It means that no authority in India is competent to confer any title on any person, excepting the academic title, or military titles of general, Major or Captain. Article 18(2) prohibits the citizens of India from receiving any title from any foreign State. This is an absolute bar. One the other hand,

Article 18(3) prohibits the citizens from accepting any title from any foreign State without the consent of the President of India, if and so long as they are holding any office of profit or trust under the State. And, Article 18(4) prohibits both the citizens and aliens, who are holding any office of profit or trust under the State from accepting any present, emolument or office of any kind, from or under any foreign State.

Right to Freedom (Articles 19, 20, 21 and 22)

Article 19 of the Constitution guarantees seven civil freedoms to the citizens as a matter of their right. Included in Clause 1 of Article 19, these freedoms are:
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- Freedom of speech and expression
- Right to assemble peacefully and without arms
- Right to form associations or unions
- Right to move freely throughout the territory of India
- Right to reside and settle in any part of the territory of India
- Right to practice any profession, or to carry on any occupation, trade or business

Freedom of speech and expression

The safeguarding of the freedom of speech and expression is essential to allow men to speak as they think on matters vital to them, and also to expose falsehood. Freedoms of speech and expression lie at the foundation of all democratic organizations, for without political discussion, no political education is possible.

Freedom of expression in this clause means right to express one’s convictions and opinions freely by word of mouth, writing, printing, picture or any other manner addressed to the eyes or ears. It, thus, includes not only the freedom of press but also the expression of one’s ideas in any other form.

Freedom of speech and expression also includes the freedom not to speak. Thus, the freedom to remain silent is included in this freedom. However, an individual is not free from the obligation of giving evidence in the judicial proceedings subject to constitutional and statutory provisions. As amended by the First and the Sixteenth Amendment Acts, Clause 2 of Article 19(1)(a) entitles the State to impose restrictions on any one or more of the following grounds:

- Sovereignty and integrity of India
- Security of the state
- Friendly relations with foreign states
- Public order
- Decency or morality
- Contempt of court
- Defamation
- Incitement to an offence

Right of peaceful unarmed assembly

Article 19 (1)(b) guarantees to every citizen the right to assemble peaceably and without arms. This right is subject to the following limitations:

- Assembly must be peaceful
- Assembly must be unarmed
- It must not be in violation of public order
Freedom of association and unions [Articles 19 (1) and (4)]

Article 19(1)(c) guarantees to all citizens the right to form associations and unions, the formation of which is vital to democracy. If free discussion is essential to democracy, no less essential is the freedom to form political parties to discuss questions of public importance. They are essential as much as they present to the government alternative solutions to political problems. Freedom of association is necessary not only for political purpose but also for the maintenance and enjoyment of the other rights conferred by the Constitution.

In short, the freedom of association includes the right to form an association for any lawful purpose. It also includes the right to form trade union with the object of negotiating better conditions of service for the employees. Clause 4 of the Article 19 empowers the State to make reasonable restrictions upon this right on grounds only of:

- Sovereignty and integrity of India
- Public order
- Morality

Freedom of movement and residence

Articles 19(1)(D) and (E) guarantee to all citizens the right to move freely throughout the territory of India and to reside and settle in any part of the territory of India. These freedoms are aimed at the removal of all hindrances in the enjoyment of these rights. The freedom of movement of a citizen has three aspects:

- Freedom to move from any part of his country to any other part
- Freedom to move out of his country
- Freedom to return to his country from abroad

The second of these provisions is not guaranteed by our Constitution as a fundamental right and has been left to be determined by Parliament by law. Freedom of movement and residence is subject to restrictions only on the following grounds:

- In the interest of any scheduled tribes
- In the interest of the general public, i.e. public order morality and health

Freedom of profession

Article 19(1)(f) guarantees to all citizens right to practice any profession or to carry on any occupation, trade or business. The freedom of profession, trade or business means that every citizen has the right to choose his own employment, or take up any trade, subject only to the limitations mentioned in Clause (6).

The right is subject to reasonable restrictions, which may be imposed by the State in the interest of general public. The State may prescribe professional or technical qualifications necessary for carrying on any business, trade or occupation.
It also has the right itself, or through a corporation, to carry on any occupation, trade or business to the complete or partial exclusion or private citizens.

**Protection in criminal convictions (Article 20)**

Article 20 (1) declares that ‘a person cannot be convicted for an offence that was not a violation of law in force at the time of the commission of the act, nor be subjected to a penalty greater than that which might have been inflicted under ‘the law in force at the time of the commission of the offence.’ Clause 2 declares: ‘No person shall be prosecuted and punished for the same offence more than once.’ And, Clause 3 says that ‘no person accused of any offence shall be compelled to be a witness against himself,’

**Right to life and personal liberty (Article 21)**

Article 21 says that no person shall be deprived of his life or personal liberty, except according to procedure established by law. The object of this Article is to serve as a restraint upon the executive, so that it may not proceed against the life or personal liberty of the individual, except under the authority of some law and in conformity with the procedure laid down therein. This Article can be invoked only if a person is detained by or under the authority of the State. Violation of the right to personal liberty is not enforceable when it is violated by a private individual violates this right, and then the remedy lies in the constitutional law.

Furthermore, the Supreme Court on various occasions ruled that the expression ‘life’ in Article 21 does not connote merely physical or animal existence, but includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life.

**Right to Information**

As interpreted by the Supreme Court, the right to information flows from Article 19(1)(a) of the Constitution. Concerned Bill, however, was introduced in the Parliament as Freedom on Information Bill, 2002 which along with certain restrictions made it mandatory for the government to provide information pertaining to public sphere. This right of information was further illustrated by the Supreme Court, which held that ‘a voter has a fundamental right to know the antecedents of a candidate’. Accordingly, Supreme Court struck down some parts of Representation of People (Amendment) Act, 2002 by making a clear distinction between the constitutional right of a voter and his rights under general laws. The Court declared that voter’s fundamental right to know the antecedents of a candidate is independent of statutory right under election law.

**Right to Education (Article 21(a))**

Under Eighty-Sixth Amendment Act 2002, right to education was provided. For the purpose a new Article in Part III was inserted and two Articles in Part IV were amended. The newly inserted Article 21(a) declared that ‘The State shall provide
free compulsory education to all children of the age of 6–14 years in such manner as the State may, by law, determine.

Protection against arrest and detention (Article 22)

Article 22 has two parts: Part I consists of Clauses 1 and 2, and deals with the rights of persons arrested under the ordinary criminal law. Part II consists of Clauses 3–7 and deals with the right of persons who are detained under the law of preventive detention. Clauses 1 and 2 of this Article recognize the following rights of the persons arrested under ordinary criminal law:

- The arrested person shall, as soon as possible, be informed of the grounds of his arrest. The arrested person will be in a position to make an application to the appropriate court for bail, or move the high court, for the grant of the writ of habeas corpus.
- The second protection granted by Clause 1 is that the arrested person shall be given the opportunity of consulting and of being defended by the legal practitioner of his choice. This clause confers only right to engage a lawyer. It does not guarantee the right to be supplied with a lawyer, free of charge, nor does it guarantee the right to engage a lawyer who has been disqualified to practice under the law.
- Clause 2 declares that the arrested person shall be produced before the nearest magistrate within 24 hours of his arrest, excluding the time necessary for journey from the place of arrest to the court of the magistrate.

Preventive detention

Clause 3 of Article 22 constitutes an exception to Clauses 1 and 2. The result is that enemy-aliens (i.e. foreigners belonging to the courtiers which are the enemies of the state) and other persons who are detained under the law of preventive detention have neither the right to consult nor to be defended by a legal practitioner.

Clause 4 requires that a person may be detained under the Preventive Detention Act for 3 months. If a person is to be detained for more than 3 months, it can be only in the following cases:

- Where the opinion of an Advisory Board, constituted for the purpose has been obtained within 10 weeks from the date of detention; and
- Where the person is detained under law made by the Parliament for this

Clause 5 considers two things, namely:

(a) That the detainee should be supplied with the grounds of the order of detention; and
(b) That he should be provided with the opportunity of making representation against that order to the detaining authority for the consideration of the Advisory Board.
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Clause 6 declares that the detainee cannot insist for the supply of all the facts, which means evidence and which the Government may not consider in public interest. In this context, the Supreme Court has held that an order of detention is malafide, if it is made for a purpose other than what has been permitted by the legislature.

Clause 7 of this Article gives exclusive power to the Parliament to:

- Prescribe the circumstances under which and the cases in which a person may be detained for more than 3 months without obtaining the opinion of the an Advisory Board
- The period of such detention (which it has determined to be not more than twelve months), and
- The procedure to be followed by an Advisory Board

The Preventive Detention Act, 1950 was passed by the Parliament, which initially constituted the law of Preventive Detention in India. The Act was amended 7 times, each for a period of 3 years. The revival of anarchist forces obliged Parliament to enact a new Act, named The Maintenance of Internal Security Act (MISA) in 1971, having provision broadly similar to those of Preventive Detention Act of 1950. In 1974, Parliament passed the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (COFEPSA) as an economic adjunct of the MISA. MISA was repealed in 1978, but COFEPSA still remains in force. Further, in 1980, National Security Act (NSA) was enacted. According to the NSA the Maximum period for which a person may be detained shall be 6 months from the date of detention. Next in the series was Essential Services Maintenance Act (ESMA), 1980, and also the Prevention of Black Marketing and Maintenance of Supplies of Essential Commodities Act, 1980 which empowered the government to ban strikes, lockouts and lay-offs and gave powers to dismiss strikers and erring employees, arrest them without warrant, try them summarily, impose fine and imprison them. An upsurge in terrorist activities, further, compelled the Government to enact The Terrorist and Disruptive Activities (Prevention) Act (TADA), 1985, which, in fact, empowered the executive for suppression of all kind of dissent and was widely criticized for being undemocratic.

In wake of intensified terrorist activities in many parts of the country, Vajpayee government was compelled with yet another enactment in 2002, named as Prevention of Terrorism Act (POTA), which has been criticized for its probable misuse.

Right against Exploitation (Articles 23 and 24)

Clause 1 of Article 23 prohibits traffic of human beings, begars and other similar forms of forced labour, and makes the contravention of this prohibition an offence punishable in accordance with law. In this context, ‘traffic in human beings,’ includes the institutions of slavery and prostitution. ‘Begar’ means involuntary or forced
work without payment, e.g. tenants being required to render certain free services to their landlords.

Under Clause 2 of this Article, the State has been allowed to require compulsory service for public purposes, viz. national defiance, removal of illiteracy or the smooth running of public utility services like water, electricity, postage, rail and air services. In matters like this, the interests of the community are directly and vitally concerned and if the government did not have this power, the entire life would come to a standstill. In making any service compulsory for public purposes, the state has, however, been debarred from making discrimination on grounds only of religion, race, caste, class or any of them.

Article 24 provides that no child below the age of 14 years shall be employed to work in any factory or mine, or engaged in any other hazardous employment. Our Constitution goes in advance of the American Constitution in laying down a constitutional prohibition against employment of children below the age of 14 in factories, mines or other difficult employments, e.g. railways or transport services. Our Parliament has passed necessary legislation and made it a punishable offence.

**Right to Freedom of Religion (Articles 25–28)**

In pursuance of the goal of liberty of belief, faith and worship enshrined in the Preamble to the Constitution, Articles 25–28 underline the secular aspects of the Indian State.

Article 25(1) grants to all persons the freedom of conscience, and the right to freely profess, practice and propagate religion. This Article secures to every person, a freedom not only to subscribe to the religion of his choice, but also to execute his belief in such outwards acts as he thinks proper. He is also free to propagate his ideas to others.

Clause 2 of this Article allows the State to make law for the purpose of regulating economic, financial or other activities of the religious institutions. At the same time, it allows the State to provide from, and carry on social welfare programmes, especially by throwing open the Hindu religious institutions of a public character to all classes and sections of Hindus, including the Sikhs, the Jains and the Buddhists.

The Parliament enacted the Untouchability Offences Act, 1955, which prescribes punishment for enforcing religious disabilities on any Hindu simply because he belongs to a low caste. The purpose of this reform is to overcome the evils of Hindu religion.

Explanation 1 to Article 25 declares that the wearing or carrying of kirpan (sword) by the Sikhs shall be deemed to be included in the profession of Sikh religion. Basu points out that this right is granted subject to the condition that no Sikh will carry more than one sword without obtaining license.
Article 26 guarantees to every religious denomination the following rights:

- To establish and maintain institutions for religious and charitable purpose
- To manage its own affairs in matters of religion
- To own and acquire movable and immovable property; and
- To administer such property in accordance with law

While rights guaranteed by Article 25 are available only to the individuals and not to their groups, those under Article 26 are conferred on religious institutions and not on individuals. In this Article, religious denomination means a religious sect or body having a common faith and organization and designated by a distinctive name. This was the definition accepted by the Supreme Court. This Article grants to a religious denomination complete autonomy in deciding what rites and ceremonies were essential according to the tenets of a religion. No outside authority has any jurisdiction to interfere in its decisions in such matters.

Article 27 declares that 'No person shall be compelled to pay any taxes, the proceeds of which are specifically appropriated in payment of expenses for the promotion or maintenance of any particular religion or religious denomination'.

This Article secures that the public funds raised by taxes shall not be utilized for the benefit of any particular religion or religious denomination. Thus, a local authority which raises taxes from persons of all communities who reside within its jurisdiction would not be entitled to give aid to those educational institutions which provide instructions relating to any particular religion. In other words, an educational institution, which provides compulsory instructions relating to a particular religion, is not entitled to any financial aid from the State.

Article 28 is confined to educational institutions, maintained, aided or recognized by the State. Clause 1 of this Article relates to educational institutions wholly maintained out of the State funds. It completely bans imparting of religious instructions in such institutions. Clause 2 relates to educational institutions which are administered by the State under some endowment or trust, like the Banaras Hindu University. In such institutions religious instructions may be given.

Cultural and Educational Rights (Articles 29–30)
The object of Article 29 is given protection to the religious and linguistic minorities. Clause 1 of Article 29 declares that any section of the Indian citizens, having a distinct language, script or culture of its own, shall have the right to conserve the same. The right to conserve or protect a language includes the right to agitate for the protection of that language. It also means that every minority group shall have the right to impart instructions to the children of their own community in their own languages.

Clause 2 of Article 29 is a counterpart of Article 15. It says that there should be no discrimination against children on grounds only of religions, race, caste or language, in the matters of admission into any educational institution
maintained or aided by the State. Thus, this clause gives to an aggrieved minority of citizens the protection in matters of admission to educational institutions against discrimination on any of these grounds. The persons belonging to Scheduled Castes or Tribes are in any case to be given special protection in matters of admission to educational institutions.

The Supreme Court observed that preference in admission given by institutions established and administered by minority community, to candidates belonging to their own community in their institutions on grounds of religion alone is violation of Article 29(2). Minorities are not entitled to establish and administer educational institutions for their exclusive benefit.

Clause 1 of Article 30 is a counterpart of Article 26, and guarantees the right to all linguistic or religious minorities to establish and administer educational institutions of their choice. It entitles the minority community to impart instructions to the children of their community in their own language.

The right to establish educational institutions of their choice amounts to the establishment of the institutions which will serve the needs of the minority community, whether linguistic or religious. When such institutions are established and seek aid from the State, it cannot be denied to them simply on the ground that they are under the management of a linguistic or religious minority.

**Right to Constitutional Remedies (Articles 32, 33, 34 and 35)**

A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The Constitution accords a concurrent jurisdiction for this purpose on the Supreme Court under Article 32, and on the state High Courts under Article 226. An individual who complains the violation of his fundamental rights can move the Supreme Court or the state High Court for the restoration of his fundamental rights.

Article 32(1) declares that the right to move the Supreme Court by appropriate proceedings for the enforcement of the Fundamental Rights included in Part III of the Constitution is guaranteed. Clause 1, thus, guarantees the right to move the Supreme Court for the enforcement of Fundamental Rights. In other words, the right to move the Supreme Court for the violation of fundamental rights is itself a fundamental right.

Article 32(2) empowers the Supreme Court to issue directions, orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto or certiorari, whichever may be appropriate for the enforcement of any of the fundamental rights.

**Habeas corpus:** The writ of habeas corpus literally means ‘have the body’. It is a writ or order to an executive authority to produce the body of a person, who has been detained in prison and to state the reasons for his detention. Thus, habeas corpus is the citizen’s guarantee against arbitrary arrest or detention. By virtue of this writ, the Supreme Court or the high court can have any detained
person produced before it for examining whether he has been lawfully detained or not, and for dealing with the case in accordance with the Constitution and the laws in force at that time.

**Mandamus**: The writ of mandamus means ‘we command’. It is an order directing person, or body, to do his legal duty. It lies against a person, holding a public office or a corporation or an inferior court, for it is to ask them to perform their legal duties. They are under legal obligation not to act contrary to law, without the authority of law, or in excess of authority conferred by law. As such, mandamus is available in the following cases:

- To compel the performance of obligatory duties imposed by law; and
- To restrain action which is taken without the authority of law, contrary to law, in excess of law

**Certiorari**: The writ of certiorari means ‘to be more fully informed of’. It is issued by a superior court to an inferior court requesting the latter to submit the record of a case pending before it. It lies not only against the inferior courts but also to any person, body or authority, having the duty to act judicially. It may be issued to the Union government, the state governments, municipalities or other local bodies, universities, statutory bodies, the individual ministers, public officials and departments of the state. It is not available against private persons for the enforcement of fundamental rights, because these rights are available only against the State.

**Prohibition**: The writ of prohibition is issued by a superior court to an inferior court preventing it from dealing with a matter over which it has no jurisdiction. It is generally issued to transfer a case from a lower to a higher court. When an inferior court takes up for hearing a matter over which it has no jurisdiction, the person against whom proceedings have been taken can move the superior court for the writ of prohibition. If the request is granted by the superior court, the inferior court is stopped from continuing the proceedings in that case, and the case is transferred to another court to secure justice.

**Quo warranto**: The writ of quo warranto is issued to stop the irregular and unlawful assumption of any public position by any person. Through this writ, the courts may grant an injunction to restrain a person from acting in any office to which he is not entitled, and may also declare the office vacant.

Article 32(3) provides that, without prejudice to the powers conferred on the Supreme Court by Articles 32(1) and (2), the Parliament may by law empower any court to issue these writs for the purpose of the enforcement of the fundamental rights. Article 32(4) provides that fundamental rights guaranteed by Article 32(1) shall not be suspended except as otherwise provided by this Constitution.
10.3 DIRECTIVE PRINCIPLES OF STATE POLICY

The philosophical and socio-economic dimensions of the governance of India are reflected in the Preamble to the country’s Constitution and the Directive Principles of State Policy enshrined in it. The Preamble enunciates the great objectives, such as making India a socialist, republic, democratic and secular; and the socio-economic goals, such as providing social, economic and political justice to the citizens of India.

The Preamble embodies a distinct philosophy which regards the state as an organ to secure good and welfare of the people. This concept of state is further strengthened by the Directive Principles of State Policy, which set out the economic, social and political goals of Indian constitutional system. These directives confer certain non-justiciable rights on the people, and place the government under an obligation to achieve and maximize social welfare and basic social values of life education, employment, health etc.

The Directive Principles of State Policy, included in Part IV of our Constitution seek to realize the high ideals of justice, liberty, equality and fraternity, enshrined in the Preamble to the Constitution. These principles reflect Gandhi’s constructive programme for socio-economic welfare of the people of India. These constitute an instrument of instructions to the legislatures and the executives at all levels as to how they should exercise their respective powers, and aim at attaining the economic, educational and social welfare of the people. Behind them is the sanction of public opinion which is stronger, and more effective than even the sanction of the courts.

In incorporating most of these principles, the framers of the Constitution were primarily influenced by the identical provisions in the Irish Constitution which, in its turn, had drawn inspiration from the Spanish Constitution. They were also, to a great extent, influenced by the Character of the United Nations and the Charter of Human Rights. No less was the inspiration drawn by them from the constitutions of socialist democracies, particularly that of the USSR.

These Directives relate to specific socio-economic objectives, calling upon the State to strive to promote the welfare of the people in all fields, especially social, economic and political. These Directives lay down the lines on which the machinery of the government should function under this Constitution.
These Directives fall into three main categories:

- The ideals, especially economic, which the framers of the Constitution directed the State to strive for;
- The instructions and directions to the future legislatures and executives as to the manner in which they should exercise their respective powers; and
- The economic and educational rights which the citizens are authorized to expect from their duly constituted legislatures and executives.

The Directive Principles of State Policy, as included in Part IV of the Constitution, have been enumerated under Articles 36 to 51. These principles aim at the establishment of a Welfare State in India committed to the realization of the ideals proclaimed in the Preamble to the Constitution.

Article 36 defines the term State and declares that it has the same meaning in Part IV as it has in Part III. This means that the Constitution directs not only the legislatures and executives of the Union and the states but also the local authorities, like district boards and village panchayats, to implement these Principles through their laws, policies and programmes. Article 37 describes the nature of these principles as follows:

- That these principles shall not be enforceable by any laws
- That these principles shall be fundamental in the governance of the country
- That it shall be the duty of the State to apply these principles in making laws

Article 38 declares “The State shall strive to promote the welfare of the people by securing and protecting, as effectively as it may, a social order in which justice, social, economic and political, shall inform all the institutions of the national life”.

It declares that the social order envisaged for Indian people would be assured not only in the political field, but also in the social and economic fields.

As a matter of fact, the State is charged to frame its policies in such a way as to provide necessary elements of growth and adjustment which are essential for a progressive society. Article 39 describes that the State is directed to ensure various economic rights to the citizens. In the first place, it is to ensure that the citizens, both men and women, should have the right to an adequate means of livelihood.

Secondly, the State is required to distribute the ownership and control of the material resources of the community in such a manner that it sub-serves the common good. It is to ensure the operation of economic system that does not result in the concentration of wealth and means of production in the hands of a few. The objective is to prevent the growth of an economic system which may be detrimental to the interest of the community as a whole.
Constitutional Basis for Social Legislation

The State is also to secure ‘equal pay for both men and women’. The inclusion of this provision was inspired by a similar provision contained in Article 41 of the International Labour Organization and the Seventh Principle of the Universal Declaration of Human Rights Article 122. The purpose of this clause is to ensure economic equality with regard to the equal proportion of waves with the work.

The State should ensure that the health and strength of workers, men and women, and the tender-aged of children are not abused. The State is to ensure that the citizens are not forced by economic necessity to take up jobs which are unsuited to their age and strength. The State is also to protect childhood and youth against exploitation and against moral and material abandonment.

Article 39(A) has been inserted to enjoin the state to provide ‘free’ aid to the poor and to take other steps to ensure equal justice to all, which is offered by the Preamble.

Article 40 directs the State to organize village panchayats and to vest them with such powers and authority as may be necessary to enable them to function as units of self-government. For the implementation of the provisions of this Article, Seventy-Third Amendment Act was passed vesting various degrees of power of self-government and civil and criminal justice in the hands of the panchayats. Owing to the lack of proper education, narrow-mindedness and local politics, the system of panchayat administration has not been a big success.

Article 41 deals with the economic and educational rights of the citizen. It directs the state to ensure them the right to work, the right to education and the right to public assistance in case of unemployment, old-age, sickness or disablement.

Article 42 directs the State to make provisions for securing just and human conditions of work, and for maternity relief. Adequate provisions have been made by the State through Labour Laws and Factories Acts and the rules of service for the employees of the Union and the states.

Article 43 also deals with the rights of the citizens. It directs the State to ensure all workers, agricultural, industrial or otherwise the following rights:

- Right to work
- Right to a living wage
- Right to such conditions of work ensures a decent standard of life and full enjoyment of leisure, and social and cultural opportunities

The Forty-Second Amendment Article 43(a) has been inserted in order to direct the State to ensure the participation of workers in the management of industry and other undertaking. This is a positive step in advancement of socialism in the sense of economic justice.
Article 44 directs the state to endeavor to secure for the citizens a uniform code throughout the territory of India. The purpose of this Article is to enable the legislature to make an attempt to unify the 'personal law' of the country. Under Eighty-Sixth Amendment Act 2002, Article 45 was amended to provide early childhood care and education to children below the age of 6 years.

Article 46 directs the State to promote the educational and economic interests of the Scheduled Castes, Scheduled Tribes and other weaker sections. It also directs the State to protect these people from social injustice and from all forms of exploitation. For this purpose, seats have been reserved for them in all educational institutions, and a fairly wide range of scholarships has also been provided for them.

Article 47 can be split into two parts:

- Direction to the State to raise the level of nutrition and the standard of living of its people and the improvement of their health
- Direction to the State to bring about prohibition of intoxicating drinks and drugs, which are injurious to health, except for medical purposes

The subject matter of Article 48 centers round the preservation and improvement of cattle and the prohibition of cow slaughter. The protection conferred by this Article extends only to cows, calves and the other animals which are capable of yielding milk or being used for some work.

Article 48(a) has been inserted, through Forty-Second Amendment, in order to direct the State to protect and improve the environment and to safeguard the forests and wildlife of the country.

Article 49 directs the State to protect, preserve and maintain monuments, places or objects of artistic or historic interest or of national importance. The State is to ensure that these monuments and objects are not spoiled, disfigured, destroyed, removed or exported. The aim of this Article is to preserve the nation's cultural heritage.

Article 50 directs the State to take steps to separate the judiciary from the executive in public services of the State. The separation of judiciary from the executive would eliminate many evils, which follow from the combination of two positions in the same person.

Article 51 directs the State to shape its foreign policy in such a manner that attains the following objectives:

- Promotions of international peace and security
- Maintenance of just and honourable relations between nations
- Respect for international law and treaty obligations in the dealings of organized people with one another
- Settlement of international disputes by arbitration
India’s foreign policy is essentially based on these principles. Nehru’s famous formulation of ‘Panchsheel’, the five principles of peaceful co-existence, has been accepted by most of the civilized nations. Based on constitutional provisions, these principles are:

- Mutual respect for each other’s territorial integrity and sovereignty
- Non-aggression
- Non-interference in each other’s internal affairs
- Equality and mutual benefit
- Peaceful co-existence

Check Your Progress

5. What is the function of the Directive Principles of the State Policy?
6. Which were the five principles of peaceful coexistence formulated by Pt. Nehru?

10.4 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The inclusion of Fundamental Rights in the Constitution rested on three major reasons:
   - to keep a check on the arbitrary action of the executive
   - to reach to the desired goal of socio-economic justice
   - to ensure security to minority groups in India

2. It is defined as ‘There shall be equality of opportunity for all citizens in matters relating to employment to any office under the State.’ It confers on every citizen, a right to equality of economic opportunity, and subsequently provides that no citizen shall be discriminated against in this respect on grounds only of religion, race, caste, descent, place of birth or any of them.

3. Article 19 of the Constitution guarantees seven civil freedoms to the citizens as a matter of their right. Included in Clause 1 of Article 19, these freedoms are:
   - Freedom of speech and expression
   - Right to assemble peacefully and without arms
   - Right to form associations or unions
   - Right to move freely throughout the territory of India
   - Right to reside and settle in any part of the territory of India
   - Right to practice any profession, or to carry on any occupation, trade or business
4. As such, mandamus is available in the following cases:
   1. To compel the performance of obligatory duties imposed by law; and
   2. To restrain action which is taken without the authority of law, contrary to law, in excess of law

5. Directive Principles of State Policy set out the economic, social and political goals of Indian constitutional system. These directives confer certain non-justiciable rights on the people, and place the government under an obligation to achieve and maximize social welfare and basic social values of life education, employment, health etc.

6. The five principles of peaceful coexistence formulated by Pt. Nehru are the following:
   - Mutual respect for each other’s territorial integrity and sovereignty
   - Non-aggression
   - Non-interference in each other’s internal affairs
   - Equality and mutual benefit
   - Peaceful co-existence

10.5 SUMMARY

- Fundamental Rights and Duties, which are a part of the Indian Constitution, pertain to the State’s obligation towards its citizens and the responsibility of an individual towards the State as an aware citizen, respectively.
- The inclusion of a chapter on fundamental rights in the Constitution was symbolic of the great aspirations of the Indian people. In fact, it is these rights that offer the main justification for the existence of a state.
- Article 14 declares that the State shall not deny any person the equality before the law or the equal protection of laws within the territory of India.
- The safeguarding of the freedom of speech and expression is essential to allow men to speak as they think on matters vital to them, and also to expose falsehood. Freedoms of speech and expression lie at the foundation of all democratic organizations, for without political discussion, no political education is possible.
- As interpreted by the Supreme Court, the right to information flows from Article 19(1)(a) of the Constitution. Concerned Bill, however, was introduced in the Parliament as Freedom on Information Bill, 2002 which along with certain restrictions made it mandatory for the government to provide information pertaining to public sphere.
- The Parliament enacted the Untouchability Offences Act, 1955, which prescribes punishment for enforcing religious disabilities on any Hindu simply
because he belongs to a low caste. The purpose of this reform is to overcome the evils of Hindu religion.

- A declaration of fundamental rights is meaningless unless there are effective judicial remedies for their enforcement. The Constitution accords a concurrent jurisdiction for this purpose on the Supreme Court under Article 32, and on the state High Courts under Article 226. An individual who complains the violation of his fundamental rights can move the Supreme Court or the state High Court for the restoration of his fundamental rights.

- The Constitution of India laid disproportionate emphasis on the rights of citizens as against their duties. With the result, the Constitution of India did not incorporate any chapter of fundamental duties. It was during the ‘Internal Emergency’, declared in 1975, that the need and necessity of fundamental duties was felt and accordingly a Committee under the Chairmanship of Sardar Swaran Singh was appointed to make recommendations about fundamental duties.

- The Directive Principles of State Policy, included in Part IV of our Constitution seek to realize the high ideals of justice, liberty, equality and fraternity, enshrined in the Preamble to the Constitution. These principles reflect Gandhi’s constructive programme for socio-economic welfare of the people of India.

### 10.6 KEY WORDS

- **Fundamental rights**: These are rights, common to liberal democracies, guaranteeing civil liberties and forming the basis of individual freedom in society.

- **Bill of Rights**: It is a legal document which deals with the rights of the citizens and protects their rights from any infringement.

- **Equal protection**: It means the right to equal treatment in similar circumstances both with regard to the legal privileges and liabilities.

- **Habeas corpus**: It is a writ or order to an executive authority to produce the body of a person, who has been detained in prison and to state the reasons for his detention.

- **Mandamus**: It is an order directing person, or body, to do his legal duty. It lies against a person, holding a public office or a corporation or an inferior court, for it is to ask them to perform their legal duties.

- **Certiorari**: It is issued by a superior court to an inferior court requesting the latter to submit the record of a case pending before it.

- **Quo warranto**: The writ of quo warranto is issued to stop the irregular and unlawful assumption of any public position by any person.
10.7 SELF ASSESSMENT QUESTIONS AND EXERCISES

NOTES

Short Answer Questions
1. What is the Right to Equality as per the Indian Constitution?
2. What is the relationship between Fundamental Rights and Directive Principles of State Policy?
3. Why were untouchability and titles abolished?
4. Which are three main categories of Directive Principles?

Long Answer Questions
1. Define and list the Fundamental Rights given in the Constitution. Also give reasons for their inclusion in the Indian Constitution.
2. Explain the provisions of the Right against Exploitation.

10.8 FURTHER READINGS

UNIT 11 LAWS RELATED TO MARRIAGE

Structure
11.0 Introduction
11.1 Objectives
11.2 Hindu Law Related to Marriage
11.3 Christian Law Related to Marriage
11.4 Muslim Personal Law Relating to Marriage
11.5 Answers to Check Your Progress Questions
11.6 Summary
11.7 Key Words
11.8 Self Assessment Questions and Exercises
11.9 Further Readings

11.0 INTRODUCTION

In every society, there are people of different religions living together. While marriage may seem like a religious issue, it is not entirely so. But government is not always religious or religion oriented, besides the rule of law regulates almost every aspect of the society, it must also lay down the important principles applicable to the legalization of the marriage in the eyes of the government. This is important, not just because government is one of the supreme authorities in the country but also for the protection of the rights of the parties involved. It is also important for the legality of the children born in the wedlock and their status in the society. It can be said that while customs, attitudes and tradition of marriage is an aspect of religion, its social and legal acceptability is the domain of the law and government. In this unit, you will learn about the laws related to marriage of different major religions in India including Hinduism, Christianity and Islam.

11.1 OBJECTIVES

After going through this unit, you will be able to:

- Discuss the important points of the Hindu law related to marriage
- Explain the law for Christian marriage in India
- Describe the Muslim personal law relating to marriage in India
11.2 HINDU LAW RELATED TO MARRIAGE

As part of the Hindu Code Bill, the Hindu Marriage Act was enacted by Parliament in 1955 to amend and to codify marriage law between Hindus. As well as regulating the institution of marriage (including validity of marriage and conditions for invalidity), it also regulates other aspects of personal life among Hindus and the applicability of such lives in wider Indian society.

The Hindu Marriage Act provides guidance for Hindus to be in a systematic marriage bond. It gives meaning to marriage, cohabiting rights for both the bride and groom, and a safety for their family and children so that they do not suffer from their parental issues.

Let us discuss the major provisions of the Act in detail.

The Hindu Marriage Act is an act to amend and codify the law relating to marriage among Hindus.

Preliminary

Section 1. Short title and extent

(1) This Act may be called the Hindu Marriage Act, 1955.

(2) It extends to the whole of India except the State of Jammu and Kashmir, and applies also to Hindus domiciled in the territories to which this Act extends who are outside the said territories.

Section 2. Application of Act.-

(1) This Act applies,-

(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj;

(b) to any person who is a Buddhist, Jaina or Sikh by religion, and (c) to any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

Explanations.- The following persons are Hindus, Buddhists, Jainas or Sikhs by religion, as the case may be,-

(c) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jainas or Sikhs by religion;

(d) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist Jaina or Sikh by religion and who is brought up as a member of tribe, community, group or family to which such parents belongs or belonged; and
(e) any person who is a convert or re-convert to the Hindus, Buddhist, Jaina or Sikh religion.

(2) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the members of any Scheduled Tribe within the meaning of clause (25) of Article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.

(3) The expression “Hindus” in any portion of this Act shall be construed as if it included a person who, though not a Hindu by religion is, nevertheless, a person whom this Act applies by virtue of the provisions contained in this section.

Section 3. Definitions.-

In this Act, unless the context otherwise requires,-

(a) the expression “custom” and “usage” signify any rule which, having been continuously and uniformly observed for a long time, has obtained the force of law among Hindus in any local area, tribe, community, group or family.

Provided that the rule is certain and not unreasonable or opposed to public policy; and

Provided further that in the case of a rule applicable only to a family it has not been discontinued by the family;

(b) “District Court” means, in any area for which there is a City Civil Court, that Court, and in any other area the principal Civil Court of original jurisdiction, and includes any other civil court which may be specified by the State Government, by notification in the Official Gazette, as having jurisdiction in respect of matters dealt with in this Act;

(c) “full blood” and “half blood” - two persons are said to be related to each other by full blood when they are descended from a common ancestor by the same wife and by half blood when they are descended from a common ancestor but by different wives;

(d) “uterine blood” - two persons are said to be related to each other by uterine blood when they are descended from a common ancestor but by different husbands.

Explanation. - In Clauses (c) and (d) “ancestor” includes the father and “ancestress” the mother;

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

(f) (i) “Sapinda relationship” with reference to any person extends as far as the third generation (inclusive) in the line of ascent through the mother, and the fifth (inclusive) in the line of ascent through the father, the line being traced upwards in each case from the person concerned, who is to be counted as the first generation;
(ii) two persons are said to be “sapinda” of each other if one is a lineal ascendant of the other within the limits of sapinda relationship, or if they have a common lineal ascendant who is within the limits of sapinda relationship with reference to each of them;

(g) "degrees of prohibited relationship” - two persons are said to be within the “degrees of prohibited relationship”:
   i. if one is a lineal ascendant of the other; or
   ii. if one was the wife or husband of a lineal ascendant or descendant of the other; or
   iii. if one was the wife of the brother or of the father’s or mother’s brother or of the grandfather’s or grandmother’s brother or the other; or
   iv. if the two are brother and sister, uncle and niece, aunt and nephew, or children of brother and sister or of two brothers or of two sisters.

Explanation.- for the purposes of clauses (f) and (g) relationship includes (i) relationship by half or uterine blood as well as by full blood; (ii) illegitimate blood relationship as well as legitimate; (iii) relationship by adoption as well as by blood; and all terms of relationship in those clauses shall be construed accordingly.

Section 4. Overriding effect of Act.-
Save as otherwise expressly provided in this Act.-
   (a) any text, rule or interpretation of Hindu Law or any custom or usage as part of that law in force immediately before the commencement of this Act shall cease to have effect with respect to any matter for which provision is made in this Act;
   (b) any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Act.

Hindu Marriages

Section 5. Condition for a Hindu Marriage
A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:
   i. neither party has a spouse living at the time of the marriage;
   ii. at the time of the marriage, neither party:-
      (a) is incapable of giving a valid consent of it in consequence of unsoundness of mind, or
      (b) though capable of giving a valid consent has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or
      (c) has been subject to recurrent attacks of insanity or epilepsy,
iii. the bridegroom has completed the age of twenty one years and the bride the age of eighteen years at the time of the marriage;

iv. the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two;

v. the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two;

vi. (Omitted)

Section 6. Guardianship in Marriage.- (Omitted by Marriage Laws (Amendment) Act, 1976.)

Section 7. Ceremonies for a Hindu marriage.-
(1) A Hindu marriage may be solemnized in accordance with the customary rites and ceremonies of either party thereto.

(2) Where such rites and ceremonies include the saptapadi (that is, the taking of seven steps by the bridegroom and the bride jointly before the sacred fire), the marriage becomes complete and binding when the seventh step is taken.

Section 8. Registration of Hindu Marriages
(1) For the purpose of facilitating the proof of Hindu marriages, the State Government may make rules providing that the parties to any such marriage may have the particulars relating to their marriage entered in such manner and subject to such condition as may be prescribed in a Hindu Marriage Register kept for the purpose.

(2) Notwithstanding anything contained in sub-section (1), the State Government may, if it is of opinion that it is necessary or expedient so to do, provide that the entering of the particulars referred to in sub-section (1) shall be compulsory in the State or in any part thereof, whether in all cases or in such cases as may be specified and where any such direction has been issued, and person contravening any rule made in this behalf shall be punishable with fine which may extend to twenty-five rupees.

(3) All rules made under this section shall be laid before the State Legislature, as soon as may be, after they are made.

(4) The Hindu Marriage Register shall at all reasonable times be open for inspection, and shall be admissible as evidence of the statements therein contained and certified extracts therefrom shall, on application, be given by the Registrar on payment to him of the prescribed fee.

(5) Notwithstanding anything contained in this section, the validity of any Hindu marriage shall in no way be affected by the omission to make the entry.
Restitution of Conjugal rights and judicial separation

Section 9. Restitution of conjugal rights

When either the husband or the wife has, without reasonable excuse, withdrawn from the society of the other, the aggrieved party may apply, by petition to the district court, for restitution of conjugal rights and the court, on being satisfied of the truth of the statements made in such petition and that there is no legal ground why the application should not be granted, may decree restitution of conjugal rights accordingly.

Explanation- Where a question arises whether there has been reasonable excuse for withdrawal from the society, the burden of proving reasonable excuse shall be on the person who has withdrawn from the society.

Section 10. Judicial separation.

(1) Either party to a marriage, whether solemnized before or after the commencement of this Act, may present a petition praying for a decree for judicial separation on any of the grounds specified in sub-section (1) of Section 13, and in the case of a wife also on any of the grounds might have been presented.

(2) Where a decree for judicial separation has been passed, it shall no longer be obligatory for the petitioner to cohabit with the respondent, but the court may, on the application by petition of either party and on being satisfied of the truth of the statement made in such petition, rescind the decree if it considers it just and reasonable to do so.

Check Your Progress

1. When was the Hindu Marriage Act enacted?
2. When are people said to be ‘sapinda’ of each other?

11.3 CHRISTIAN LAW RELATED TO MARRIAGE

Christian marriages in India are regulated by the Indian Christian Marriage Act of 1872. The law is an act of the Parliament of India enacted on July 18, 1872, and applies throughout India, excluding territories such as Cochin, Manipur, Jammu, and Kashmir. Let us examine some of the main provisions of the law.

Let’s discuss the major provisions of this Act.

Section 1. Short title —

This Act may be called the Indian Christian Marriage Act, 1872.

Extent.—It extends to the whole of India except the territories which, immediately before the 1st November, 1956, were comprised in the States of Travancore-Cochin, Manipur and Jammu and Kashmir.
Section 2. Enactments repealed — Rep. by the Repealing Act, 1938 (1938), Sec. 2 and Subject or context,—

Section 3. Interpretation-clause —
“minor” means a person who has not completed the age of twenty-one years and who is not a widower or a widow;
the expression “Christians” means persons professing the Christian religion; and the expression “Indian Christians” includes the Christian descendants of natives of India converted to Christianity, as well as such converts;
“Registar General of Births, Deaths and Marriages” means a Registrar General of Births, Deaths and Marriages appointed under the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886).

State Amendment
Karnataka: In section 3, the definition of “Registrar-General of Births, Deaths and Marriages” Shall be substituted as follows:


Part I - The Persons by Whom Marriages May be Solemnized

Section 4. Marriages to be solemnized according to Act —
Every marriage between persons, one or both of whom is or are a Christian, or Christians, shall be solemnized in accordance with the provisions of the next following section; and any such marriage solemnized otherwise than in accordance with such provisions shall be void.

Section 5. Persons by whom marriages may be solemnized —
Marriages may be solemnized in India—
(1) by any person who has received episcopal ordination, provided that the marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of which he is a Minister;
(2) by any Clergyman of the Church of Scotland, provided that such marriage be solemnized according to the rules, rites, ceremonies and customs of the Church of Scotland;
(3) by any Minister of Religion licensed under this Act to solemnize marriages;
(4) by, or in the presence of, a Marriage Registrar appointed under this Act;
(5) by any person licensed under this Act to grant certificates of marriage between Indian Christians.
Section 6. Grant and revocation of licenses to solemnize marriages —

The State Government, so far as regards the territories under its administration, may, by notification in the Official Gazette, grant licenses to Ministers of Religion to solemnize marriages within such territories and may, by a like notification, revoke such licenses.

Part III - Marriages Solemnized by Ministers of Religion Licensed Under this Act

Section 12. Notice of intended marriage.—

Whenever a marriage is intended to be solemnized by a Minister of Religion licensed to solemnize marriages under this Act— one of the persons intending marriage shall give notice in writing, according to the form contained in the First Schedule hereto annexed, or to the like effect, to the Minister of Religion whom he or she desires to solemnize the marriage, and shall state therein—

(a) the name and surname, and the profession or condition, of each of the persons intending marriage;
(b) the dwelling-place of each of them;
(c) the time during which each has dwelt there; and
(d) the church or private dwelling in which the marriage is to be solemnized:

Provided that, if either of such persons has dwelt in the place mentioned in the notice during more than one month, it may be stated therein that he or she has dwelt there one month and upwards.

Part IV - Registration of Marriage Solemnized by Minister of Religion

Section 27. Marriage when to be registered.—

All marriages hereafter solemnized in India between persons one or both of whom profess or profess the Christian religion, except marriages solemnized under Part V or Part VI of this Act, shall be registered in manner hereinafter prescribed.

Section 28. Registration of marriages solemnized by Clergymen of Church of England.—

Every Clergyman of the Church of England shall keep a register of marriages and shall register therein, according to the tabular form set forth in the Third Schedule hereto annexed, every marriage which he solemnizes under this Act.

Section 37. Registration of marriages between Indian Christians by persons referred to in clauses (1), (2) and (3) of section 5.—

When any marriage between Indian Christians is solemnized by any such person, Clergyman or Minister of Religion as is referred to in clause (1), clause (2) or clause (3) of section 5, the person solemnizing the same shall, instead of proceeding in the manner provided by sections 28 to 36, both inclusive, register the marriage in a separate register-book, and shall keep it safely until it is filled, or if he leaves
the district in which he solemnized the marriage before the said book is filled, shall make over the same to the person succeeding to his duties in the said district.

Part VI - Marriage of Indian Christians

Section 60. On what conditions marriages of Indian Christians may be certificate —

Every marriage between Indian Christians applying for a certificate, shall, without the preliminary notice required under Part III, be certified under this Part, if the following conditions be fulfilled, and to otherwise: —

(1) the age of the man intending to be married shall not be under twenty-one years, and the age of the woman intending to be married shall not be under eighteen years;

(2) neither of the persons intending to be married shall have a wife or husband still living;

(3) in the presence of a person licensed under section 9, and of at least two credible witnesses other than such person, each of the parties shall say to the other—

"I call upon these persons here present to witness that, I, A.B., in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, C.D., to be any lawful wedded wife or husband" or words to the like effect:

Section 61. Grant of certificate.—

When, in respect to any marriage solemnized under this Part, the conditions prescribed in section 60 have been fulfilled, the person licensed as aforesaid, in whose presence the said declaration has made, shall, on the application of either of the parties to such marriage, and, on the payment of a fee of four annas, grant a certificate of the marriage.

The certificate shall be signed by such licensed person, and shall be received in any suit touching the validity of such marriage adds conclusive proof of its having been performed.

Section 62. Keeping of register-book an deposit of extracted therefrom with Registrar-General.—

(1) Every person licensed under section 9 shall keep in English, or in the vernacular language in ordinary use in the district or State in which the marriage was solemnized, and in such form ad the State Government by which he was licensed may from time to time prescribe, a register-book of all marriages solemnized under this Part in his presence, and shall deposit in the office of the Registrar-General of Births, Deaths and Marriage for the territories under the administration of the said State Government, in such form and at such intervals as that Government may prescribe, true and duly authenticated extracts from his register-book of all entries made therein since the last of those intervals.
Section 63. Searches in register-book and copies of entries.—
Every person licensed under this Act to grant certificates of marriages, and keeping
a marriage register-book under section 62 shall, at all reasonable times, allow
search to be made in such book, and shall, on payment of the proper fee, give a
copy, certified under his hand, of any entry therein.

Section 64. Books in which marriages of Indian Christians under Part I or
Part III are registered.
The provisions of section 62 and 63, as to the form of register-book depositing
extracts therefrom, allowing searches thereof, and giving copies of the entries
therein, shall, mutatis mutandis, apply to the books kept under section 37.

11.4 MUSLIM PERSONAL LAW RELATING TO
MARRIAGE

Muslim marriages in India are regulated under the Muslim Personal Law (Shariat)
Application Act, 1937. Along with marriage, the law deals with succession,
inheritance and charities amongst Indian Muslims. Let’s discuss the major laws
under this Act.

Section 1. Short title and extent.
(1) This Act may be called the Muslim Personal Law (Shariat) Application Act,
1937.
(2) It extends to the whole of India [except the State of Jammu and Kashmir].

Application of Personal Law to Muslims.—Notwithstanding any custom or
usage to the contrary, in all questions (save questions relating to agricultural land)
regarding intestate succession, special property of females, including personal
property inherited or obtained under contract or gift or any other provision of
Personal Law, marriage, dissolution of marriage, including talaq, ila, zihar, lian,
khula and mubaraq, maintenance, dower, guardianship, gifts, trusts and trust
properties, and wakfs (other than charities and charitable institutions and charitable
and religious endowments) the rule of decision in cases where the parties are
Muslims shall be the Muslim Personal Law (Shariat).

Section 3. Power to make a declaration.
(1) Any person who satisfies the prescribed authority—
(a) that he is a Muslim, and
(b) that he is competent to contract within the meaning of section 11 of
the Indian Contract Act, 1872 (9 of 1872), and
(c) that he is a resident of [the territories to which this Act extends], may
by declaration in the prescribed form and filed before the prescribed
authority declare that he desires to obtain the benefit of [the provisions
of this section], and thereafter the provisions of section 2 shall apply to the declarant and all his minor children and their descendants as if in addition to the matters enumerated therein adoption, wills and legacies were also specified.

(2) Where the prescribed authority refuses to accept a declaration under sub-section (1), the person desiring to make the same may appeal to such office as the State Government may, by general or special order, appoint in this behalf, and such officer may, if he is satisfied that the appellant is entitled to make the declaration, order the prescribed authority to accept the same.

Thus, it can be seen that Muslim marriages in India are regulated under the Shariat customs of Islam. Let us briefly speak about how marriages for Indian Muslims are governed. Marriage is known as a Nikah. It is not a sacrament, but a civil contract between a man and woman to live as husband and wife. There are no suggested ceremonies or formalities or special rites and rituals to solemnise a Nikah. However, there are certain compulsory requirements that are needed to be followed. These are as follows:

i. The pillars of the marriage are Ejab-o-Kubool, i.e., offer or proposal on the part of one party to the marriage and acceptance by the other party.

ii. This free and mutual consent must be expressed in one and the same meeting in clear unambiguous words.

iii. Presence of two witnesses is required if the parties are Hanafis; no witnesses are needed if the parties are Shias.

iv. Both the bride and groom must have attained puberty.

v. Both the parties, i.e., the bride and groom or, when minor, their guardians, must be of sound mind.

vi. The marriage should not be one forbidden by the rules of blood relationship, affinity or fosterage, differences in rank/social status or religion of the parties, prescription of iddat in case of remarriage of a woman, etc., depending upon the sect to which the parties belong.

Check Your Progress

3. What does the expression ‘Christians’ and ‘Indian Christians’ mean as per the Indian Christian Marriage Act of 1972.

4. State the lines which Section 60 of the Indian Christian Marriage Act of 1972 prescribes for the certification of marriage by the parties involved.

5. What are the customs under which Muslim marriages in India are regulated?

6. What is Ejab-o-Kubool?
11.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. As part of the Hindu Code Bill, the Hindu Marriage Act was enacted by Parliament in 1955 to amend and to codify marriage law between Hindus.

2. As per Section 3 (ii) of the Hindu Marriage Act, 1955, two persons are said to be “sapinda” of each other if one is a lineal ascendant of the other within the limits of sapinda relationship, or if they have a common lineal ascendant who is within the limits of sapinda relationship with reference to each of them;

3. Section 60(3) of the Indian Christian Marriage Act of 1972 says in the presence of a person licensed under section 9, and of at least two credible witnesses other than such person, each of the parties shall say to the other—“I call upon these persons here present to witness that, I, A.B., in the presence of Almighty God, and in the name of our Lord Jesus Christ, do take thee, C.D., to be any lawful wedded wife or husband” or words to the like effect.

4. As per Section 3 of the Indian Christian Marriage Act of 1872, the expression “Christians” means persons professing the Christian religion; and the expression “Indian Christians” includes the Christian descendants of natives of India converted to Christianity, as well as such converts.

5. Muslim marriages in India are regulated under the Shariat customs of Islam.

6. The pillars of the marriage are Ejab-o-Kubool, i.e., offer or proposal on the part of one party to the marriage and acceptance by the other party.

11.6 SUMMARY

- As part of the Hindu Code Bill, the Hindu Marriage Act was enacted by Parliament in 1955 to amend and to codify marriage law between Hindus. As well as regulating the institution of marriage (including validity of marriage and conditions for invalidity), it also regulates other aspects of personal life among Hindus and the applicability of such lives in wider Indian society.

- The Hindu Marriage Act provides guidance for Hindus to be in a systematic marriage bond. It gives meaning to marriage, cohabiting rights for both the bride and groom, and a safety for their family and children so that they do not suffer from their parental issues.

- Christian marriages in India are regulated by the Indian Christian Marriage Act of 1872. The law is an act of the Parliament of India enacted on July 18, 1872, and applies throughout India, excluding territories such as Cochin, Manipur, Jammu, and Kashmir. Let us examine some of the main provisions of the law.
Muslim marriages in India are regulated under the Muslim Personal Law (Shariat) Application Act, 1937. Along with marriage, the law deals with succession, inheritance and charities amongst Indian Muslims.

11.7 KEY WORDS

- **Church of England**: The Church of England is the established church of England. The Archbishop of Canterbury is the most senior cleric, although the monarch is the supreme governor. The Church of England is also the mother church of the international Anglican Communion.
- **Church of Scotland**: It is Presbyterian and adheres to the Bible and Westminster Confession.
- **Personal law**: It is defined as a law that applies to a certain class or group of people or a particular person, based on the religions, faith, and culture.
- **Sharia law**: It is a religious law forming part of the Islamic tradition. It is derived from the religious precepts of Islam, particularly the Quran and the Hadith.

11.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

2. What are the degrees of prohibited relationship as per Hindu Marriage Act, 1955?
3. Where is the Indian Christian Marriage Act, 1872 not applicable?
4. Who solemnizes the Christian marriages as per the Indian Christian Marriage Act, 1872?
5. Briefly explain the application of personal law to Muslims.

Long Answer Questions

1. Describe in detail the important provisions related to marriage, registration and judicial separation as mentioned in the Hindu Marriage Act, 1955.
2. Explain the major provisions of the Indian Christian Marriage Act, 1872 related to certification and registration of marriage.
3. Discuss the power to make decisions related to declaration and compulsory requirements for Nikah.
Laws Related to Marriage

11.9 FURTHER READINGS


UNIT 12 ACTS REGARDING DIVORCE, MINORITY AND GUARDIANSHIP, ADOPTION, SUCCESSION AND INHERITANCE

Structure
12.0 Introduction
12.1 Objectives
12.2 Minority and Guardianship
12.3 Laws Relating to Divorce
12.4 Adoption, Succession and Inheritance
12.5 Answers to Check Your Progress Questions
12.6 Summary
12.7 Key Words
12.8 Self Assessment Questions and Exercises
12.9 Further Readings

12.0 INTRODUCTION

In the previous unit, you learnt about the laws related to marriage in India among Hindus, Muslims and Christians in India. You learnt that the Hindu Marriage Act was a series of legal reforms passed in India after independence. The other laws related to Hindu legal reforms were the Hindu Succession Act, Hindu Minority and Guardianship Act, and Hindu Adoptions and Maintenance Act. These four laws were part of what is known as the Hindu Code Bills. We will discuss the remaining three acts in the unit. The unit will also discuss laws regarding divorce, minority and guardianship, adoption, succession and inheritance in India among Christians and Muslims.

12.1 OBJECTIVES

After going through this unit, you will be able to:

- Discuss the Hindu Minority and Guardianship Act, 1956
- Explain the various laws related to divorce in India
- Examine the Hindu Adoptions and Maintenance Act
- Describe the laws regulated guardianship among Muslims and Christians in India
Minority and guardianship in India is regulated under the Hindu Minority and Guardianship Act, 1956. Along with the Hindu Marriage Act (1955), the Hindu Succession Act (1956), and the Hindu Adoptions and Maintenance Act (1956), this act was part of Hindu legal reform passed in India after independence. Let us study the act in detail.

The Hindu Minority and Guardianship Act, 1956

An Act to amend and codify certain parts of the law relating to minority and guardianship among Hindus.

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

1. Short title and extent.—(1) This Act may be called the Hindu Minority and Guardianship Act, 1956. (2) It extends to the whole of India except the State of Jammu and Kashmir and applies also to Hindus domiciled in the territories to which this Act extends who are outside the said territories.

2. Act to be supplemental to Act 8 of 1890.—The provisions of this Act shall be in addition to, and not, save as hereinafter expressly provided, in derogation of, the Guardians and Wards Act, 1890 (8 of 1890).

3. Application of Act.—(1) This Act applies,—
(a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj;
(b) to any person who is a Buddhist, Jain or Sikh by religion, and
(c) to any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

Explanation.—The following persons are Hindus, Buddhists, Jains, or Sikhs by religion, as the case may be:—
(i) any child, legitimate or illegitimate, both of whose parents are Hindus, Buddhists, Jains or Sikhs by religion;
(ii) any child, legitimate or illegitimate, one of whose parents is a Hindu, Buddhist, Jain or Sikh by religion and who is brought up as a member of the tribe, community, group or family to which such parent belongs or belonged; and
(iii) any person who is convert or re-convert to the Hindu, Buddhist, Jain or Sikh religion.
(2) Notwithstanding anything contained in sub-section (1) nothing contained in this Act shall apply to the members of any scheduled Tribe within the meaning of clause (25) of article 366 of the Constitution unless the Central Government, by notification in the Official Gazette, otherwise directs.

[(2A) Notwithstanding anything contained in sub-section (1), nothing contained in this Act shall apply to the Renoncants of the Union Territory of Pondicherry.]}

(3) The expression “Hindu”, in any provision of this Act shall be construed as if it included a person who, though not a Hindu by religion, is, nevertheless, a person to whom this Act applies by virtue of the provisos contained in this section.

4. Definitions.—In this Act,—
(a) “minor” means a person who has not completed the age of eighteen years;
(b) “guardian” means a person having the care of the person of a minor or of his property or of both his person and property, and includes—
(i) a natural guardian,
(ii) a guardian appointed by the will of the minor’s father or mother,
(iii) a guardian appointed or declared by a court, and
(iv) a person empowered to act as such by or under any enactment relating to any Court of wards.
(c) “natural guardian” means any of the guardians mentioned in section 6.

5. Over-riding effect of Act.—Save as otherwise expressly provided in this Act,—
(a) any text, rule or interpretation of Hindu Law or any custom or usage as part of that law in force immediately before the commencement of this Act Shall cease to have effect with respect to any matter for which provision is made in this Act.
(b) any other law in force immediately before the commencement of this Act shall cease to have effect in so far as it is inconsistent with any of the provisions contained in this Act.

6. Natural guardians of a Hindu minor.—The natural guardians of a Hindu minor, in respect of the minor’s person as well as in respect of the minor’s property (excluding his or her undivided interest in joint family property), are—
(a) in the case of a boy or an unmarried girl—the father, and after him, the mother: provided that the custody of a minor who has not completed the age of five years shall ordinarily be with the mother;
(b) in the case of an illegitimate boy or an illegitimate unmarried girl—the mother, and after her, the father;
(c) in the case of a married girl—the husband:
Provided that no person shall be entitled to act as the natural guardian of a
minor under the provisions of this section—

(a) if he has ceased to be a Hindu, or

(b) if he has completely and finally renounced the world by becoming a
hermit (vanaprastha) or an ascetic (yati or sanyasi).

Explanation.—In this section, the expressions “father” and “mother” do not
include a step-father and a step-mother.

7. Natural guardianship of adopted son.—The natural guardianship of an
adopted son who is a minor passes, on adoption, to the adoptive father and
after him to the adoptive mother.

has power, subject to the provisions of this section, to do all acts which are
necessary or reasonable and proper for the benefit of the minor or for the
realization, protection or benefit of the minor’s estate; but the guardian can
in no case bind the minor by a personal covenant.

(2) The natural guardian shall not, without the previous permission of the
court,—

(a) mortgage or charge, or transfer by sale, gift, exchange or otherwise,
any part of the immovable property of the minor; or

(b) lease any part of such property for a term exceeding five years or for
a term extending more than one year beyond the date on which the
minor will attain majority.

(3) Any disposal of immovable property by a natural guardian, in
contravention of sub-section (1) or sub-section (2), is voidable at the instance
of the minor or any person claiming under him.

(4) No court shall grant permission to the natural guardian to do any of the
acts mentioned in subsection
(2) except in case of necessity or for an evident advantage to the minor.

(5) The Guardians and Wards Act, 1890 (8 of 1890), shall apply to and in
respect of an application for obtaining the permission of the court under
sub-section (2) in all respects as if it were an application for obtaining the
permission of the court under section 29 of that Act, and in particular—

(a) proceedings in connection with the application shall be deemed to be
proceedings under that Act within the meaning of section 4A thereof;

(b) the court shall observe the procedure and have the powers specified
in sub-sections (2), (3) and (4) of section 31 of that Act; and

(c) an appeal shall lie from an order of the court refusing permission to
the natural guardian to do any of the Acts mentioned in sub-section
(2) of this section to the court to which appeals ordinarily lie from the
decisions of that court.
(6) In this section, “Court” means the city civil court or a district court or a court empowered under section 4A of the Guardians and Wards Act, 1890 (8 of 1890), within the local limits of whose jurisdiction the immovable property in respect of which the application is made is situate, and where the immovable property is situate within the jurisdiction of more than one such court, means the court within the local limits of whose jurisdiction any portion of the property is situate.

9. Testamentary guardians and their powers.—(1) A Hindu father entitled to act as the natural guardian of his minor legitimate children may, by will appoint a guardian for any of them in respect of the minor’s person or in respect of the minor’s property (other than the undivided interest referred to in section 12) or in respect of both.

(2) An appointment made under sub-section (1) shall have no effect if the father predeceases the mother, but shall revive if the mother dies without appointing, by will, any person as guardian.

(3) A Hindu widow entitled to act as the natural guardian of her minor legitimate children, and a Hindu mother entitled to act as the natural guardian of her minor legitimate children by reason of the fact that the father has become disentitled to act as such, may, by will, appoint a guardian for any of them in respect of the minor’s person or in respect of the minor’s property (other than the undivided interest referred to in section 12) or in respect of both.

(4) A Hindu mother entitled to act as the natural guardian of her minor illegitimate children may, by will, appoint a guardian for any of them in respect of the minor’s person or in respect of the minor’s property or in respect of both.

(5) The guardian so appointed by will has the right to act as the minor’s guardian after the death of the minor’s father or mother, as the case may be, and to exercise all the rights of a natural guardian under this Act to such extent and subject to such restrictions, if any, as are specified in this Act and in the will.

(6) The right of the guardian so appointed by will shall, where the minor is a girl, cease on her marriage.

10. Incapacity of minor to act as guardian of property.—A minor shall be incompetent to act as guardian of the property of any minor.

11. De facto guardian not to deal with minor’s property.—After the commencement of this Act, no person shall be entitled to dispose of, or deal with, the property of a Hindu minor merely on the ground of his or her being the de facto guardian of the minor.

12. Guardian not to be appointed for minors undivided interest in joint family property.—Where a minor has an undivided interest in joint family property
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and the property is under the management of an adult member of the family, no guardian shall be appointed for the minor in respect of such undivided interest.

Provided that nothing in this section shall be deemed to affect the jurisdiction of a High Court to appoint a guardian in respect of such interest.

13. Welfare of minor to be paramount consideration.—(1) In the appointment of declaration of any person as guardian of a Hindu minor by a court, the welfare of the minor shall be the paramount consideration.

(2) No person shall be entitled to the guardianship by virtue of the provisions of this Act or of any law relating to guardianship in marriage among Hindus, if the court is of opinion that his or her guardianship will not be for the welfare of the minor.

Guardianship under Muslims Law

The laws related to guardianship and custody for Indian Muslims are derived from the Koran. Under this, guardians fall under the following three categories: (i) Natural guardians, (ii) Testamentary guardians, and (iii) Guardians appointed by the court.

Guardianship under Christians Law

Guardianship for Indian Christians is regulated under the British era the Guardians and Wards Act, 1890. The relevant sections of the act state, the matters of the case should be considered by the court in appointing guardian. The section reads, “(1) In appointing or declaring the guardian of a minor, the Court shall, subject to the provisions of this section, be guided by what, consistently with the law to which the minor is subject, appears in the circumstances to be for the welfare of the minor (2) In considering what will be the welfare of the minor, the Court shall have regard to the age, sex and religion of the minor, the character and capacity of the proposed guardian and his nearness of kin to the minor, the wishes, if any, of the deceased parent, and any existing or previous relations of the proposed guardian with the minor or his property. (3) If the minor is old enough to form an intelligent preference, the Court may consider that preference.”

Check Your Progress

1. Who does the Hindu Minority and Guardianship Act, 1956 apply to?
2. Under what law is guardianship for Indian Christians regulated?

12.3 LAWS RELATING TO DIVORCE

The law related to divorce among Hindus, Buddhists, Sikhs and Jains in India can be found under the relevant sections of the Hindu Marriage Act. For Muslims, divorce is regulated by the Dissolution of Muslim Marriages Act, 1939, Parsis by
the Parsi Marriage and Divorce Act, 1936 and Christians by the Indian Divorce Act, 1869. All civil and inter-community marriages are governed by the Special Marriage Act, 1956.

**Divorce under the Hindu Marriage Act**

According to Section 13 B of Hindu Marriage Act, there are two types of divorces that are recognized under the Hindu Marriage Act, divorce with mutual consent and divorce without mutual consent. For divorce with mutual consent, divorce proceedings can begin if the couple have been separated for over a year and be able to prove that they have not been able to live together. Couples should also reach a consensus on issues such as alimony or maintenance. Under divorce without mutual consent, there are a few grounds on which proceedings can proceed. These are cruelty, adultery, desertion, conversion, mental disorder, communicable disease, renunciation of the world and presumption of death.

Marriages can also be dissolved in India through the means of an annulment. The grounds for annulment of a marriage are different from divorce. These include fraud, the pregnancy of wife by a person other than the husband, impotence before the marriage and subsisting even at the time of filing the case.

**Divorce under the Dissolution of Muslim Marriages Act, 1939**

Under Muslim Personal Law, the wife can claim divorce under extrajudicial or judicial modes. The extrajudicial modes are Talaq-i-tafweez and Lian. The judicial mode is by Dissolution of Muslim Marriages Act 1939. The act defines the grounds for divorce and the procedure for the purpose. The grounds for granting divorce to Muslim women under the Dissolution of Muslim Marriages Act 1939 include (i) that the whereabouts of the husband have not been known for a period of four years; (ii) that the husband has neglected or has failed to provide for her maintenance for a period of two years; (iii) that the husband has been sentenced to imprisonment for a period of seven years or upwards; (iv) that the husband has failed to perform, without reasonable cause his marital obligations for a period of three years; (v) that the husband was impotent at the time of the marriage and (vi) that the husband has been insane for a period of two years or is suffering from leprosy or a virulent venereal disease; (vii) that she, having been given in marriage by her father or other guardian before she attained the age of fifteen years, repudiated the marriage before attaining the age of eighteen years: Provided that the marriage has not been consummated; (viii) that the husband treats her with cruelty.

**Divorce under the Indian Divorce Act, 1869**

The Indian Divorce Act was passed in 1869 to deal with divorces for Christian couples in India. In 2001, an amendment was passed by the Parliament to the law known as the Indian Divorce (Amendment) Act, 2001. This act amended the law for divorces for Christians in India as the Indian Divorce Act was found to be biased against women. According to the Act, 10. Grounds for dissolution of
marriage.—(1) Any marriage solemnized, whether before or after the commencement of the Indian Divorce (Amendment) Act, 2001 (51 of 2001), may, on a petition presented to the District Court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent —

(i) has committed adultery; or
(ii) has ceased to be Christian by conversion to another religion; or
(iii) has been incurably unsound mind for a continuous period of not less than two years immediately preceding the presentation of the petition; or
(v) has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from venereal disease in a communicable form; or
(vi) has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of the respondent if the respondent had been alive; or
(vii) has wilfully refused to consummate the marriage and the marriage has not therefore been consummated; or
(viii) has failed to comply with a decree for restitution of conjugal rights for a period of two years or upwards after the passing of the decree against the respondent; or
(ix) has deserted the petitioner for at least two years immediately preceding the presentation of the petition; or
(x) has treated the petitioner with such cruelty as to cause a reasonable apprehension in the mind of the petitioner that it would be harmful or injurious for the petitioner to live with the respondent.

(2) A wife may also present a petition for the dissolution of her marriage on the ground that the husband has, since the solemnization of the marriage, been guilty of rape, sodomy or bestiality.

10A. Dissolution of marriage by mutual consent.—(1) Subject to the provisions of this Act and the rules made thereunder, a petition for dissolution of marriage may be presented to the District Court by both the parties to a marriage together, whether such marriage was solemnized before or after the commencement of the Indian Divorce (Amendment) Act, 2001 (51 of 2001), on the ground that they have been living separately for a period of two years or more, that they have not been able to live together and they have mutually agreed that the marriage should be dissolved.

(2) On the motion of both the parties made not earlier than six months after the date of presentation of the petition referred to in sub-section (1) and not later
than eighteen months after the said date, if the petition is not withdrawn by both the parties in the meantime, the Court shall, on being satisfied, after hearing the parties and making such inquiry, as it thinks fit, that a marriage has been solemnized and that the averments in the petition are true, pass a decree declaring the marriage to be dissolved with effect from the date of decree.

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[11. Adulterer or adulteress to be co-respondent. — On a petition for dissolution of marriage presented by a husband or wife on the ground of adultery, the petitioner shall make the alleged adulterer or adulteress a co-respondent, unless the petitioner is excused by the Court from so doing on any of the following grounds, namely: —

(a) that the wife, being the respondent is leading the life of a prostitute or the husband, being respondent is leading an immoral life and that the petitioner knows of no person with whom the adultery has been committed;

(b) that the name of the alleged adulterer or adulteress is unknown to the petitioner although the petitioner has made due efforts to discover it;

(c) that the alleged adulterer or adulteress is dead.]

12. Court to be satisfied of absence of collusion. — Upon any such petition for the dissolution of a marriage, the Court shall satisfy itself, so far as it reasonably can, not only as to the facts alleged, but also whether or not the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery, or has condoned the same, and shall also enquire into any countercharge which may be made against the petitioner.

13. Dismissal of petition. — In case the Court, on the evidence in relation to any such petition, is satisfied that the petitioner’s case has not been proved, or is not satisfied that the alleged adultery has been committed, or finds that the petitioner has, during the marriage, been accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, then, and in any of the said cases the Court shall dismiss the petition.

14. Power to court to pronounce decree for dissolving marriage. — In case the Court is satisfied on the evidence that the case of the petitioner has been proved, and does not find that the petitioner has been in any manner accessory to, or conniving at, the going through of the said form of marriage, or the adultery of the other party to the marriage, or has condoned the adultery complained of, or that the petition is presented or prosecuted in collusion with either of the respondents, the Court shall pronounce a decree declaring such marriage to be dissolved: Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery, or if the petitioner
has, in the opinion of the Court, been guilty of unreasonable delay in presenting or
prosecuting such petition, or of cruelty towards the other party to the marriage, or
of having deserted or wilfully separated himself or herself from the other party
before the adultery complained of, and without reasonable excuse, or of such
wilful neglect or misconduct of or towards the other party as has conduced to the
adultery.

Condonation. No adultery shall be deemed to have been condoned within
the meaning of this Act unless where conjugal cohabitation has been resumed or
continued.

15. Relief in case of opposition on certain grounds. —In any suit instituted
for dissolution of marriage, if the respondent opposes the relief sought on the
ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or
desertion or, in case of such a suit instituted by a wife, on the ground of [her
adultery or cruelty or desertion], the Court may in such suit give to the respondent,
on his or her application, the same relief to which he or she would have been
entitled in case he or she had presented a petition seeking such relief, and the
respondent shall be competent to give evidence of or relating to [such adultery,
cruelty] or desertion.

16. Decrees for dissolution to be nisi. —Every decree for dissolution of
marriage made by a High Court shall in the first instance, be a decree nisi, not to
be made absolute till after the expiration of such time, not less than six months
from the pronouncing thereof, as the High Court, by general or special order from
time to time, directs.

Collusion. During that period any person shall be at liberty, in such manner
as the High Court by general or special order from time to time direct, to show
cause why the said decree should not be made absolute by reason of the same
having been obtained by collusion or by reason of material facts not being brought
before the Court.

On cause being so shown, the Court shall deal with the case by making the
decree absolute, or by reversing the decree nisi, or by requiring further inquiry, or
otherwise as justice may demand.

The High Court may order the cost of Counsel and witnesses and otherwise
arising from such cause being shown, to be paid by the parties or such one or
more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree nisi has been made, and the petitioner fails, within a
reasonable time, to move to have such decree made absolute, the High Court may
dismiss the suit.

[17. Power of High Court to remove certain suits. —During the progress of
the suit in the Court of the District Judge, any person suspecting that any parties to
the suit are or have been acting in collusion for the purpose of obtaining a divorce,
shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the Court shall thereupon, if it thinks fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary, to enable him to make a decree in accordance with the justice of the case.] the Court shall pronounce a decree declaring such marriage to be dissolved:

Provided that the Court shall not be bound to pronounce such decree if it finds that the petitioner has, during the marriage, been guilty of adultery, or if the petitioner has, in the opinion of the Court, been guilty of unreasonable delay in presenting or prosecuting such petition, or of cruelty towards the other party to the marriage, or of having deserted or wilfully separated himself or herself from the other party before the adultery complained of, and without reasonable excuse, or of such wilful neglect or misconduct of or towards the other party as has conduced to the adultery.

Condonation. No adultery shall be deemed to have been condoned within the meaning of this Act unless where conjugal cohabitation has been resumed or continued.

15. Relief in case of opposition on certain grounds. — In any suit instituted for dissolution of marriage, if the respondent opposes the relief sought on the ground, in case of such a suit instituted by a husband, of his adultery, cruelty, or desertion or, in case of such a suit instituted by a wife, on the ground of [her adultery or cruelty or desertion], the Court may in such suit give to the respondent, on his or her application, the same relief to which he or she would have been entitled in case he or she had presented a petition seeking such relief, and the respondent shall be competent to give evidence of or relating to [such adultery, cruelty] or desertion.

16. Decrees for dissolution to be nisi. — Every decree for dissolution of marriage made by a High Court shall in the first instance, be a decree nisi, not to be made absolute till after the expiration of such time, not less than six months from the pronouncing thereof, as the High Court, by general or special order from time to time, directs.

Collusion. During that period any person shall be at liberty, in such manner as the High Court by general or special order from time to time direct, to show cause why the said decree should not be made absolute by reason of the same having been obtained by collusion or by reason of material facts not being brought before the Court.

On cause being so shown, the Court shall deal with the case by making the decree absolute, or by reversing the decree nisi, or by requiring further inquiry, or otherwise as justice may demand.
The High Court may order the cost of Counsel and witnesses and otherwise arising from such cause being shown, to be paid by the parties or such one or more of them as it thinks fit, including a wife if she have separate property.

Whenever a decree nisi has been made, and the petitioner fails, within a reasonable time, to move to have such decree made absolute, the High Court may dismiss the suit.

[17. Power of High Court to remove certain suits. —During the progress of the suit in the Court of the District Judge, any person suspecting that any parties to the suit are or have been acting in collusion for the purpose of obtaining a divorce, shall be at liberty, in such manner as the High Court by general or special order from time to time directs, to apply to the High Court to remove the suit under section 8, and the Court shall thereupon, if it thinks fit, remove such suit and try and determine the same as a Court of original jurisdiction, and the provisions contained in section 16 shall apply to every suit so removed; or it may direct the District Judge to take such steps in respect of the alleged collusion as may be necessary, to enable him to make a decree in accordance with the justice of the case.]

12.4 ADOPTION, SUCCESSION AND INHERITANCE

Let us begin with adoption.

Hindu Adoptions and Maintenance Act, 1956

In India, child adoption had been a prevalent social practice from ancient times itself. The object of adoption was both religious and secular. In earlier days the primary consideration of adoption was the interest of the parents. It was mainly centred on the perpetuation of the family name and lineage and performance of death rites and salvation of the adoptive parents. When the joint family system was broken the protection in old age was also considered to be an object of adoption. In such a situation also adoption was influenced by patriarchal values and so a male child only was adopted.

In the modern age, the attitude towards adoption has changed significantly. In many cases, a child is adopted to satisfy the emotional and parental instincts of the adopters. The religious objective has not given much importance. Apart from this, the last two or three decades witnessed another significant change in the attitude of adoption. Because of the promotional effort of the social welfare organizations, adoption is now considered as the most recommended form of rehabilitation for the orphaned, abandoned and destitute child. Primarily it ensures the child’s right to a family. Reciprocally, it also meets the needs of the persons who are considering parenthood through adoption. Thus in modern age the best interest of the child is becoming the focus of adoption, while in ancient days it was focused to the interest of the adoptive parents. The changing attitude towards the
institution of adoption necessitated modification in the ancient Hindu law of adoption. Moreover, the law relating to adoption were different in different schools of Hindu law. Several shortcomings like the prohibition to adopt a female child were also existed there. So in order to modernize and make uniform the ancient Hindu law of adoption by removing its shortcomings, the Hindu Adoptions and Maintenance Act (HAMA) was legislated in 1956.

Like the Hindu Succession Act (HAS), this Act also extends to the whole of India. Santvanam, VAC, Kalamassery, 2002, p. 56. 188 except the state of Jammu and Kashmir. By virtue of section 2 there, this Act has been made applicable to all persons who are Hindus, Buddhists, Jains or Sikhs by religion. So far as Muslims, Christians, Parsi and Jews are concerned, there is no law, statutory or customary, which enables them to adopt a child. So, persons belonging to these religions can get custody of a child and take care of it as per the “Guardians and Ward Act. 1890”. They can also get appointed as the legal Guardian of the child. It is to be noted that such a child will not get any right of inheritance of the guardian as in the case of a child adopted under the HAMA. Section 6-10 of this Act deal with the requisites of a valid adoption such as the capacity to adopt, to give in adoption and to be adopted. Section 11 prescribes other conditions for valid adoption. In Sections 12-17, the incidents and consequences of adoption are dealt with in. One who goes through these topics can understand that, though changes have been made according to the need of the time, the topics dealt with in the Act are the same that are discussed in the ancient law texts. The changes brought about by the Act in this regard can be classified into two (1) changes meant to secularize or liberalize the institution of adoption and (2) changes meant to simplify the law and eliminate speculative litigation.

The Hindu Succession Act 1956 and Inheritance

This Act came into effect on 17th June 1956 as Act No.30 of 1956. This is an act to amend and codify the law relating to intestate succession among Hindus. It extends to the whole of India except the state of Jammu and Kashmir. This act applies: (a) to any person who is a Hindu by religion in any of its forms or developments, including a Virasaiva, a Lihgayat or a follower of the Brahmo, Prarthana or Arya Samaj. (b) to any person who is a Buddhist, Jaina or Sikh by religion, and (c) to any person who is not a Muslim, Christian, Parsi or Jew by religion, unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of the matters dealt with herein if this Act had not been passed. Definitions and interpretations of the terms like agnate, cognate, full blood and half-blood which are sometimes confusing in ancient Indian law, are given in this Act. This Act has brought about profound changes in the pre-existing system of Hindu law.

This Act brought about changes in the law of succession and gave rights which were hitherto unknown, in relation to a woman’s property. However, it did not interfere with the special rights of those who are members of a Mitakshara
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2.2 Section 4 of the Act is of importance and gives overriding effect to the provisions of the Act abrogating thereby all the rules of the Law of succession hitherto applicable to Hindus whether by virtue of any text or rule of Hindu law or any custom or usage having the force of laws, in respect of all matters dealt with in the Act. The HSA reformed the Hindu personal law and gave a woman greater property rights, allowing her full ownership rights instead of limited rights in the property she inherits under Section 14 with a fresh stock of heirs under sections 15 and 16 of the Act. The daughters were also granted property rights in their father’s estate. In the matter of succession to the property of a Hindu male dying intestate, the Act lays down a set of general rules in Sections 8 to 13.

Inheritance among Muslims

Inheritance for the Muslim community in India are governed according to Muslim Personal Law. According to it, among Muslims in India:

- A son gets double the share of the daughter wherever they inherit together.
- The wife gets one-eighth of the share if there are children and one-fourth of the share if there are no children. In case the husband has more than one wife, the one-eighth share will be divided equally among all wives. The husband gets one fourth of the share of his dead wife’s property, if there are children and one-half if there are no children.
- If the parent has more than one daughter, only two-third of the property shall be divided equally among daughters. If the parent has only one daughter, half of the parent’s property is inherited by her.
- The mother gets one-sixth of her dead child’s property if there are grandchildren, and one-third of the property if there are no grandchildren.
- Parents, children, husband and wife must, in all cases, get shares, whatever may be the number or degree of the other heirs.
- Slavery, homicide, difference of religion and difference of allegiance, exclude from inheritance.
Check Your Progress

3. What are the two types of divorces under the Hindu Marriage Act?

4. When was the Hindu Adoptions and Maintenance Act legislated?

12.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The Hindu Minority and Guardianship Act, 1956 applies to
   (a) to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahma, Prarthana or Arya Samaj;
   (b) to any person who is a Buddhist, Jain or Sikh by religion, and
   (c) to any other person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi or Jew by religion unless it is proved that any such person would not have been governed by the Hindu law or by any custom or usage as part of that law in respect of any of the matters dealt with herein if this Act had not been passed.

2. Guardianship for Indian Christians is regulated under the British era the Guardians and Wards Act, 1890.

3. According to Section 13 B of Hindu Marriage Act, there are two types of divorces that are recognized under the Hindu Marriage Act, divorce with mutual consent and divorce without mutual consent.

4. The Hindu Adoptions and Maintenance Act (HAMA) was legislated in 1956.

12.6 SUMMARY

- Minority and guardianship in India is regulated under the Hindu Minority and Guardianship Act, 1956.
- The Act applies to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahma, Prarthana or Arya Samaj.
- The laws related to guardianship and custody for Indian Muslims are derived from the Koran. Under this, guardians fall under the following three categories: (i) Natural guardians, (ii) Testamentary guardians, and (iii) Guardians appointed by the court.
- Guardianship for Indian Christians is regulated under the British era the Guardians and Wards Act, 1890.
The law related to divorce among Hindus, Buddhists, Sikhs and Jains in India can be found under the relevant sections of the Hindu Marriage Act.

For Muslims, divorce is regulated by the Dissolution of Muslim Marriages Act, 1939, Parsis by the Parsi Marriage and Divorce Act, 1936 and Christians by the Indian Divorce Act, 1869.

For divorce with mutual consent, divorce proceedings can begin if the couple have been separated for over a year and be able to prove that they have not been able to live together.

Under Muslim Personal Law, the wife can claim divorce under extrajudicial or judicial modes. The extrajudicial modes are Talaaq-i-tafweez and Lian. The judicial mode is by Dissolution of Muslim Marriages Act 1939.

The Indian Divorce Act was passed in 1869 to deal with divorces for Christian couples in India.

In order to modernize and make uniform the ancient Hindu law of adoption by removing its shortcomings, the Hindu Adoptions and Maintenance Act (HAMA) was legislated in 1956.

The Hindu Succession Act 1956 and Inheritance came into effect on 17th June 1956 as Act No.30 of 1956. This is an act to amend and codify the law relating to intestate succession among Hindus.

Inheritance for the Muslim community in India are governed according to Muslim Personal Law.

12.7 KEY WORDS

- **Alimony**: It refers to a husband’s (or wife’s) provision for the maintenance of a spouse after separation or divorce.
- **Annulled**: It means to declare (a marriage) to have had no legal existence.
- **Minor**: It refers to a person under the age of full legal responsibility.
- **Guardianship**: It means the position of being legally responsible for the care of someone who is unable to manage their own affairs.

12.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. What are the three categories of guardians according to Muslim Personal Law?

2. How is guardianship among the Indian Christian community regulated?
3. What are the grounds under which divorce without mutual consent is given according to the Hindu Marriage Act?

4. Why was the Hindu Adoptions and Maintenance Act (HAMA) legislated?

Long Answer Questions

1. Describe the Hindu Minority and Guardianship Act, 1956 and its relevant sections.
3. Explain the laws related to inheritance in India.

12.9 FURTHER READINGS


UNIT 13 LEGISLATIONS RELATING TO SOCIAL PROBLEMS

Structure
13.0 Introduction
13.1 Objectives
13.2 Prostitution
13.3 Juvenile Delinquency
13.4 Women Harassment
13.5 Answers to Check Your Progress Questions
13.6 Summary
13.7 Key Words
13.8 Self Assessment Questions and Exercises
13.9 Further Readings

13.0 INTRODUCTION

A social condition that disturbs the social order and impedes smooth working of social organizations, can be termed as a social problem. Initially, these conditions are neglected but with the passage of time they get accumulated and affect normal social life. In order to ensure social security, several legislations have been introduced by the Government of India. The unit aims at analysing the different legislations which were passed as a measure to ensure social security among netizens. In this unit, you will study and analyse the Immoral Traffic (prevention) Act, the Juvenile Justice (Care and Protection of Children) Act, 2015, and the Sexual Harassment of Women at Workplace Act.

13.1 OBJECTIVES

After going through this unit, you will be able to:

- List the legislations pertaining to social problems
- State the significant provisions of the Immoral Traffic (prevention) Act
- Discuss the essentialities of Juvenile Justice (Care and Protection of Children) Act, 2015
- Analyse Sexual Harassment of Women at Workplace Act
13.2 PROSTITUTION

Constitution of India, under article 23, prohibits trafficking in every form including commercial sexual exploitation of women and girls. In addition to the provisions in the IPC (Indian Penal Code), we have special legislations like Immoral Traffic Prevention Act (ITPA) and local legislation like Goa Children’s Act etc.

Immoral Traffic (Prevention) Act-1956

The Immoral Trafficking Prevention Act, 1956 (ITPA), the main statute dealing with sex work in India, does not criminalize prostitution or prostitutes per se, but mostly punishes acts by third parties facilitating prostitution like brothel keeping, living off earnings and procuring, even where sex work is not coerced Section 3. Punishment for keeping a Brothel or allowing premises to be used as a Brothel.

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

2. Any person who,

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

   or

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

2-A For the purposes of sub-section (2), it shall be presumed, until the contrary is proved, that any person referred to in clause (a) or clause (b) of that subsection, is knowingly allowing the premises or any part thereof to be used as a brothel or, as the case may be, has knowledge that the premises or any part thereof are being used as a brothel, if,

   (a) A report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part
Section 5. Procuring, inducing or taking person for the sake of prostitution.

(1) Any person who

(a) Procures or attempts to procure a person whether with or without his/her consent, for the purpose of prostitution; or

(b) Induces a person to go from any place, with the intent that he/she may for the purpose of prostitution become the inmate of, or frequent, a brothel; or

(c) Takes or attempts to take a person or causes a person to be taken, from one place to another with a view to his/her carrying on, or being brought up to carry on prostitution; or

(d) Causes or induces a person to carry on prostitution; shall be punishable on conviction with rigorous imprisonment for a term of not less than three years and not more than seven years and also with fine which may extend to two thousand rupees, and if any offence under this sub-section is committed against the will of any person, the punishment of imprisonment for a term of seven years shall extend to imprisonment for a term of fourteen years:

Provided that if the person in respect of whom an offence committed under this subsection, -

(i) Is a child, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years but may extend to life; and

(ii) Is a minor, the punishment provided under this sub-section shall extend to rigorous imprisonment for a term of not less than seven years and not more than fourteen years. So it can be seen that both the sections namely section 3 and section 5 punishes only the acts of the 3rd party and same does the other sections in the Act and so new legislation shall be passed as to punish the client who are visiting the prostitutes.

The law enforcement scenario, seen from the traditional viewpoint, presents a dismal picture. The Action Research conducted by the National Human Rights Commission, during 2002-2004 shows that the major issues in the existing scenario of law enforcement are as follows:

- Lack of priority: The law enforcement agencies and justice delivery agencies for various reasons, give lowest or nil priority to HT issues.
- Insensitivity: Lack of sensitivity is a major challenge in response to human trafficking. It is more of an attitudinal issue.
Varieties of the victim: More often trafficked women have been arrested and penalized as soliciting persons. The NHRC study shows that around 85 to 90 percent of the arrested persons are women and most of them are victims of trafficking.

Improper investigation: Whereas a trafficking crime extends across a large canvas as the scene of crime, starting from the source point and extending to the transit places as well as the destination areas, the investigation is more often unheard and unrepresented.

Database: One of the major drawbacks in law enforcement is the fact that there is no database of traffickers and other exploiters. There is no sharing of intelligence among the stakeholders and therefore, the offenders indeed act with impunity.

(Bedi, Kiran; Nair, P.M. 2008)

13.3 JUVENILE DELINQUENCY

Studies indicate that the most effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation and not to consider them as merely ‘trouble makers’ or ‘problem children’ in need of punishment. Recognition of and respect for their rights as human beings and as a child is an important first step in this direction.

Thus Juvenile justice has made a departure from the criminal justice model of punishment recognizing the negative influence of association with adult offenders and the higher possibility of reformation of children being in the growing age where their capacities are still being built and developed. Juvenile Justice adopted the path of reformation of children found to have committed an offence through various community based reformative and rehabilitative measures and using institutionalization as a measure of last resort and for the minimum period till suitable community based alternatives are found for them.

Juvenile Justice (Care and Protection of Children) Act, 2015.

The JJ Act 2015 caters to the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach and disposal of matters in the best interest of children and for their rehabilitation through process provided and institutions and bodies established under the Act.

The JJ Act has also categorized offences committed by children into three categories as listed below:

1. Heinous offences is defined under Section 2 (33) as “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more;
Legislations Relating to Social Problems

NOTES

2. Petty offences is defined under Section 2 (45) as “petty offences” includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years;

3. Serious offences is defined under Section 2 (54) as “serious offences” includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force, is imprisonment between three to seven years;

With the passage of the JJ Act, 2015, the possibility of children between the ages of 16 and 18 years being tried as adults for heinous offences has arisen. This means that a separate set of reform and rehabilitation measures will have to be taken for such children. Further, it is important to identify the parameters on which the level of reformation of a child offender who has, committed heinous offence, will be assessed, so as to minimize the element of bias or prejudice, after the child has attained the age of 21 years.

The Act also focuses on restorative justice practices that are different from criminal justice practices. Section 18. (1) of the JJ Act, 2015 states “ Where a Board is satisfied on inquiry that a child irrespective of age has committed a petty offence, or a serious offence, or a child below the age of sixteen years has committed a heinous offence, then, notwithstanding anything contrary contained in any other law for the time being in force, and based on the nature of offence, specific need for supervision or intervention, circumstances as brought out in the social investigation report and past conduct of the child, the Board may, if it so thinks fit,—

(a) allow the child to go home after advice or admonition by following appropriate inquiry and counselling to such child and to his parents or the guardian;

(b) direct the child to participate in group counselling and similar activities;

(c) order the child to perform community service under the supervision of an organisation or institution, or a specified person, persons or group of persons identified by the Board;

(d) order the child or parents or the guardian of the child to pay fine: Provided that, in case the child is working, it may be ensured that the provisions of any labour law for the time being in force are not violated;

(e) direct the child to be released on probation of good conduct and placed under the care of any parent, guardian or fit person, on such parent, guardian or fit person executing a bond, with or without surety, as the Board may require, for the good behaviour and child’s well-being for any period not exceeding three years;

(f) direct the child to be released on probation of good conduct and placed under the care and supervision of any fit facility for ensuring
the good behaviour and child’s wellbeing for any period not exceeding three years;

(g) direct the child to be sent to a special home, for such period, not exceeding three years, as it thinks fit, for providing reformatory services including education, skill development, counselling, behaviour modification therapy, and psychiatric support during the period of stay in the special home:

Provided that if the conduct and behaviour of the child has been such that, it would not be in the child’s interest, or in the interest of other children housed in a special home, the Board may send such child to the place of safety.

(2) If an order is passed under clauses (a) to (g) of sub-section (1), the Board may, in addition pass orders to—

(i) attend school; or
(ii) attend a vocational training centre; or
(iii) attend a therapeutic centre; or
(iv) prohibit the child from visiting, frequenting or appearing at a specified place; or
(v) undergo a de-addiction programme.

(3) Where the Board after preliminary assessment under section 15 pass an order that there is a need for trial of the said child as an adult, then the Board may order transfer of the trial of the case to the Children’s Court having jurisdiction to try such offences. There are two orders listed at 1 and 2 in Section 18 mentioned above that are suitable for using restorative practices and long term rehabilitation.

The process of rehabilitation includes a network of different professionals. These professionals have to undertake this difficult task within a limited time frame. All our strategic interventions are aimed to improve the rehabilitation process for the children in conflict with law.

For successful rehabilitation and re-integration of children in conflict with law it becomes necessary to develop a multi-dimensional approach. Prevention of juvenile crimes, proper timely interventions can help strengthen the rehabilitation process. Focus should be given on addressing all the needs of a child’s life: emotional, physical, relational, intellectual, creative and spiritual. We must shift our attitudes from need based approach to rights based approach while rehabilitating children in conflict with law.

13.4 WOMEN HARASSMENT

An Act to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto. Whereas sexual harassment
results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business with includes a right to a safe environment free from sexual harassment; and whereas the protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women, which has been ratified on the 25th June, 1993 by the Government of India;

AND WHEREAS it is expedient to make provisions for giving effect to the said Convention for protection of women against sexual harassment at workplace.

BE it enacted by Parliament in the Sixty-fourth Year of the Republic of India as follows: —

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.—

(1) This Act may be called the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

(2) It extends to the whole of India.

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

2. Definitions.—In this Act, unless the context otherwise requires, —

(a) “aggrieved woman” means—

(i) in relation to a workplace, a woman, of any age whether employed or not, who alleges to have been subjected to any act of sexual harassment by the respondent;

(ii) in relation to dwelling place or house, a woman of any age who is employed in such a dwelling place or house;

(b) “appropriate Government” means—

(i) in relation to a workplace which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly—

(A) by the Central Government or the Union territory administration, the Central Government;

(B) by the State Government, the State Government;

(ii) in relation to any workplace not covered under sub-clause (i) and falling within its territory, the State Government;
(c) “Chairperson” means the Chairperson of the Local Complaints Committee nominated under sub-section (1) of section 7;

(d) “District Officer” means an officer notified under section 5;

(e) “domestic worker” means a woman who is employed to do the household work in any household for remuneration whether in cash or kind, either directly or through any agency on a temporary, permanent, part-time or full-time basis, but does not include any member of the family of the employer;

(f) “employee” means a person employed at a workplace for any work on regular, temporary, ad hoc or daily wage basis, either directly or through an agent, including a contractor, with or without the knowledge of the principal employer, whether for remuneration or not, or working on a voluntary basis or otherwise, whether the terms of employment are express or implied and includes a co-worker, a contract worker, probationer, trainee, apprentice or called by any other such name;

(g) “employer” means—

(i) in relation to any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit of the appropriate Government or a local authority, the head of that department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit or such other officer as the appropriate Government or the local authority, as the case may be, may by an order specify in this behalf;

(ii) in any workplace not covered under sub-clause (i), any person responsible for the management, supervision and control of the workplace.

Explanation. — For the purposes of this sub-clause “management” includes the person or board or committee responsible for formulation and administration of polices for such organisation;

(iii) in relation to workplace covered under sub-clauses (i) and (ii), the person discharging contractual obligations with respect to his or her employees;

(iv) in relation to a dwelling place or house, a person or a household who employs or benefits from the employment of domestic worker, irrespective of the number, time period or type of such worker employed, or the nature of the employment or activities performed by the domestic worker;

(h) “Internal Committee” means an Internal Complaints Committee constituted under section 4; (i) “Local Committee” means the Local Complaints Committee constituted under section 6,
(j) “Member” means a Member of the Internal Committee or the Local Committee, as the case may be;

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

(l) “Presiding Officer” means the Presiding Officer of the Internal Complaints Committee nominated under sub-section (2) of section 4;

(m) “respondent” means a person against whom the aggrieved woman has made a complaint under section 9;

(n) “sexual harassment” includes any one or more of the following unwelcome acts or behaviour (whether directly or by implication) namely—
   (i) physical contact and advances; or
   (ii) a demand or request for sexual favours; or
   (iii) making sexually coloured remarks; or
   (iv) showing pornography; or
   (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature;

(o) “workplace” includes—
   (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society;
   (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service;
   (iii) hospitals or nursing homes;
   (iv) any sports institute, stadium, sports complex or competition of games venue, whether residential or not used for training, sports or other activities relating thereto;
   (v) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey;
   (vi) a dwelling place or a house;

(p) “unorganised sector” in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the
production or sale of goods or providing service of any kind whatever, and where the enterprise employs workers, the number of such workers is less than ten.

3. Prevention of sexual harassment.—(1) No woman shall be subjected to sexual harassment at any workplace.

(2) The following circumstances, among other circumstances, if it occurs, or is present in relation to or connected with any act or behaviour of sexual harassment may amount to sexual harassment:—

(i) implied or explicit promise of preferential treatment in her employment; or

(ii) implied or explicit threat of detrimental treatment in her employment; or

(iii) implied or explicit threat about her present or future employment status; or

(iv) interference with her work or creating an intimidating or offensive or hostile work environment for her; or

(v) humiliating treatment likely to affect her health or safety.

Check Your Progress

1. Under which article of Indian Constitution trafficking in every form is prohibited?

2. What is Juvenile delinquency?

3. What is the main focus of JJ Act, 2015?

4. What is the main aim of the Sexual Harassment of Women at Workplace Act?

13.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The trafficking in any form is prohibited under Article 23 of the Constitution of India.

2. Juvenile delinquency is basically an act of ‘juvenile offending’. It refers to the involvement of children in activities that violate a law.

3. The JJ Act 2015 caters to the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach and disposal of matters in the best interest of children and for their rehabilitation through process provided and institutions and bodies established under the Act.
4. The Sexual Harassment of Women at Workplace Act is aimed to provide protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment and for matters connected therewith or incidental thereto.

13.6 SUMMARY

- Constitution of India, under article 23, prohibits trafficking in every form including commercial sexual exploitation of women and girls. In addition to the provisions in the IPC (Indian Penal Code), we have special legislations like Immoral Traffic Prevention Act (ITPA) and local legislation like Goa Children’s Act etc.

- The Immoral Trafficking Prevention Act, 1956 (ITPA), the main statute dealing with sex work in India, does not criminalize prostitution or prostitutes per se, but mostly punishes acts by third parties facilitating prostitution like brothel keeping, living off earnings and procuring, even where sex work is not coerced Section 3. Punishment for keeping a Brothel or allowing premises to be used as a Brothel.

- A report is published in a newspaper having circulation in the area in which such person resides to the effect that the premises or any part thereof have been found to be used for prostitution as a result of a search made under ITPA Act.

- Procuring, inducing or taking person for the sake of prostitution is also an offence and the crime falls under Section 5 of ITPA Act.

- The Action Research conducted by the National Human Rights Commission, during 2002 -2004 shows that the major issues in the existing scenario of law enforcement are lack of priority, insensitivity, victimization of the victim, improper investigation, no database.

- Studies indicate that the most effective way to find constructive solutions to involvement of children in activities that violate a law is to involve children in the process of rehabilitation and not to consider them as merely ‘trouble makers’ or ‘problem children’ in need of punishment.

- Juvenile Justice adopted the path of reformation of children found to have committed an offence through various community based reformatory and rehabilitative measures and using institutionalization as a measure of last resort and for the minimum period till suitable community based alternatives are found for them.

- The Juvenile Justice (Care and Protection of Children) Act, 2015 caters to the basic needs of children through proper care, protection, development, treatment, social re-integration, by adopting a child-friendly approach and disposal of matters in the best interest of children and for their rehabilitation.
Legislations Relating to Social Problems

1. The Act provides for the establishment of institutions and bodies for the purpose of dealing with social problems.

- Heinous offences are defined under Section 2(33) as “heinous offences” includes the offences for which the minimum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment for seven years or more.
- Petty offences are defined under Section 2(45) as “petty offences” includes the offences for which the maximum punishment under the Indian Penal Code or any other law for the time being in force is imprisonment up to three years.
- Serious offences are defined under Section 2(54) as “serious offences” includes the offences for which the punishment under the Indian Penal Code or any other law for the time being in force is imprisonment between three to seven years.
- With the passage of the JJ Act, 2015, the possibility of children between the ages of 16 and 18 years being tried as adults for heinous offences has arisen. This means that a separate set of reform and rehabilitation measures will have to be taken for such children.
- Prevention of juvenile crimes, proper timely interventions can help strengthen the rehabilitation process. Focus should be given on addressing all the needs of a child’s life: emotional, physical, relational, intellectual, creative and spiritual.
- The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is extended to the whole of India.
- Unorganised sector in relation to a workplace means an enterprise owned by individuals or self-employed workers and engaged in the production or sale of goods or providing service of any kind whatsoever, and where the enterprise employs workers, the number of such workers is less than ten.

13.7 KEY WORDS

- Lessee: It refers to a person who holds the lease of a property.
- Immoral Trafficking Prevention Act: It is comprehensive act that seeks prevention of immoral trafficking. The Act intends to combat trafficking and sexual exploitation for commercial purposes.
- Juvenile delinquency: It refers to the habitual committing of criminal acts or offences by a young person, especially one below the age at which ordinary criminal prosecution is possible.
- **Women Harassment Act**: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is a legislative act in India that seeks to protect women from sexual harassment at their place of work.

13.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

### Short Answer Questions

1. What is Immoral Traffic (Prevention) Act, 1956 in India?
2. What is the punishment for keeping a brothel or allowing premises for the same?
3. List the major issues in the current scenario of law enforcement in India.
4. What are three categories of offences under JJ Act, 2015?

### Long Answer Questions

1. Discuss the laws against prostitution in India.
2. Critically analyse the Juvenile Justice (Care and Protection of Children) Act, 2015.
3. Discuss Sexual Harassment of Women at Workplace Act.

13.9 FURTHER READINGS


UNIT 14 VARIOUS OTHER LEGISLATIONS

Structure
14.0 Introduction
14.1 Objectives
14.2 Legislation Relating to Child Labour
14.3 Legislation Relating to Untouchability
14.4 Physical and Mental Disabilities
14.5 Answers to Check Your Progress Questions
14.6 Summary
14.7 Key Words
14.8 Self Assessment Questions and Exercises
14.9 Further Readings

14.0 INTRODUCTION

This unit focuses on three aspects: legislations regarding child labour, untouchability and disability. The types of child labour have changed in recent years due to enforcement of legislation, awareness amongst buyers about child exploitation, and international pressure. The key international laws dealing with child labour include the UN Convention on the Rights of the Child 1989 (CRC) and the International Labour Organization (ILO) conventions on the Minimum Age for Admission to Employment of 1973 (ILO Convention 138) and on the Worst Forms of Child Labour of 1999 (ILO Convention 182).

Dalits are at the bottom of the Hindu caste system and despite laws to protect them, they still face widespread discrimination in India.

Disability law refers to laws related to individuals with disabilities; largely, these laws protect disabled individuals from certain kinds of discrimination, particularly regarding employment, housing, education and access to public services.

14.1 OBJECTIVES

After going through this unit, you will be able to:

- Describe the various legislations regarding child labour
- Discuss the laws implemented by protection of civil rights for the untouchables
- Explain some of the chapters of legislations regarding physical and mental disabilities
14.2 LEGISLATION RELATING TO CHILD LABOUR

Over the past two decades India has put in place a range of laws and programmes to address the problem of child labour.

The causes and nature of child labour

The factors that contribute to child labour – including “hazardous” child labour – include the poverty and illiteracy of a child’s parents, the family’s social and economic circumstances, a lack of awareness about the harmful effects of child labour, lack of access to basic and meaningful quality education and skills training, high rates of adult unemployment and under-employment, and the cultural values of the family and surrounding society.

Often children are also bonded to labour due to a family indebtedness. Out of school children (OOSC) or those children at risk of dropping out can easily be drawn into work and more vulnerable to exploitation. Girls, especially those from socially disadvantaged groups, tend to be at a higher risk of being forced into work.

Other reasons for children being forced into work:

- Poverty and a lack of livelihood options lead to a child’s “need” to contribute to the family income,
- Due to conflicts, droughts and other natural disasters, and family indebtedness,
- Rural poverty and urban migration also often exposes children to being trafficked for work.

Children are employed because they are cheap and pliable to the demands of the employer and not aware of their rights. The risks that these children face can have an irreversible physical, psychological and moral impact on their development, health and wellbeing.

Types of child labour: A recent change

The types of child labour have changed in recent years due to enforcement of legislation, awareness amongst buyers about child exploitation, and international pressure. Child labour is now more invisible because the location of the work has changed from the more formal setting of factories, to business owners’ homes. There has also been an increasing involvement of children in the home-based and informal sectors.

Children are engaged in manual work, in domestic work in family homes, in rural labour in the agricultural sector including cotton growing, at glass, match box and brass and lock-making factories, in embroidery, rag-picking, beedi-rolling, in the carpet-making industry, in mining and stone quarrying, brick kilns and tea gardens amongst others.
Work is often gender-specific, with girls performing more domestic and home-based work, while boys are more often employed in wage labour. In general, the workload and duration of the working hours increases as children grow older. Getting accurate, detailed information about children working in different sectors is a major challenge because, in many cases, children work in informal sectors such as agriculture, and in urban settings in restaurants, motor repair workshops and in home-based industries.

Challenges to ending child labour

Child labour is not uniform. It takes many forms depending upon the type of work that children are made to do, the age and sex of the child and whether they work independently or with families. Due to this complex nature of child labour, there is no one strategy that can be used to eliminate it.

Combating child labour requires long term co-ordinated action which involves many stakeholders and the government. This includes educational institutions, mass media, NGOs and community-based organizations as well as trade unions and employers. It is important that the attitudes and mindsets of people are changed to instead employ adults and allow all children to go to school and have the chance to learn, play and socialize as they should.

Education is a key to preventing child labour and has been one of the most successful methods to reduce child workers in India. This includes expanding education access to schooling, improving the quality and relevance of education, addressing violence in schools, providing relevant vocational training and using existing systems to ensure child workers return to school.

India’s 2011 census showed that:

- There were more than 10.2 million “economically active” children in the age group of five to 14 years – 5.6 million boys and 4.5 million girls,
- Eight million children were working in rural areas, and 2 million in urban areas,
- Although in rural settings the number of child workers reduced from 11 million to 8 million between the 2001 and 2011 censuses, over the same period, the number of children working in urban settings rose from 1.3 million to 2 million

The Policy Framework Surrounding Child Labour

The key international laws dealing with child labour include the UN Convention on the Rights of the Child 1989 (CRC) and the International Labour Organization (ILO) conventions on the Minimum Age for Admission to Employment of 1973 (ILO Convention138) and on the Worst Forms of Child Labour of 1999 (ILO Convention182).

India has not ratified either of the two ILO conventions and also made a reservation to article 32 of the CRC at the time of ratification stating that it would
Various other Legislations

apply the article in a progressive manner, according to its national legislation and international commitments, especially in relation to the minimum age.

Related national legislations:

- **Child Labour (Prohibition and Regulation) Act** (1986), “to prohibit the engagement of children in certain employments and to regulate the conditions of work of children in certain other employments” (preamble of the CLPR Act). It excludes a section of toiling children in the unorganized sectors including agriculture, as well as household work.

- **National Policy on Child Labour** (1987), with a focus more on rehabilitation of children working in hazardous occupations and processes, rather than on prevention.

- **Juvenile Justice (Care and Protection of Children) Act** 2000 (the JJ Act) and amendment of the JJ Act in 2006: includes the working child in the category of children in need of care and protection, without any limitation of age or type of occupation. Section 23 (cruelty to Juvenile) and Section 26 (exploitation of juvenile employee) specifically deal with child labour under children in need of care and protection.

- **The Right to Education Act** 2009 has made it mandatory for the state to ensure that all children aged six to 14 years are in school and receive free education. Along with Article 21A of the Constitution of India recognizing education as a fundamental right, this constitutes a timely opportunity to use education to combat child labour in India.

Indian legislation protects children from exploitation:

- The Child Labour Prohibition Act 1986 bans the employment of children below the age of 14 in many professions, such as domestic labour, and in the hospitality trade for example in roadside dhabas (restaurants), restaurants, hotels, motels and spas. It does not ban child labour in agriculture.

- The Right to Education Act 2009 ensures all children 6-14 years have the right to free and compulsory education.

- The Indian Constitution ensures the right of all children 6-14 years to free and compulsory education; prohibits forced labour; prohibits the employment of children below 14 years in hazardous occupations; and promotes policies protecting children from exploitation.

- Whoever employs a child or permits a child to work is punishable with imprisonment from three months to one year or with fine no less than INR 10,000–20,000 rupees or with both.

- The Juvenile Justice (Care and Protection of Children) Act 2000 defines child as being below 18 years of age. Under the Convention on the Rights of the Child (CRC), ratified by India in 1992, all children have
the right to be protected from work that is dangerous, or that might harm children’s health or education.

### 14.3 LEGISLATION RELATING TO UNTOUCHABILITY

The Protection of Civil Rights Act, 1955 (PCR Act), prescribes punishment for practice of untouchability. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (PoA Act), is an Act, inter-alia, to prevent the commission of offences against members of Scheduled Castes and Scheduled Tribes, to provide for special courts for trial of such offences and relief and rehabilitation of victims of such offences. Nevertheless, this Ministry does not administer any statute in regard to development of Scheduled Castes.

As per the data of National Crime Records Bureau, Ministry of Home Affairs, number of Scheduled Castes related cases registered by police, under the PCR and PoA Acts, percentage of cases ending in conviction, acquittal and pendency thereof, during 2008-2010, is indicated in the table below:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of cases registered under:</th>
<th>% of cases disposed of by courts, ending in:</th>
<th>% of cases pending in courts under:</th>
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<td></td>
<td>PCR Act</td>
<td>PoA Act</td>
<td>PCR Act</td>
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<td>248</td>
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<td>2009</td>
<td>168</td>
<td>334</td>
<td>16.7</td>
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<td>2010</td>
<td>143</td>
<td>325</td>
<td>21.7</td>
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It is seen from the above table that whereas the number of such cases registered during 2010 under the two Acts declined vis-à-vis cases registered during 2009, the percentage of disposal of cases, ending in conviction, increased during the corresponding period.

The two Acts are implemented by State Government/Union Territory Administrations, which are provided Central assistance mainly for strengthening of enforcement and judicial machinery, publicity and awareness generation, relief amount to the victims of atrocities etc. This Ministry has been addressing them to implement provisions of the two Acts in letter and spirit, with specific emphasis on setting up of exclusive special courts for speedy trial of cases, sensitization of investigating officers, mass awareness programmes, review of cases ending in acquittal. Ministry of Home Affairs has also been advising them, inter-alia, regarding steps that need to be taken to afford a greater measure of protection to SCs and STs.

A Committee under the Chairpersonship of Union Minister for Social Justice & Empowerment which was constituted in the year 2006, also reviews
implementation of the two Acts in State/UTs. The Committee has so far
held seventeen meetings wherein implementation of the two Acts in 24 States and 4 Union Territories has been reviewed.

14.4 PHYSICAL AND MENTAL DISABILITIES

Let us analyse the legislation regarding physical and mental disabilities.

The Rights of Persons with Disabilities Act, 2016

An Act to give effect to the United Nations Convention on the Rights of Persons with Disabilities and for matters connected therewith or incidental thereto.

WHEREAS the United Nations General Assembly adopted its Convention on the Rights of Persons with Disabilities on the 13th day of December, 2006;

AND WHEREAS the aforesaid Convention lays down the following principles for empowerment of persons with disabilities:

(a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
(b) non-discrimination;
(c) full and effective participation and inclusion in society;
(d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
(e) equality of opportunity;
(f) accessibility;
(g) equality between men and women;
(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

AND WHEREAS India is a signatory to the said Convention;

AND WHEREAS India ratified the said Convention on the 1st day of October, 2007;

AND WHEREAS it is considered necessary to implement the Convention aforesaid.

BE it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows:

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Rights of Persons with Disabilities Act, 2016.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
2. In this Act, unless the context otherwise requires,—

(a) “appellate authority” means an authority notified under sub-section (3) of section 14 or sub-section (1) of section 53 or designated under sub-section (1) of section 59, as the case may be;

(b) “appropriate Government” means,—

(i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government;

(ii) in relation to a State Government or any establishment, wholly or substantially financed by that Government, or any local authority, other than a Cantonment Board, the State Government.

(c) “barrier” means any factor including communicational, cultural, economic, environmental, institutional, political, social, attitudinal or structural factors which hampers the full and effective participation of persons with disabilities in society;

(d) “care-giver” means any person including parents and other family Members who with or without payment provides care, support or assistance to a person with disability;

(e) “certifying authority” means an authority designated under sub-section (1) of section 57;

(f) “communication” includes means and formats of communication, languages, display of text, Braille, tactile communication, signs, large print, accessible multimedia, written, audio, video, visual displays, sign language, plain-language, human-reader, augmentative and alternative modes and accessible information and communication technology;

(g) “competent authority” means an authority appointed under section 49;

(h) “discrimination” in relation to disability, means any distinction, exclusion, restriction on the basis of disability which is the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise on an equal basis with others of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field and includes all forms of discrimination and denial of reasonable accommodation;

(i) “establishment” includes a Government establishment and private establishment;

(j) “Fund” means the National Fund constituted under section 86;

(k) “Government establishment” means a corporation established by or under a Central Act or State Act or an authority or a body owned or
controlled or aided by the Government or a local authority or a Government company as defined in section 2 of the Companies Act, 2013 and includes a Department of the Government;

(i) “high support” means an intensive support, physical, psychological and otherwise, which may be required by a person with benchmark disability for daily activities, to take independent and informed decision to access facilities and participating in all areas of life including education, employment, family and community life and treatment and therapy;

(m) “inclusive education” means a system of education wherein students with and without disability learn together and the system of teaching and learning is suitably adapted to meet the learning needs of different types of students with disabilities;

(n) “information and communication technology” includes all services and innovations relating to information and communication, including telecom services, web based services, electronic and print services, digital and virtual services;

(o) “institution” means an institution for the reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities;

(p) “local authority” means a Municipality or a Panchayat, as defined in clause (e) and clause (f) of article 243P of the Constitution; a Cantonment Board constituted under the Cantonments Act, 2006; and any other authority established under an Act of Parliament or a State Legislature to administer the civic affairs;

(q) “notification” means a notification published in the Official Gazette and the expression “notify” or “notified” shall be construed accordingly;

(r) “person with benchmark disability” means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;

(s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others;

(t) “person with disability having high support needs” means a person with benchmark disability certified under clause (a) of sub-section (2) of section 58 who needs high support;

(u) “prescribed” means prescribed by rules made under this Act;
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(v) “private establishment” means a company, firm, cooperative or other society, associations, trust, agency, institution, organisation, union, factory or such other establishment as the appropriate Government may, by notification, specify;

(w) “public building” means a Government or private building, used or accessed by the public at large, including a building used for educational or vocational purposes, workplace, commercial activities, public utilities, religious, cultural, leisure or recreational activities, medical or health services, law enforcement agencies, reformatories or judicial foras, railway stations or platforms, roadways bus stands or terminus, airports or waterways;

(x) “public facilities and services” includes all forms of delivery of services to the public at large, including housing, educational and vocational trainings, employment and career advancement, shopping or marketing, religious, cultural, leisure or recreational, medical, health and rehabilitation, banking, finance and insurance, communication, postal and information, access to justice, public utilities, transportation;

(y) “reasonable accommodation” means necessary and appropriate modification and adjustments, without imposing a disproportionate or undue burden in a particular case, to ensure to persons with disabilities the enjoyment or exercise of rights equally with others;

(z) “registered organisation” means an association of persons with disabilities or a disabled person organisation, association of parents of persons with disabilities, association of persons with disabilities and family members, or a voluntary or non-governmental or charitable organisation or trust, society, or non-profit company working for the welfare of the persons with disabilities, duly registered under an Act of Parliament or a State Legislature; (za) “rehabilitation” refers to a process aimed at enabling persons with disabilities to attain and maintain optimal, physical, sensory, intellectual, psychological environmental or social function levels;

(zb) “Special Employment Exchange” means any office or place established and maintained by the Government for the collection and furnishing of information, either by keeping of registers or otherwise, regarding—

(i) persons who seek to engage employees from amongst the persons with disabilities;

(ii) persons with benchmark disability who seek employment;

(iii) vacancies to which persons with benchmark disabilities seeking employment may be appointed;

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(zc) “specified disability” means the disabilities as specified in the Schedule;
 zd) “transportation systems” includes road transport, rail transport, air transport, water transport, para transit systems for the last mile connectivity, road and street infrastructure, etc.;
 (ze) “universal design” means the design of products, environments, programmes and services to be usable by all people to the greatest extent possible, without the need for adaptation or specialised design and shall apply to assistive devices including advanced technologies for particular group of persons with disabilities.

Rights and Entitlements

3. (1) The appropriate Government shall ensure that the persons with disabilities enjoy the right to equality, life with dignity and respect for his or her integrity equally with others.
   (2) The appropriate Government shall take steps to utilise the capacity of persons with disabilities by providing appropriate environment.
   (3) No person with disability shall be discriminated on the ground of disability, unless it is shown that the impugned act or omission is a proportionate means of achieving a legitimate aim.
   (4) No person shall be deprived of his or her personal liberty only on the ground of disability.
   (5) The appropriate Government shall take necessary steps to ensure reasonable accommodation for persons with disabilities.

4. (1) The appropriate Government and the local authorities shall take measures to ensure that the women and children with disabilities enjoy their rights equally with others.
   (2) The appropriate Government and local authorities shall ensure that all children with disabilities shall have right on an equal basis to freely express their views on all matters affecting them and provide them appropriate support keeping in view their age and disability.

5. (1) The persons with disabilities shall have the right to live in the community.
   (2) The appropriate Government shall endeavour that the persons with disabilities are,—
       (a) not obliged to live in any particular living arrangement; and
       (b) given access to a range of in-house, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender.

6. (1) The appropriate Government shall take measures to protect persons with disabilities from being subjected to torture, cruel, inhuman or degrading treatment.
(2) No person with disability shall be a subject of any research without,—
(i) his or her free and informed consent obtained through accessible modes,
means and formats of communication; and
(ii) prior permission of a Committee for Research on Disability constituted
in the prescribed manner for the purpose by the appropriate
Government in which not less than half of the Members shall themselves
be either persons with disabilities or Members of the registered
organisation as defined under clause (2) of section 2.

7. (1) The appropriate Government shall take measures to protect persons
with disabilities from all forms of abuse, violence and exploitation and to
prevent the same, shall—
(a) take cognizance of incidents of abuse, violence and exploitation and
provide legal remedies available against such incidents;
(b) take steps for avoiding such incidents and prescribe the procedure for
its reporting;
(c) take steps to rescue, protect and rehabilitate victims of such incidents; and
(d) create awareness and make available information among the public.
(2) Any person or registered organisation who or which has reason to believe
that an act of abuse, violence or exploitation has been, or is being, or is
likely to be committed against any person with disability, may give information
about it to the Executive Magistrate within the local limits of whose jurisdiction
such incidents occur.
(3) The Executive Magistrate on receipt of such information, shall take
immediate steps to stop or prevent its occurrence, as the case may be, or
pass such order as he deems fit for the protection of such person with
disability including an order—
(a) to rescue the victim of such act, authorising the police or any organisation
working for persons with disabilities to provide for the safe custody
or rehabilitation of such person, or both, as the case may be;
(b) for providing protective custody to the person with disability, if such
person so desires;
(c) to provide maintenance to such person with disability.
(4) Any police officer who receives a complaint or otherwise comes to
know of abuse, violence or exploitation towards any person with disability
shall inform the aggrieved person of—
• Women and children with disabilities.
• Community life.
• Protection from cruelty and inhuman treatment.
• Protection from abuse, violence and exploitation.
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(a) his or her right to apply for protection under sub-section (2) and the particulars of the Executive Magistrate having jurisdiction to provide assistance;

(b) the particulars of the nearest organisation or institution working for the rehabilitation of persons with disabilities;

(c) the right to free legal aid; and

(d) the right to file a complaint under the provisions of this Act or any other law dealing with such offence.

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

(5) If the Executive Magistrate finds that the alleged act or behaviour constitutes an offence under the Indian Penal Code, or under any other law for the time being in force, he may forward the complaint to that effect to the Judicial or Metropolitan Magistrate, as the case may be, having jurisdiction in the matter.

8. (1) The persons with disabilities shall have equal protection and safety in situations of risk, armed conflict, humanitarian emergencies and natural disasters.

(2) The National Disaster Management Authority and the State Disaster Management Authority shall take appropriate measures to ensure inclusion of persons with disabilities in its disaster management activities as defined under clause (e) of section 2 of the Disaster Management Act, 2005 for the safety and protection of persons with disabilities.

(3) The District Disaster Management Authority constituted under section 25 of the Disaster Management Act, 2005 shall maintain record of details of persons with disabilities in the district and take suitable measures to inform such persons of any situations of risk so as to enhance disaster preparedness.

(4) The authorities engaged in reconstruction activities subsequent to any situation of risk, armed conflict or natural disasters shall undertake such activities, in consultation with the concerned State Commissioner, in accordance with the accessibility requirements of persons with disabilities.

9. (1) No child with disability shall be separated from his or her parents on the ground of disability except on an order of competent court, if required, in the best interest of the child.
Where the parents are unable to take care of a child with disability, the competent court shall place such child with his or her near relations, and failing that within the community in a family setting or in exceptional cases in shelter home run by the appropriate Government or non-governmental organisation, as may be required.

10. (1) The appropriate Government shall ensure that persons with disabilities have access to appropriate information regarding reproductive and family planning.

(2) No person with disability shall be subject to any medical procedure which leads to infertility without his or her free and informed consent.

11. The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.

12. (1) The appropriate Government shall ensure that persons with disabilities are able to exercise the right to access any court, tribunal, authority, commission or any other body having judicial or quasi-judicial or investigative powers without discrimination on the basis of disability.

(2) The appropriate Government shall take steps to put in place suitable support measures for persons with disabilities specially those living outside family and those disabled requiring high support for exercising legal rights.

(3) The National Legal Services Authority and the State Legal Services Authorities constituted under the Legal Services Authorities Act, 1987 shall make provisions including reasonable accommodation to ensure that persons with disabilities have access to any scheme, programme, facility or service offered by them equally with others.

(4) The appropriate Government shall take steps to—

(a) ensure that all their public documents are in accessible formats;

(b) ensure that the filing departments, registry or any other office of records are supplied with necessary equipment to enable filing, storing and referring to the documents and evidence in accessible formats; and

(c) make available all necessary facilities and equipment to facilitate recording of testimonies, arguments or opinion given by persons with disabilities in their preferred language and means of communication.

13. (1) The appropriate Government shall ensure that the persons with disabilities have right, equally with others, to own or inherit property, movable or immovable, control their financial affairs and have access to bank loans, mortgages and other forms of financial credit.

(2) The appropriate Government shall ensure that the persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life and
have the right to equal recognition everywhere as any other person before the law.

(3) When a conflict of interest arises between a person providing support and a person with disability in a particular financial, property or other economic transaction, then such supporting person shall abstain from providing support to the person with disability in that transaction:

Provided that there shall not be a presumption of conflict of interest just on the basis that the supporting person is related to the person with disability by blood, affinity or adoption.

(4) A person with disability may alter, modify or dismantle any support arrangement and seek the support of another:

Provided that such alteration, modification or dismantling shall be prospective in nature and shall not nullify any third party transaction entered into by the person with disability with the aforesaid support arrangement.

(5) Any person providing support to the person with disability shall not exercise undue influence and shall respect his or her autonomy, dignity and privacy.

(1) Notwithstanding anything contained in any other law for the time being in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the State Government:

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

Explanation.—For the purposes of this sub-section, “limited guardianship” means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.
Any person with disability aggrieved by the decision of the designated authority appointing a legal guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose.

15. (1) The appropriate Government shall designate one or more authorities to mobilise the community and create social awareness to support persons with disabilities in exercise of their legal capacity.

(2) The authority designated under sub-section (1) shall take measures for setting up suitable support arrangements to exercise legal capacity by persons with disabilities living in institutions and those with high support needs and any other measures as may be required.

Check Your Progress

1. What are the factors that contribute to child labour?
2. What are the principles for empowerment of persons with disabilities laid down by the Convention on the Rights of Persons with Disabilities?

14.5 ANSWERS TO CHECK YOUR PROGRESS QUESTIONS

1. The factors that contribute to child labour – including “hazardous” child labour – include the poverty and illiteracy of a child’s parents, the family’s social and economic circumstances, a lack of awareness about the harmful effects of child labour, lack of access to basic and meaningful quality education and skills training, high rates of adult unemployment and underemployment, and the cultural values of the family and surrounding society.

2. The Convention on the rights of persons with disabilities lays down the following principles for empowerment of persons with disabilities:
   (a) respect for inherent dignity, individual autonomy including the freedom to make one’s own choices, and independence of persons;
   (b) non-discrimination;
   (c) full and effective participation and inclusion in society;
   (d) respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
   (e) equality of opportunity;
   (f) accessibility;
   (g) equality between men and women;
Various other Legislations

(h) respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities;

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14.6 SUMMARY

- The factors that contribute to child labour – including “hazardous” child labour – include the poverty and illiteracy of a child’s parents, the family’s social and economic circumstances, a lack of awareness about the harmful effects of child labour, lack of access to basic and meaningful quality education and skills training, high rates of adult unemployment and underemployment, and the cultural values of the family and surrounding society.

- Children are employed because they are cheap and pliable to the demands of the employer and not aware of their rights. The risks that these children face can have an irreversible physical, psychological and moral impact on their development, health and wellbeing.

- The types of child labour have changed in recent years due to enforcement of legislation, awareness amongst buyers about child exploitation, and international pressure. Child labour is now more invisible because the location of the work has changed from the more formal setting of factories, to business owners’ homes.

- There has also been an increasing involvement of children in the home-based and informal sectors.

- Child labour is not uniform. It takes many forms depending upon the type of work that children are made to do, the age and sex of the child and whether they work independently or with families. Due to this complex nature of child labour, there is no one strategy that can be used to eliminate it.

- Education is a key to preventing child labour and has been one of the most successful methods to reduce child workers in India.

- This includes expanding education access to schooling, improving the quality and relevance of education, addressing violence in schools, providing relevant vocational training and using existing systems to ensure child workers return to school.

- India has not ratified either of the two ILO conventions and also made a reservation to article 32 of the CRC at the time of ratification stating that it would apply the article in a progressive manner, according to its national legislation and international commitments, especially in relation to the minimum age.
• The Protection of Civil Rights Act, 1955 (PCR Act), prescribes punishment for practice of untouchability. The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989, (PoA Act), is an Act, inter-alia, to prevent the commission of offences against members of Scheduled Castes and Scheduled Tribes, to provide for special courts for trial of such offences and relief and rehabilitation of victims of such offences. Nevertheless, this Ministry does not administer any statute in regard to development of Scheduled Castes.

14.7 KEY WORDS

• The United Nations Convention on the Rights of the Child: It is a human rights treaty which sets out the civil, political, economic, social, health and cultural rights of children.

• Juvenile Justice (Care and Protection of Children) Act, 2015: It provides for strengthened provisions for both children in need of care and protection and children in conflict with law.

14.8 SELF ASSESSMENT QUESTIONS AND EXERCISES

Short Answer Questions

1. State the causes and nature of child labour.
2. What are the different types of child labour?
3. Comment on the Indian legislation that protects children from exploitation.

Long Answer Questions

1. Analyse the policy framework surrounding child labour.
2. Describe the various legislations regarding child labour.
3. Discuss the inclusions of the Rights of Persons with Disabilities Act, 2016.

14.9 FURTHER READINGS


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