1. INTRODUCTION

This sub unit gives a detailed description about the evolution and development of Public Interest Litigation (PIL) in India. This sub unit covers the meaning and concept of PIL, followed by the evolution, growth and development of PIL, types of PIL and finally the overview of the landmark judgments which has led to the development of PIL. Since amendment of the law is a time-consuming process, the burden falls on the judiciary to mould the law to ensure its relevance in a changing scenario. These days the judiciary is the deciding authority in various fronts. There are some who believe that the wide jurisdiction exercised by the courts in matters of public interest transgresses the traditional doctrine of separation of powers. They hold the view that the role of a judge is only to interpret and declare the law and not make it. One of the possible reasons why there is this conception about the role of the judiciary was highlighted by Justice Michel Kirby from Australia, thus:

“Simply put, judicial activism depicts the pro-active role played by the judiciary in ensuring that rights and liberties of citizens are protected. Through judicial activism, the court moves beyond its normal role of a mere adjudicator of disputes and becomes a player in the system of the country, laying down principles and guidelines that the executive must carry out. In performing its activist role the court is required to display fine balancing skills. While protecting the fundamental human rights of the people, the judiciary must take care to ensure that its orders are capable of execution, for no amount of judicial activism is useful if its orders are incapable of execution; they then remain “paper tigers” only.”
The concept of PIL which has been and is being fostered by judicial activism has been an increasingly important one setting up valuables and respectable records, especially in the arena of constitutional and legal treatment for “unrepresentative and under-represented”. Judicial activism necessary to make the ideals enshrined in the constitution meaningful and reality.

2. OBJECTIVES

The main purpose of the sub unit is to highlight the importance of PIL in India in protecting and promoting the interests of the marginalized and weaker sections of the society. PIL is a legal weapon, a strong judicial tool by which the justice is administered in a quick and effective way. After going through this Unit you will be able to

- understand the concept of judicial activism and its implications
- study various landmark judgments pertaining to PIL
- compare different views of courts in different judgments

3. CONTENTS

3.1 MEANING AND CONCEPT OF PIL

- "Public interest Litigation", in simple words, means, litigation filed in a court of law, for the protection of "Public Interest" (nebulous entity), such as pollution, Terrorism, Road safety, constructional hazards etc.
- Article 32 of the Indian Constitution contains the tool which directly joins the public with the judiciary. Public Interest Litigation is not defined in any statute or in any act. It has been interpreted by judges to consider the intent of public at large.
• Although, the main and only focus of such litigation is only "Public Interest" there are various areas where a PIL can be filed. It is litigation which can be introduced in a court of law, not only by the aggrieved party but also by the court itself (suomoto) or by any other private party.

“Public Interest Litigation means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.”

In the case of People’s Union for Democratic Rights v. Union of India, it was held that “Public Interest Litigation which is a strategic arm of the legal aid movement and which is intended to bring justice within the reach of the poor masses, who constitute the low visibility area of humanity, is a totally different kind of litigation from the ordinary traditional litigation which is essentially of an adversary character where there is a dispute between two parties, one making a claim or seeing relief against the other and that other opposing such claim or relief. Public interest litigation is brought before the court not for the purpose of enforcing the right of one individual against another as happens in the case of ordinary litigation, but it is intended to promote and vindicate public interest which demands that violations of constitutional or legal rights of large numbers of people who are poor, ignorant or in a socially or economically disadvantaged position should not go unnoticed and un-redressed. That would be destructive of the Rule of Law which forms one of the essential elements of public interest in any democratic form of government. The Rule of Law does not mean that the protection of the law must be available only to a fortunate few or that the law should be allowed to be prostituted by the vested interests for protecting and upholding the status quo under the guise of enforcement of their civil and political rights. The poor too have civil and
political rights and the Rule of Law is meant for them also, though today it exists only on paper and not in reality.”

3.2 HISTORY OF PIL IN INDIA

A. ORIGIN AND EVOLUTION OF PIL

The term "PIL" originated in the United States in the mid-1980s. Since the nineteenth century, various movements in that country had contributed to public interest law, which was part of the legal aid movement. The first legal aid office was established in New York in 1876. In the 1960s the PIL movement began to receive financial support from the office of Economic Opportunity. This encouraged lawyers and public spirited persons to take up cases of the underprivileged and fight against dangers to environment and public health and exploitation of consumers and the weaker sections.

The origin and evolution of Public Interest Litigation in India emanated from realization of constitutional obligation by the Judiciary towards the vast sections of the society - the poor and the marginalized sections of the society. Prior to 1980s the aggrieved party could personally knock the doors of justice and seek remedy for his grievance and any other person who was not personally affected could not knock the doors of justice as a proxy for the victim or the aggrieved party. In other words, only the affected parties had the *locus standi* (standing required in law) to file a case and continue the litigation and the non-affected persons had no *locus standi* to do so. And as a result, there was hardly any link between the rights guaranteed by the Constitution of Indian Union and the laws made by the legislature on the one hand and the vast majority of illiterate citizens on the other.

If the cases of the decades of 70s and 80s are analysed it can be observed that PIL had begun in India towards the end of 1970s and came into full bloom in the 80s since most of the public interest litigation cases which were entertained by the
courts were pertaining to enforcement of fundamental rights of marginalized and deprived sections of the society. This can be termed as the first phase of the public interest litigation in India. The scenario gradually changed when the post emergency Supreme Court tackled the problem of access to justice by people through radical changes and alterations made in the requirements of locus standi and of party aggrieved. The splendid efforts of Justice P N Bhagwati and Justice V R Krishna Iyer were instrumental of this juristic revolution of eighties to convert the Apex Court of India into a Supreme Court for all Indians.

Justice V. R. Krishna Iyer and P. N. Bhagwati recognised the possibility of providing access to justice to the poor and the exploited people by relaxing the rules of standing. In the post-emergency period when the political situations had changed, investigative journalism also began to expose gory scenes of governmental lawlessness, repression, custodial violence, drawing attention of lawyers, judges, and social activists. PIL emerged as a result of an informal nexus of pro-active judges, media persons and social activists. This trend shows stark difference between the traditional justice delivery system and the modern informal justice system where the judiciary is performing administrative judicial role. PIL is necessary rejection of laissez faire notions of traditional jurisprudence.

The first reported case of PIL in 1979 focused on the inhuman conditions of prisons and under trial prisoners. In HussainaraKhatoon v. State of Bihar, the PIL was filed by an advocate on the basis of the news item published in the Indian Express, highlighting the plight of thousands of undertrial prisoners languishing in various jails in Bihar. These proceeding led to the release of more than 40,000 undertrial prisoners. Right to speedy justice emerged as a basic fundamental right which had been denied to these prisoners. The same set pattern was adopted in subsequent cases.

B. DEVELOPMENT OF PIL
A new era of the PIL movement was heralded by Justice P.N. Bhagawati in the case of S.P. Gupta v. Union of India. In this case it was held that “any member of the public or social action group acting bonafide” can invoke the Writ Jurisdiction of the High Courts or the Supreme Court seeking redressal against violation of a legal or constitutional rights of persons who due to social or economic or any other disability cannot approach the Court. By this judgment PIL became a potent weapon for the enforcement of “public duties” where executed in action or misdeed resulted in public injury. And as a result any citizen of India or any consumer groups or social action groups can now approach the apex court of the country seeking legal remedies in all cases where the interests of general public or a section of public are at stake.

It can be evidently seen that the development of public interest litigation has been extremely significant development in the history of the Indian jurisprudence. The decisions of the Supreme Court in the 1970's loosened the strict *locus standi* requirements to permit filing of petitions on behalf of marginalized and deprived sections of the society by public spirited individuals, institutions and/or bodies. The higher Courts exercised wide powers given to them under Articles 32 and 226 of the Constitution. The sort of remedies sought from the courts in the public interest litigation goes beyond award of remedies to the affected individuals and groups. In suitable cases, the courts have also given guidelines and directions. The courts have monitored implementation of legislation and even formulated guidelines in absence of legislation.

3.3. **TYPES OF PIL**
Subjects of Public Interest Litigation: Public Interest Litigation is meant for enforcement of fundamental and other legal rights of the people who are poor, weak, ignorant of legal redressal system or otherwise in a disadvantageous position, due to their social or economic background. Such litigation can be initiated only for redressal of a public injury, enforcement of a public duty or vindicating interest of public nature. It is necessary that the petition is not filed for personal gain or private motive or for other extraneous consideration and is filed bona fide in public interest.

The following are the subjects which may be litigated under the head of Public Interest Litigation:

- (i) bonded labour matters
- (ii) matters of neglected children
- (iii) exploitation of casual labourers and non-payment of wages to them (except in individual cases)
- (iv) matters of harassment or torture of persons belonging to Scheduled Castes, Scheduled Tribes and Economically Backward Classes, either by co-villagers or by police
- (v) matters relating to environmental pollution, disturbance of ecological balance, drugs, food adulteration, maintenance of heritage and culture, antiques, forests and wild life
- (vi) petitions from riot victims

Matters of Private Nature:

- (i) threat to or harassment of the petitioner by private persons, (ii) seeking enquiry by an agency other than local police, (iii) seeking police protection, (iv) landlordtenant dispute (v) service matters, (vi) admission to medical or engineering colleges, (vii) early hearing of matters pending in High Court and subordinate courts and are not considered matters of public interest.

Letter Petitions:

- Petitions received by post even though not in public interest can be treated as writ petitions if so directed by the Hon’ble Judge nominated for this purpose. Individual petitions complaining harassment or torture or death in jail or by police, complaints of atrocities on women such as harassment for dowry, bride burning, rape, murder and kidnapping, complaints relating to family pensions and complaints of refusal by police to register the case can be registered as writ petitions, if so approved by the concerned Hon’ble Judge. If deemed expedient, a report from the concerned authority is called before placing the matter before the Hon’ble Judge for directions. If so directed by the Hon’ble Judge, the letter is registered as a writ petition and is thereafter listed before the Court for hearing.

The Writ Jurisdiction of Supreme Court can be invoked under Article 32 of the Constitution for the violation of fundamental rights guaranteed under Part – III of the Constitution. Any provision in any Constitution for Fundamental Rights is meaningless unless there are adequate safeguards to ensure enforcement of such
provisions. Indian Constitution, like most of Western Constitutions, lays down certain provisions to ensure the enforcement of Fundamental Rights.

(a) The Fundamental Rights provided in the Indian Constitution are guaranteed against any executive and legislative actions. Any executive or legislative action, which infringes upon the Fundamental Rights of any person or any group of persons, can be declared as void by the Courts under Article 13 of the Constitution.

(b) In addition, the Judiciary has the power to issue the prerogative writs. These are the extra-ordinary remedies provided to the citizens to get their rights enforced against any authority in the State. These writs are - Habeas corpus, Mandamus, Prohibition, Certiorari and Quo-warranto. Both, High Courts as well as the Supreme Court may issue the writs.

(c) The Fundamental Rights provided to the citizens by the Constitution cannot be suspended by the State, except during the period of emergency, as laid down in Article 359 of the Constitution. A Fundamental Right may also be enforced by way of normal legal procedures including a declaratory suit or by way of defence to legal proceedings.

ARTICLE 32: A CONSTITUTIONAL REMEDY

Dr.B.R.Ambedkar described Article 32 as the most important one, without which the Constitution would be reduced to nullity. It is also referred to as the heart and soul of the Constitution. By including Article 32 in the Fundamental Rights, the Supreme Court has been made the protector and guarantor of these Rights. An application made under Article 32 of the Constitution before the Supreme Court, cannot be refused on technical grounds. In addition to the prescribed five types of writs, the Supreme Court may pass any other appropriate order. Moreover, only the questions pertaining to the Fundamental Rights can be determined in proceedings against Article 32. Under Article 32, the Supreme Court may issue a Writ against any person or government within the territory of India. Where the infringement of a Fundamental Right has been established, the Supreme Court cannot refuse relief on the ground that the aggrieved person may have remedy before some other court or under the ordinary law.

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<tr>
<th>Habeas Corpus:</th>
<th>Mandamus:</th>
<th>Quo-Warranto:</th>
<th>Prohibition</th>
<th>Certiorari</th>
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<th>It is the most valuable writ for personal liberty. Habeas Corpus means, &quot;Let us have the body.&quot; A person, when arrested, can move the Court for the issue of Habeas Corpus. It is an order by a Court to the detaining authority to produce the arrested person before it so that it may examine whether the person has been detained lawfully or otherwise.</th>
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<td>Mandamus is a Latin word, which means &quot;We Command&quot;. Mandamus is an order from a superior court to a lower court or tribunal or public authority to perform an act, which falls within its duty. It is issued to secure the performance of public duties and to enforce private rights withheld by the public authorities.</td>
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<td>The word Quo-Warranto literally means &quot;by what warrants?&quot; It is a writ issued with a view to restraining a person from acting in a public office to which he is not entitled. The Writ of quo-warranto is used to prevent illegal assumption of any public office or usurpation of any public office by anybody.</td>
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<td>Writ of prohibition means to forbid or to stop and it is popularly known as 'Stay Order'. This Writ is issued when a lower court or a body tries to transgress the limits or powers vested in it. It is a Writ issued by a superior court to lower court or a tribunal forbidding it to perform an act outside its jurisdiction. After the issue of this Writ proceedings in the lower court etc. come to a stop.</td>
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<td>Literally, Certiorari means to be certified. The Writ of Certiorari is issued by the Supreme Court to some inferior court or tribunal to transfer the matter to it or to some other superior authority for proper consideration. The Writ of Certiorari can be issued by the Supreme Court or any High Court for quashing the order already passed by an inferior court.</td>
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3.4 **MERITS & DE-MERITS**

**Merits:**

1. In Public Interest Litigation (PIL) vigilant citizens of the country can find an inexpensive legal remedy because there is only a nominal fixed court fee involved in this.

2. Further, through the so-called PIL, the litigants can focus attention on and achieve results pertaining to larger public issues, especially in the fields of human rights, consumer welfare and environment.

**Demerits:**

1. The genuine causes and cases of public interest have in fact receded to the background and irresponsible PIL activists all over the country have started to play a major but not a constructive role in the arena of litigation. Of late, many of the PIL activists in the country have found the PIL as a handy tool of harassment since frivolous cases could be filed without investment of heavy court fees as required in private civil litigation and deals could then be negotiated with the victims of stay orders obtained in the so-called PILs.

2. The framers of Indian constitution did not incorporate a strict doctrine of separation of powers but envisaged a system of checks and balances. Policy making and implementation of policy are conventionally regarding as the exclusive domain of the executive and the legislature. Vishaka v State of Rajasthan which was a PIL concerning sexual harassment of women at work place. The court declared that till the legislature enacted a law consistent with the convention on the Elimination of All Forms of Discrimination Against Women which India was a signatory, the guidelines set out by the court would be enforceable.
3. The flexibility of procedure that is a character of PIL has given rise to another set of problems. It gives an opportunity to opposite parties to ascertain the precise allegation and respond specific issues.

4. The credibility of PIL process is now adversely affected by the criticism that the judiciary is overstepping the boundaries of its jurisdiction and that it is unable to supervise the effective implementation of its orders. It has also been increasingly felt that PIL is being misused by the people agitating for private grievance in the grab of public interest and seeking publicity rather than espousing public cause.

3.5 HOW TO FILE A PIL?

A "Public Interest Litigation", is filed in the same manner, as a writ petition is filed.

**In High Court:** If a Public Interest Litigation is filed in a High court, then two (2) copies of the petition have to be filed. Also, an advance copy of the petition has to be served on the each respondent, i.e. opposite party, and this proof of service has to be affixed on the petition.

**In Supreme Court:** If a Public Interest Litigation is filed in the Supreme court, then (4)+(1) (i.e. 5) sets of petition has to be filed opposite party is served, the copy only when notice is issued.

**Court Fees:** A Court fee of RS. 50, per respondent (i.e. for each number of opposite party, court fees of RS. 50) has to be affixed on the petition.

**Procedure**
• Proceedings, in the PUBLIC INTEREST LITIGATION commence and carry on in the same manner, as other cases.

• However, in between the proceedings if the judge feels he may appoint a commissioner, to inspect allegations like pollution being caused, trees being cut, sewer problems, etc.

• After filing of replies, by opposite party, and rejoinder by the petitioner, final hearing takes place, and the judge gives his final decision.

3.6 OVERVIEW OF LANDMARK JUDGMENTS


The court now permits Public Interest Litigation or Social Interest Litigation at the instance of “Public spirited citizens" for the enforcement of constitutional & legal rights of any person or group of persons who because of their socially or economically disadvantaged position are unable to approach court for relief. Public interest litigation is a part of the process of participate justice and standing in civil litigation of that pattern must have liberal reception at the judicial door steps.

2. In the Judges Transfer Case - AIR 1982, SC 149.

Court held Public Interest Litigation can be filed by any member of public having sufficient interest for public injury arising from violation of legal rights so as to get judicial redress. This is absolutely necessary for maintaining Rule of law and accelerating the balance between law and justice.
It is a settled law that when a person approaches the court of equity in exercise of extraordinary jurisdiction, he should approach the court not only with clean hands but with clean mind, heart and with clean objectives.

3. **Shiram Food & Fertilizer case AIR (1986) 2 SCC 176 SC**

Public Interest Litigation directed the Co. Manufacturing hazardous & lethal chemical and gases posing danger to life and health of workmen & to take all necessary safety measures before re-opening the plant.

4. **In the case of M.C Mehta V. Union of India (1988) 1 SCC 471 –**

In Public Interest Litigation brought against Ganga water pollution so as to prevent any further pollution of Ganga water. Supreme court held that petitioner although not a riparian owner is entitled to move the court for the enforcement of statutory provisions, as he is the person interested in protecting the lives of the people who make use of Ganga water.

5. **ParmanandKatara V. Union of India - AIR 1989, SC 2039 :-**

Supreme Court held in the Public Interest Litigation filed by a human right activist fighting for general public interest that it is a paramount obligation of every member of medical profession to give medical aid to every injured citizen as soon as possible without waiting for any procedural formalities.

6. **Council For Environment Legal Action V. Union Of India - (1996)5 SCC 281:**

Public Interest Litigation filed by registered voluntary organisation regarding economic degradation in coastal area. Supreme Court issued appropriate orders and directions for enforcing the laws to protect ecology.A report entitled "Treat Prisoners Equally HC" published in THE TRIBUNE, Aug 23 Punjab & Haryana
High Court quashed the provisions of jail manual dividing prisoners into A, B & C classes after holding that there cannot be any classification of convicts on the basis of their social status, education or habit of living. This is a remarkable ruling given by High Court by declaring 576-A paragraph of the manual to be "Unconstitutional".

7. **State V. Union Of India - AIR 1996 Cal 181 at 218:**

Public Interest Litigation is a strategic arm of the legal aid movement which intended to bring justice. Rule of Law does not mean that the Protection of the law must be available only to a fortunate few or that the law should be allowed to be abused and misused by the vested interest. In a recent ruling of Supreme Court on "GROWTH OF SLUMS" in Delhi through Public Interest Litigation initiated by lawyers Mr. B.L. Wadhera & Mr. Almitra Patel Court held that large area of public land is covered by the people living in slum area. Departments despite being giving a dig on the slum clearance, it has been found that more and more slums are coming into existence. Instead of "Slum Clearance", there is "Slum Creation" in Delhi. As slums tended to increase; the Court directed the departments to take appropriate action to check the growth of slums and to create an environment worth for living.

8. **Devika Biswas V Union of India**

The matter of Devika Biswas V Union of India WP(C) 95 of 2012 was listed before the chief justice on 8th May, 2014. In the state of Rajasthan, study on camp conditions in Bundi District it was found that Only 12% of women had been counselled about other forms of contraception; 42% not counselled about permanency of sterilization; 88% not informed about complications, side-effects or failures. 58% women experienced at least one adverse side effect.
Consent forms not read out or explained. Only three of the 11 mandatory preliminary physical examinations were conducted on the women prior to the procedure. 1/3 of insurance claims from sterilization failures came from Rajasthan – less than 1/3 of the claims had been paid.

9. Shyamsunder & Ors. Vs Govt of NCT of Delhi & Ors., WP (c) 6967/2013

NOVEMBER 2013, NEW DELHI

In August 2013 the late Kamlesh went to Sanjay Gandhi Memorial Hospital (SGMH) for delivery. During her pregnancy, Kamlesh went for regular antenatal check-ups. However, she did not have the assistance of a field level health worker (ASHA) or access to government benefit schemes for pregnant women. Although Kamlesh had recorded mild to severe anemia during her pregnancy, health workers at SGMH never flagged this risk factor for dangerous deliveries.

Kamlesh delivered a healthy baby boy on 6th August 2013. After 2.5 hours of delivery the hospital staff told the family that Kamlesh had developed an infection that caused post-partum hemorrhage. The hospital had to perform a hysterectomy (uterus removal) to stop the bleeding. After her operation, the hospital staff refused to touch Kamlesh. They forced her family members to clean Kamlesh’s body, to change her sanitary pads, and to dispose of the medical waste leaking from her wounds.

4  CHECK YOUR PROGRESS

Q1 What are the four types of writs which can be invoked under Article 32 of the Constitution of India?

..................................................................................................................................................................
Q2. Name two landmark judgments and their relevance in development of PIL in India?

Q3. What do you understand by the term PIL and what section of the society does it majorly benefit?

5 SUMMARY

Thus Public Interest Litigation is an effective tool which connects the judiciary with the public. By efficient and effective administration of justice to the public at large which has been of great assistance to the weaker and marginalised sections of the society facing hassles in the long and complicated process of litigation.

Public interest litigation is a revolutionary stream which helps the common man to reach the remedy which is beneficial for public at large which was not earlier available to them even before actual damage is done. Public interest litigation has
opened the new window of thought. We should thank our judiciary who have coined this new concept which is very useful for public at large because there are many examples present with us which shows that it really helped the common person in field of pollution, environment, bonded labour, scams corruption etc. By filing the Public Interest Litigation one can assure the justice to the aggrieved people.

"The positive energy has to flow from all nations to each other. Only then, we can protect; we can preserve; we can think; we can be the same citizens. We can be a peaceful citizen of the world." :-From the Film The World is On Fire.

6 ANSWERS

7 REFERENCES
COURSE 2 : UNIT 2: Important Acts

1. INTRODUCTION

The journey towards securing the right to education in India has been a slow and difficult one. There is still a long way to go, but important milestones have been achieved in the form of the following legislations being the result of many years of advocacy, pressure and campaigning by a cross section of people.

2. OBJECTIVES

The objective of this sub-unit is to make the students acquire and understand the role of the appropriate government to ensure the fundamental rights enshrined in Part III of the constitution and the responsibility of the Local authorities and concerned departments to fulfil this right with appropriate procedures and programmes.

3. CONTENT

3.1 RIGHT TO INFORMATION

- “The Real ‘Swaraj’ will come not by the acquisition of authority by a few but by the acquisition of capacity by all to resist authority when abused.” – Mahatma Gandhi

- **CONSTITUTIONAL BASE**
  - Article 14 : Right to Equality- Equal treatment before law
  - Article 19 : Right to Freedom-freedom of Speech and Expression
  - Article 21 : Protection of Life & Personal Liberty

- PARADIGM SHIFT: An act which will be implemented by the people and acted upon by the government

- **BASIC TENETS**
  - Disclosure a rule and Secrecy an exception
  - Transparency means public interest
  - Public Interest overrides
  - It is a part of Global Process.
  - Governance will improve
• **Obligations of Public Authorities:**
  - Every public authority shall maintain all its records duly catalogued and indexed in a manner and form, which facilitates the right to information.
  - Shall also publish the information of the organization regarding structure, functions and duties, procedure followed, decision making process, directory of officers and employees, names and designations of public information officers etc.,

• **Procedure for obtaining information**
  - Every person seeking the information shall request orally or in writing or through electronic means paying the requisite fees at the following rates:
  - In respect of public authorities at the Village Level – No fee;
  - In respect of public authorities at Mandal Level – Rs. 5/- per application;
  - In respect of public authorities other than those covered above – Rs. 10/- per application.

• **Disposal of Request**
  - The Central Public Information Officer or State Public Information Officer within 30 days either provide information or reject with reasons and the period within which appeal can be preferred and particulars of the appellate authority.
  - If the information sought for concerns the life and liberty of a person, the same shall be provided within (48) hours of the receipt of request.

3.2 **PUBLIC SERVICE GUARANTEE ACT**

3.3 **RIGHT TO EDUCATION**

3.3.1 **OVERVIEW**

Article 21A of the Indian Constitution states that the state shall provide free and compulsory education to all children of the age six to fourteen years in such manner as the state may by law
determine. To ensure the fulfilment of this right, the Right to Children to Free and Compulsory Education (RTE) has been enacted.

3.3.2. The right guaranteed under RTE Act is the right:

- Of every child between the ages of 6 to 14
- To free and compulsory education
- In a neighbourhood school
- Till completion of elementary education

3.3.3. The government cannot deny any child’s fundamental right of to education on the pretext of not having sufficient funds. The RTE Act lays down specific responsibilities of the central government, state government, local authority, schools and teachers in guaranteeing this right.

3.3.4 **DUTIES OF THE APPROPRIATE GOVERNMENT, LOCAL AUTHORITIES AND PARENTS**

Central Government:

- Prepare estimates of expenditure
- Develop and enforce standards for training of teachers

<table>
<thead>
<tr>
<th>HIGHLIGHTING PROVISIONS OF RTE ACT</th>
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<tbody>
<tr>
<td>➢ ADEQUATE UMBER OF SCHOOLS</td>
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<td>➢ SAFE AND SECURE ENVIRONMENT</td>
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<td>➢ FREEDOM FROM HARASSMENT IN SCHOOLS</td>
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<td>➢ NON-DISCRIMINATION IN SCHOOLS</td>
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<td>➢ NO DENIAL OF ADMISSION IN SCHOOL</td>
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<td>➢ GOOD QUALITY EDUCATION</td>
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<td>➢ REGULAR CLASSES TAKEN BY THE QUALIFIED TEACHERS</td>
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<tr>
<td>➢ ACCESS TO TEXT BOOK AND UNIFORMS FREE OF COST</td>
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</table>
✓ Prepare schemes for teacher training
✓ Deciding a framework of national curriculum

Central government and state government (depending upon who is the appropriate government) depending upon the location and are of control:

✓ Ensure compulsory admission
✓ Attendance and completion of elementary education by every child
✓ Establish sufficient schools
✓ Ensure that no child has to suffer discrimination or abuse
✓ Provide infrastructure such as school building

Local Authorities:

✓ Ensure availability of neighbourhood schools
✓ Ensure non-discrimination of children
✓ Provide infrastructure (eg: school building, teacher staff, learning material)
✓ Ensure admission to children from migrated families
✓ Monitor completion of elementary education by every child residing within its jurisdiction

3.3.5 RESPONSIBILITY OF SCHOOLS AND TEACHERS

SCHOOLS:

✓ No taking of capitation fees
✓ Cannot refuse admission for lack of proof of age
✓ Form a school management committee (SMC)
✓ Make all record available for inspection by the government and SMC

TEACHERS:

✓ Attend school regularly and on time
Complete the course within the specified time
✓ Assess the learning ability of each child and give extra classes to children who need help
✓ Not discriminate against any child
✓ Not give private tuition or indulge in any private teaching activity

3.4 NATIONAL FOOD SECURITY ACT—AN OVERVIEW
3.4.1 INTRODUCTION

- The Indian National Food Security Act, 2013 was signed into law September 12, 2013, retroactive to July 5, 2013. This law aims to provide subsidized food grains to approximately two thirds of India's 1.2 billion people. Under the provisions of the bill, beneficiaries are to be able to purchase 5 kilograms per eligible person per month of cereals at the following prices:
  1. rice at ₹3 (5.0¢ US) per kg
  2. wheat at ₹2 (3.3¢ US) per kg
  3. coarse grains (millet) at ₹1 (1.7¢ US) per kg.
- Pregnant women, lactating mothers, and certain categories of children are eligible for daily free meals. The bill has been highly controversial. It was introduced into India's parliament in December 2012, promulgated as a presidential ordinance on July 5, 2013, and enacted into law in August 2013.

3.4.2 SALIENT FEATURES

- 75% rural and 50% of the urban population are entitled for three years from enactment to five kg food grains per month at ₹3 (5.0¢ US), ₹2 (3.3¢ US), ₹1 (1.7¢ US) per kg for rice, wheat and coarse grains (millet), respectively;
- The states are responsible for determining eligibility;
- Pregnant women and lactating mothers are entitled to a nutritious "take home ration" of 600 Calories and a maternity benefit of at least Rs 6,000 for six months;
- Children 6 months to 14 years of age are to receive free hot meals or "take home rations";
- The central government will provide funds to states in case of short supplies of food grains;
The current food grain allocation of the states will be protected by the central government for at least six months;

- The state government will provide a food security allowance to the beneficiaries in case of non-supply of food grains;
- The Public Distribution System is to be reformed;
- The eldest woman in the household, 18 years or above, is the head of the household for the issuance of the ration card;
- There will be state- and district-level redress mechanisms; and
- State Food Commissions will be formed for implementation and monitoring of the provisions of the Act.

- The cost of the implementation is estimated to be $22 billion (1.25 lac crore), approximately 1.5% of GDP.
- The poorest who are covered under the Antodaya yojna will remain entitled to the 35 kg of grains allotted to them under the mentioned scheme.

3.5 CONSUMER RIGHTS

3.5.1 INTRODUCTION:

Today when every good and provision of service has been commercialized and urbanization is growing day by day and villages are being converted into town due to which we have to buy everything from the market like wheat, rice to television. There is no more barter system in INDIA. A man today has to face number of problems, while buying a thing or in dealing with the people, institute, company, and government bodies. To save people from such kind of problems the government passed legislation on it which is known as consumer protection act.

“A consumer means person who buys goods after paying money to the seller.”

3.5.2 RIGHTS OF CONSUMERS

The rights of the consumer this legislation aims at promoting and protecting, which every consumer should be aware of while buying any good or availing/hiring any services are as follows:
The Act recognizes the following rights of consumers:

**RIGHTS OF THE CONSUMERS**

- The right to be protected against the marketing of goods which are hazardous to life and property
- The right to be informed about the quality, quantity, potency, purity, standard and price of goods so as to protect the consumers against unfair trade practices.
- The right to have access to a variety of goods at competitive prices
- The right to be heard and to be assured that consumer interests will receive due consideration at appropriate forums.
- The right to consumer education
- The right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.

**PROTECTION COUNCILS:**

- CENTRAL CONSUMER PROTECTION COUNCIL
- STATE CONSUMER PROTECTION COUNCIL
- DISTRICT CONSUMER PROTECTION COUNCIL

There are some other legislations which lay provisions for the protection and promotion of the rights and interests of the consumers:
(a) The Sale of Goods Act, 1930
(b) The Agriculture Produce (Grading and Marketing) Act, 1937
(c) The Drugs and Cosmetics Act, 1948
(d) The Drugs Control Act, 1950
(e) The Drugs and Magic Remedies (Objectionable Advertisements) Act, 1953
(f) The Prevention of Food Adulteration Act, 1954
(g) The Essential Commodities Act, 1953
(h) The Standard of Weights and Measures Act, 1956
(i) The Trade and Merchandise Marks Act, 1958
(l) The Consumer Protection Act, 1986
(m) The Indian Patents and Designs Act

3.6 REDRESSAL MECHANISMS FOR CONSUMER PROTECTION ACT

3.6.1 INTRODUCTION

- This chapter comprises four sections i.e. National Commission, State Commission, District Forum and Consumer Protection Councils. Dispute Redressal Agencies have been established under Consumer Protection Act-1986
- Their composition, jurisdiction, procedure of redressal, power, sitting, and orders including penalties have been discussed separately.

3.6.2 CONSUMER DISPUTE REDRESSAL AGENCIES
Consumer Forums have been established across the country at different levels with the view to provide speedy, less expensive and simple (hassle-free) dispute redressal to the consumers.

For achieving the objectives, section 9 of the Consumer Protection Act provides three-tier dispute redressal agencies. All these following agencies are quasi-judicial in terms of nature and power:

- A ‘National Consumer Dispute Redressal Commission’ established by the Central Government by the notification. This Court is known as “National Commission”.
- A ‘State Consumer Dispute Redressal Commission’ established by the State Government with prior approval of the Central Government, by notification. And this Court is known as “State Commission”.
- A Consumer Dispute Redressal Forum established by the State Government in each district of the State by notification. And this Court is known is ‘District Forum’.

I. NATIONAL COMMISSION:

The National Commission was established at the top of the hierarchy of three redressal Forums, it is considered as an apex court; because it oversees the functioning of State Commissions and District Forums also.
II. **STATE COMMISSION:**

According to section 16 of CPA, State Commission has been established at the State level and State Commission is next, after District Forum in the hierarchy of Consumer Dispute Redressal Forums under the Act. There are 35 State Commissions at present in India.

III. **DISTRICT FORUM:**

A District forum is a place in a district where Complainant can lodge a complaint if he or she is cheated or misguided or deceived by any service provider or trader. District Forum is the lowest Consumer Court in the hierarchy of three redressal Forums and under section 10 of CPA, there is a provision to constitute at least a District Forum in each and every district of the country. At present, there are 629 District Forums across the country.

3.7 **HUMAN RIGHTS**

3.7.1 **INTRODUCTION**

Human rights are those rights, which are inherent in individual’s nature and without which one cannot live as human being. Human rights in India is an issue complicated by the country's large
size, its tremendous diversity, its status as a developing country and a sovereign, secular, democratic republic.

3.7.2 HUMAN RIGHTS COMMISSION

- The National Human Rights Commission (NHRC) of India is an autonomous public body constituted on 12 October 1993. It was given a statutory basis by the Protection of Human Rights Act, 1993.
- The NHRC is the national human rights institution, responsible for the protection and promotion of human rights.
- HUMAN RIGHTS defined by the Act as "rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants".

3.7.3 APPOINTMENTS OF CHAIRPERSON AND MEMBERS BY THE PRESIDENT OF INDIA

![Diagram of the NHRC structure]

3.7.4 NATURE OF THE COMMISSION

Autonomous: NHRC is an autonomous and statutory organisation as it has been created by an Act of Parliament.
Independent: NHRC is independent in taking decisions and expressing its own views on different human rights issues.

Wide mandate: NHRC has wide mandate and an array of functions catering to all sections of the society.

3.7.5 FUNCTIONS OF THE COMMISSION

- Inquire, suo-motu, or on a petition, presented by victims, or persons on their behalf, into complaints of:
  i) violation of human rights or abetment thereof, or
  ii) negligence or dereliction of duties in the prevention of such violation, by public servants
- Intervene in any proceedings involving any allegations of violation of human rights pending before Courts, with the approval of such Courts.
- Visit, any jails or other institutions under the control of State Government, where persons are detained or lodged for purposes of treatment, reformation or protection, to study the living conditions of the inmates, and make recommendations.
- Study treaties and other international instruments on human rights, and make recommendations for their effective implementation.

3.7.5 PROCEDURE FOR FILING A HUMAN RIGHTS COMPLAINT

- A complaint may be lodged with the NHRC by a victim or by anyone else on behalf of the victim.
- You may file a complaint by sending it via post or you may fax it at 91-11-23382911/23382734 or you can also email your complaint at covdnhr@nic.in
- Only one set of complaint is required to be submitted to the NHRC.
- A complaint is accepted, only if it reveals an incident of human rights violations or abetment thereof or negligence on the part of a public servant to prevent such violations, within one year of receipt of the complaint.
- The documents in support of the accusations that are submitted along with the complaint should be legible.
✓ You should mention the name, age, gender, religion, address of the victim and the name of the district and state where the incident took place, other details and the date of the incident.

✓ You may file an online complaint at http://164.100.51.57/HRComplaint/pub/NewHRComplaint.aspx

3.8 PCPNDT ACT: THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT, 1994

3.8.1 INTRODUCTION

An act to provide for the prohibition of sex selection, before or after conception and for regulation of prenatal diagnostic techniques for the purpose of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female feticide and for matters connected therewith or incidental.

3.8.2 ENACTMENT

3.8.3 PURPOSE

Misuse of modern diagnostic facilities like ultra-sonography, amniocentesis, chorionic villi examination etc for the purpose of female feticide which is against the female sex and affects the dignity and status of women, dowry, Men Dominated Society, Son preference, Pind-Daan etc related matters were raised by the organizations working for the welfare and uplift of women therefore it was necessary to bring a legislation to regulate use of diagnostic techniques and to provided punishment to stop the misuse of diagnostic techniques.

It also prohibits advertisement of PNDT for detection & determination of sex. Permission & regulation of the use of PNDT for the purpose of detection of specific genetic abnormalities or disorders etc. Only to registered centre under this act.

3.8.4 SALIENT FEATURES

Offences under this act include conducting or helping in the conduct of prenatal diagnostic technique in the unregistered units, sex selection on a man or woman, conducting PND test for any purpose other than the one mentioned in the act, sale, distribution, supply, renting etc. of any ultra sound machine or any other equipment capable of detecting sex of the foetus. Main provisions in the act are

1. The Act provides for the prohibition of sex selection, before or after conception.
2. It regulates the use of pre-natal diagnostic techniques, like ultrasound and amniocentesis by allowing them their use only to detect:

   ➢ genetic abnormalities
   ➢ metabolic disorders
   ➢ chromosomal abnormalities
   ➢ certain congenital malformations
   ➢ haemoglobinopathies
   ➢ sex linked disorders.
3. No laboratory or centre or clinic will conduct any test including ultrasonography for the purpose of determining the sex of the foetus.

4. No person, including the one who is conducting the procedure as per the law, will communicate the sex of the foetus to the pregnant woman or her relatives by words, signs or any other method.

5. Any person who puts an advertisement for pre-natal and pre-conception sex determination facilities in the form of a notice, circular, label, wrapper or any document, or advertises through interior or other media in electronic or print form or engages in any visible representation made by means of hoarding, wall painting, signal, light, sound, smoke or gas, can be imprisoned for up to three years and fined Rs. 10,000.

3.9 PREVENTION OF DOMESTIC VIOLENCE ACT 2005

3.9.1 OVERVIEW

The annals of history for time without number, expressed that India Women are the most controversial demigod in the Society. In India this Domestic Violence, happened to be a great concern, which is present in one form or other across India in every strata of the society especially within the family.

The criminal administration system has been found to be not sufficient to cater to the vacuum created by such Domestic Violence. In this backdrop the Parliament enacted this act keeping in view the rights guaranteed under Article 14, 15 & 21 of the Constitution.

3.9.2 ACT COVERS WHOM

- Those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household
- Those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under this Act

3.9.3 WHAT AMOUNTS TO DOMESTIC VIOLENCE

As per Section 3 of this Act, any act, omission or commission or conduct of the respondent shall constitute domestic violence in case it:
Harms/ injures/endangers the health, safety, life, limb or well-being, whether mental or physical person
Physical abuse/sexual, verbal and emotional abuse and economic abuse
Harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security

3.9. 4 RIGHTS PROVIDED TO THE WOMEN

- To secure housing
- To reside in her matrimonial home/share household irrespective of her titles/rights

3.9. 5 WHAT IS THE PROTECTION PROVIDED TO WOMEN

- Appointment of protection officers to pass orders to prevent respondent for any act of domestic violence
- Residence order passed by the Magistrate to protect right of women to secure housing
- Registration of non-governmental organizations as service providers for providing assistance to the aggrieved person with respect to her medical examination, safe shelter etc.

3.10 PREVENTION OF ATROCITIES ON SCHEDULED CASTES1989 ACT

3.10.1 OVERVIEW

The Scheduled Castes and Tribes (Prevention of Atrocities) Act, 1989 was enacted by the Parliament of India (Act 33 of 1989), to prevent atrocities against scheduled castes and scheduled tribes. The Act is popularly known as POA, the SC/ST Act, the Prevention of Atrocities Act, or simply the Atrocities Act.

Article 17 of Indian Constitution seeks to abolish 'untouchability' and its practice in any form is forbidden. It is basically a "statement of principle" that needs to be made operational with the ostensible objective to remove humiliation and multifaceted harassments meted to the Dalits and to ensure their fundamental and socio-economic, political, and cultural rights.

This is to free Indian society from blind and irrational adherence to traditional beliefs and to establish a bias free society. For that, Untouchability (Offences) Act 1955 was enacted. However, lacunae and loopholes impelled the government to project a major overhaul of this
legal instrument. From 1976 onwards the Act was revamped as the Protection of Civil Rights Act. Despite various measures adopted to improve the socio-economic conditions of the SCs and STs they remain vulnerable and are subject to various offences, indignities and humiliations and harassment. When they assert their rights and against the practice of Untouchability against them the vested interest try to cow them down and terrorize them. Atrocities against the SCs and STs, still continued.

3.10.2 BASIC OBJECTIVE

- The basic objective and purpose of this more comprehensive and more punitive piece of legislation was sharply enunciated when the Bill was introduced in the Lok Sabha: “Despite various measures to improve the socio-economic conditions of the SCs and STs, they remain vulnerable… They have, in several brutal incidents, been deprived of their life and property… Because of the awareness created… through spread of education, etc., when they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them. When the SCs and STs try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty.”

- The objectives of the Act, therefore, very clearly emphasise the intention of the Indian state to deliver justice to SC/ST communities through affirmative action in order to enable them to live in society with dignity and self-esteem and without fear, violence or suppression from the dominant castes.

- The Supreme Court of India too reiterated the significance and importance of the Act: “The offences of atrocities are committed to humiliate and subjugate the SCs and STs with a view to keep them in a state of servitude. Hence, they constitute a separate class of offences and cannot be compared with offences under the Indian Penal Code.”

3.10.3 SALIENT FEATURES

1. Creation of new types of offences not in the Indian Penal Code (IPC) or in the Protection of Civil Rights Act 1955 (PCRA).
2. Commission of offences only by specified persons (atrocities can be committed only by non-SCs and non-STs on members of the SC or ST communities. Crimes among SCs and STs or between STs and SCs do not come under the purview of this Act).
3. Defines various types of atrocities against SCs/STs (Section 3(1)i to xv and 3(2)i to vii).
4. Prescribes stringent punishment for such atrocities (Section 3(1)i to xv and 3(2)i to vii).
5. Enhanced punishment for some offences (Section 3(2)i to vii, 5).
6. Enhanced minimum punishment for public servants (Section 3(2)vii).
7. Punishment for neglect of duties by a public servant (Section 4).
8. Attachment and forfeiture of property (Section 7).
9. Externment of potential offenders (Section 10(1), 10(3), 10(3)).
10. Creation of Special Courts (Section 14).
11. Appointment of Special Public Prosecutors (Section 15).
12. Empowers the government to impose collective fines (Section 16).
13. Cancellation of arms licences in the areas identified where an atrocity may take place or has taken place (Rule 3iii) and seize all illegal fire arms (Rule 3iv).
14. Grant arms licences to SCs and STs (Rule 3v).
15. Denial of anticipatory bail (Section 18).
16. Denial of probation to convict (Section 19).
17. Provides compensation, relief and rehabilitation for victims of atrocities or their legal heirs (Section 17(3), 21(2)iii, Rule 11, 12(4)).
18. Identification of atrocity prone areas (Section 17(1), 21(2)vii, Rule 3(1)).
19. Setting up deterrents to avoid committing of atrocities on the SCs amongst others (Rule 3i to 3xi).
20. Setting up a mandatory, periodic monitoring system at different levels (Section 21(2)v):

4. CHECK YOUR PROGRESS

Q1 Write any three DUTIES of the state government under RTE?

………………………………………………………………………………………………………………………………………………………………………………
Q2 Rubina is about 10 years old and lives in a slum in Indore with her parents and baby brother. Her father is a carpenter and her mother a domestic worker. Rubina has never been to school. Does she have a Right to Education?

Q3 Name the three agencies of Redressal mechanisms for consumer protection?

Q4 List three salient features of National Food Security Act:

6. SUMMARY

Henceforth, the Acts above are a strong legislative tool, which provides a practical regime for ensuring free and compulsory education by laying provisions for responsibilities with the state government, central government, local authorities, schools, teachers and parents to fulfil the fundamental right.

7. ANSWERS

8. REFERENCES/FURTHER READINGS
1. INTRODUCTION

- This sub unit covers the establishment and role of various statutory bodies in the form of commissions by the Government for the protection and promotion of rights certain sections of the society such as children, scheduled castes, scheduled tribes, minorities, backward castes.
- A commission is a special group delegated to consider some matter, for instance, a commission of inquiry. Or *A duty or task committed to a person or group to perform*.

2. OBJECTIVE

The objective of the sub unit is to ensure that the students acquire the role of these commissions in the protection and promotion of the rights of the sections which they particularly serve. Henceforth, this sub unit hereby explains the establishment, functioning, powers, salient features and procedure of filing a complaint by the aggrieved persons in that commission.

3. CONTENTS


3.1.1 OVERVIEW

- Constituted as a Statutory Body in March 2007 by the Government of India under Section 3 of the Commissions for Protection of Child Rights Act, 2005 (CPCR Act)
- Performs the functions assigned to it under Section 13 and to exercise the powers as vested with it under Section 14 and 15 of the said Act for protection of child rights and to deal with related matters.
THE JUVENILE JUSTICE (CARE AND PROTECTION OF CHILDREN) ACT, 2000

Section 21: Prohibition of publication of name, etc. of juvenile in conflict with law or child in need of care and protection involved in any proceedings under the Act.

The Juvenile Justice (Care and Protection of Children) Rules, 2007

- Rule 3: Fundamental Principles to be followed in administration of these rules:
  - Principle II - Principle of dignity and worth
  - Principle IV - Principle of Best Interest
  - Principle VII - Positive Measures
  - Principle XI - Principle of right to privacy and confidentiality
  - Principle XIV - Principle of Fresh Start

3.1.3 RECENT CASES OF MEDIA COVERAGE

1. Sexual Abuse of Girl Children in Kanker, Chhattisgarh

   - Print Media Coverage bought this matter to the forefront. It was discovered that the girls were subjected to abuse for 2 years - no one took any action. It was only after the press covered it, that these children were rescued. The District & State Administration has taken steps to post women guards and staff at ashramshalas for girls, come up with an action plan for the state to monitor the same.

2. Aarushi Talwar Murder Case [2008]

   - The victim, Aarushi Talwar, a 13 year old child who’s numerous photographs were procured and published by the media; whose “character” was dissected, deemed immoral and the intimate details of the crime scene, personal life were debated in all the Media publications.

   - Trial by Media - Certain channels transgressed all lines - irresponsible reporting which went beyond just presenting facts.
Media infringed on the privacy & dignity of the child and her family to a great extent.

RESPONSIBLE REPORTING!!

3.1.4 Procedure of filing Child Rights Complaints

One of the Core Mandates of the Commission is to inquire into complaints of violations of child rights. The commission is also required to take suo-moto cognizance of serious cases of violation of child rights and to examine factors that inhibit the enjoyment of rights of children.

1. Complaints may be made to the Commission in any language of the 8th Schedule of the Constitution
2. No fee shall be chargeable on such complaints
3. The complaint shall disclose a complete picture of the matter leading to the complaint
4. The Commission may seek further information/ affidavits as may be considered necessary

While making a complaint, please ensure that the complaint is:

1. Clear and legible and not vague, anonymous or pseudonymous
2. Genuine, not trivial or frivolous
3. Not related to civil disputes such as property rights, contractual obligations and the like
4. Not related to service matters
5. Not pending before any other commission duly constituted under law or sub-judice before a court/ tribunal
6. Not already decided by the Commission
7. Not outside the purview of the Commission on any other grounds
Complaints may be addressed to: Chairperson
National Commission for Protection of Child Rights,
New Delhi

3.2 NATIONAL COMMISSION FOR WOMEN AND PROCEDURE FOR FILING COMPLAINTS

3.2.1 INTRODUCTION

The National Commission for Women (NCW) is a statutory body for women, set up in 1992, by Government of India, under specific provisions, National Commission for Women Act, 1990, of the view to protect, promote and safeguard the interests and rights of women. The present head of the Commission is Girija Vyas.

3.2.2 FUNCTIONS OF THE COMMISSION

The functions of the Commission as enumerated under Section 10 of the National Commission for Women Act, 1990 are as follows:

1) **Investigate and examine** all matters relating to the safeguards provided for women under the Constitution and other laws;

2) **Present** to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

3) **Make in such reports& recommendations** for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;

4) **Review**, from time to time, the existing provisions of the Constitution and other laws affecting women and recommend amendments thereto so as to suggest remedial legislative measures to meet any lacunae, inadequacies or shortcomings in such legislations;
5) **Take up the cases** of violation of the provisions of the Constitution and of other laws relating to women with the appropriate authorities;

### 3.2.3 ACTIVITIES OF THE COMMISSION

#### 1. THE COMPLAINTS AND INVESTIGATION CELL:

It is the core unit of the Commission. It processes complaints received by the Commission orally, in writing or *suomoto* on the basis of newspaper reports under Section 10 of the NCW Act. During the period April, 2003 to March, 2004 the Commission processed 5462 complaints relating to domestic violence, dowry, torture, rape, sexual harassment at work place etc.

- **Specific cases of police apathy** were taken up with senior police authorities for investigations and the progress of the investigation were monitored at periodic intervals;
- **Family disputes** were resolved through counselling;
- For serious cases, *Inquiry Committees* were set up by the Commission, and their recommendations monitored for their implementation on a regular basis;
- The Recommendations of the Inquiry Committees covered disciplinary action against erring government personnel, payment of compensation, counselling of victims, action against management of hospitals, etc.

#### 2. PUBLIC HEARINGS OF THE COMMISSION

- Impact of Globalisation, Mechanisation and Liberalizations on women workers in the informal sector;
- Women Bamboo Workers in Malyatorr, Kerala;
- Problems of Share Croppers and rope makers at Patna;
- Crimes against women in Uttar Pradesh, West Bengal, Kerala, Orissa, Tamil Nadu and Jharkhand;
• Problems of Muslim Women in Maharashtra and Rajasthan;
• Problems of Beedi and Cigar Workers at Ahmedabad, Thirunalvela and Sagar;
• Problems of Construction Workers at Jaipur, Delhi, Mumbai, Patna and Bangalore

3. PUBLICATIONS:
• The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns.
• They have actively published about and campaigned regarding dowry equal representation for women in jobs, politics, religion and the exploitation of women for labour.
• They have also talked about police abuses against women. The commission regularly brings out a monthly newsletter, "RashtraMahila" in Hindi and English.

CASE: JAYASHREE MANE CASE
Colleague for using RTI, continues to be in limbo as the department has yet to admit the FIR. Taking a serious note of the incident the National Commission for Women has ordered an enquiry into the matter. It is distressing and agonising to note that even when a member of the law enforcing outfit, in this case, Jayashree Mane – a constable working in Pune Police not only finds it difficult to lodge a first information report (FIR) but even the Pune Police Commissioner, who is the law enforcing authority, does not seems to take the matter seriously.

IMPORTANT COURT INTERVENTIONS

The National Commission for Women can and it has intervened in some important court matters.

1.BHATERI GANG RAPE CASE ( RAJASTHAN )
The Commission suo moto took up the case of Ms. Bhandari Devi and extended its full support in going for appeal and also providing security to the victim and appointment of a special public prosecutor to argue her case.

2. CAPITAL PUNISHMENT/ DEATH PENALTY (RAMSHREE'S CASE)

Due to the timely intervention of the National Commission for Women in the Supreme Court, the order of death sentence was temporarily stayed and the Hon'ble Court, later on commuted the death sentence into life imprisonment.

3. OBSCENITY CASES

1. The Hon'ble High Court of Delhi put an injunction on the launching of +21 adult channel by the Ministry of Information & Broadcasting, Govt. of India.
2. The NCW had moved the Hon'ble High Court of Delhi against Star TV, Zee TV, etc for showing obscene pictures on television and other media.

4. AGAINST OUT DATED CUSTOMS & TRADITIONS MAIMON BASKARI'S NUH (HARYANA) CASE

The NCW took up the case of Ms. Maimon Baskari who was allegedly a victim of torture and rape for marrying a person of her choice. The Supreme Court has united the couple.

5. DIVORCED MUSLIM WOMEN'S ENTITLEMENT TO MAINTENANCE BEYOND THE IDDAT PERIOD: In the matter of Fakhruddin Mubarak Shaik Vs. Jaitunbi Mubarak Shaik, The NCW has intervened in the Supreme Court of India to support the stand of Jaitunbi. The case is pending.

3.3 National Commission for Scheduled castes and procedure for filing complaints

3.3.1 OVERVIEW

- National Commission for Scheduled Castes is an Indian constitutional body established with a view to provide safeguards against the exploitation of Scheduled Castes and to promote and protect their social, educational,
economic and cultural interests, special provisions were made in the Constitution.

- Consequent upon the Constitution (Eighty-Ninth Amendment) Act, 2003 the erstwhile National Commission for Scheduled Castes & Scheduled Tribes has been replaced by (1) National Commission for Scheduled Castes and (2) National Commission for Scheduled Tribes.

### 3.3.2 FUNCTIONS AND DUTIES OF THE COMMISSION

The functions, duties and power of the Commission have been laid down in clauses (5), (8) and (9) of the Article 338 of the Constitution:

- **Clause (5):**

  It shall be the duty of the Commission: -

  1. to investigate and monitor all matters relating to the safeguards provided for the Scheduled Castes under this Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

  2. to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Castes;

  3. to participate and advise on the planning process of socio-economic development of the Scheduled Castes and to evaluate the progress of their development under the Union and any State;

  4. to present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

  5. to make in such reports recommendations as to the measures that should be taken by the Union or any State for the effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Castes; and
6. to discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Castes as the President may, subject to the provisions of any law made by Parliament, by the rule specify.

➢ Clause (8)

The Commission shall, while investigating any matter referred to in sub-clause (a) or inquiring into any complaint referred to in sub-clause (b) of clause (5), have all the powers of a civil court trying a suit and in particular in respect of the following matters, namely:-

(a) summoning and enforcing the attendance of any person from any part of India and examining him on oath;

(b) requiring the discovery and production of any documents;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses and documents;

(f) any other matter which the President may by rule, determine;

➢ Clause (9)

The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Castes.

3.3.3 FILING A COMPLAINT

A. Inquiry into specific complaints

The Commission is required to inquire into specific complaints with respect to the deprivation of rights and safeguards of Scheduled Tribes. In order to enable the Commission to perform this function effectively and efficiently, the Commission would like the members of Scheduled Tribes to know that it will be helpful to inquire into their grievances if they substantiate their complaints with supporting
documents and quote the relevant provisions of the Act or Rules directions which have been violated.

B. The following aspects are required to be kept in mind while filing complaints before the Commission.

- The complaint should be directly addressed to the Chairperson/Vice-Chairperson/Secretary, National Commission for Scheduled Tribes, New Delhi or the heads of its State Offices.

- The complaints should disclose his full identity and give his full address and should sign the representation.

- Complaints should be legibly written or typed and, where necessary, supported by authenticated documents.

- No action will be taken on matters which are subjudice. Hence subjudice matter need not be referred to the Commission as complaint(s).

- Cases pending in courts or cases in which a court has already given its final verdict need not be taken up afresh with the Commission.

3.4 National Commission for Minorities

3.4.1 OVERVIEW

The Union Government set up the National Commission for Minorities (NCM) under the National Commission for Minorities Act, 1992. Six religious
communities, viz; Muslims, Christians, Sikhs, Buddhists, Zoroastrians (Parsis) and Jains have been notified as minority communities by the Union Government.

3.4.2 FUNCTIONS

The following are the functions of the commission:

- To investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under the Constitution or under any other law for the time being in force or under any order of the Government and to evaluate the working of such safeguards;

- To inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled Tribes;

- To participate and advise in the planning process of socio-economic development of the Scheduled Tribes and to evaluate the progress of their development under the Union and any State;

- To present to the President, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;

- To make in such reports, recommendations as to the measures that should be taken by the Union or any State for effective implementation of those safeguards and other measures for the protection, welfare and socio-economic development of the Scheduled Tribes, and

- To discharge such other functions in relation to the protection, welfare and development and advancement of the Scheduled Tribes as the President may, subject to the provisions of any law made by Parliament, by rule specify.
3.4.3 POWERS OF THE ACT

The Commission has the following powers:

- Summoning and enforcing the attendance of any person from any part of India and examining him on oath.
- Requiring the discovery and production of any document.
- Receiving evidence on affidavit.
- Requisitioning any public record or copy thereof from any court or office.
- Issuing commissions for the examination of witnesses and documents.

3.5 National Commission for Backward Castes

- **National Commission for Backward Classes** is an Indian statutory body established on 14 August 1993, under the provisions of *National Commission for Backward Classes Act, 1993 (Act No. 27 of 1993)*. The commission was the outcome of the direction of the Supreme Court in the *Mandal case* judgment.
- The commission has five members: a Chairperson who is or has been a judge of the Supreme Court or of a High Court; a social scientist; two persons, who have special knowledge in matters relating to backward classes; and a Member-Secretary, who is or has been an officer of the Central Government in the rank of a Secretary to the Government of India. Their term is of Three years.
• Functions of the Commission

1. The Commission shall examine requests for inclusion of any class of citizens as a backward class in the lists and hear complaints of over-inclusion or under-inclusion of any backward class in such lists and tender such advice to the Central Government as it deems appropriate.

2. The advice of the commission shall ordinarily be binding upon the Central Government.

- **RECENT ISSUES: JAT RESERVATION**

- Even after facing vociferous opposition from Congress party’s Muslim leaders for extending poll eve reservations to Jats, the government on Friday went ahead notifying their inclusion in the central OBC list. The cabinet at a special meeting on Sunday had extended reservation facilities to Jats in nine
The notification mentions that Muslim Jats in Gujarat are also included in the central list, but in other states of Haryana, Himachal Pradesh, Madhya Pradesh, Uttarakhand, Uttar Pradesh, Bihar and Delhi, there is no mention of communal identity.

- The poll eve sop extended to Jat community has also run into controversy, with the statutory National Commission of Backward Classes (NCBC) rubbishing the government's claim that the Cabinet decision was based on the advice of the commission. On December 19, the Cabinet had approached the Commission to seek its advice on extending reservation to Jats. The NCBC has put its 138-page report on its website <ncbc.nic.in> to clarify that it did not advice any such reservation and in fact "rejected" the Jats' case "as they are not socially and educationally backward communities."

### 3.6 National Commission for Scheduled Tribes

#### 3.6.1 INTRODUCTION

The National Commission for Scheduled Tribes (NCST) was established by amending Article 338 and inserting a new Article 338A in the Constitution through the Constitution (89th Amendment) Act, 2003. By this amendment, the erstwhile National Commission for Scheduled Castes and Scheduled Tribes was replaced by two separate Commissions namely- (i) the National Commission for Scheduled Castes (NCSC), and (ii) the National Commission for Scheduled Tribes (NCST) w.e.f. **19 February, 2004.**
3.6.2 BACKGROUND

A. Certain Communities suffering from Extreme Social & Economic Backwardness- like Untouchability Primitive Agri-Practices, Lack of Infrastructural facilities, Geographical Isolation- needed special consideration for safeguarding their interests;

B. These communities were notified as Scheduled Castes and Scheduled Tribes as per provisions of Art. 341(1) and 342(1) of the Constitution respectively;

C. Under the original provisions of Art.338 of the Constitution, Special Officer (Commissioner) for SC&ST appointed was assigned the duty to investigate all matters relating to the Safeguards for SCs and STs in various Statutes and to report to the President upon the working of these Safeguards;

3.6.3 APPROACH AND METHODOLOGY

• Keeping in view its Constitutional obligations and the issues that are now critical, after almost half a century of independence, for the overall development and mainstreaming of the Scheduled Tribes, the present Commission, constituted in February, 2004 has adopted a more vigorous approach in its functioning. The meetings of the Commission are held regularly and the implementation of decisions taken is monitored keenly.

• In order to monitor and evaluate the impact of development schemes, the Commission has decided to interact with the State/UT Governments more actively by holding State level review meetings with the Chief Secretaries and other senior officers and conducting field level visits. The Commission feels that as a result of these visits and meetings, the State/UT Governments will become more conscious of the genuine problems of the Scheduled Tribes and would take the necessary initiative in working out remedial measures and adopting appropriate strategies.
3.6.4 FUNCTIONS OF THE COMMISSION

1. To investigate & Monitor matters relating to Safeguards provided for STs under the Constitution or under other laws or under Govt. Order, to evaluate the working of such Safeguards.
2. To inquire into specific complaints relating to Rights & Safeguards of STs;
3. To participate and Advise in the Planning Process relating to Socio-economic development of STs, and to Evaluate the progress of their development under the Union and any State;
4. To submit report to the President annually and at such other times as the Commission may deem fit, upon/ working of Safeguards, Measures required for effective implementation of Programmers/ Schemes relating to Welfare and Socio-economic development of STs;
5. To discharge such other functions in relation to STs as the President may, subject to the provisions of any law made by Parliament, by rule specify;

3.6.5 POWERS OF THE COMMISSION

1. For Investigation and Inquiry, the Commission is vested with powers of a civil court having authority to:
   a. Summon and enforce attendance of any person and examine on oath;
   b. Discovery & production of any documents;
   c. Receive evidence on affidavits;
   d. Requisition any public record or copy thereof from any court or office;
e. Issue Commissions for examination of witnesses and documents; and

f. Any matter which President, by rule, may determine.

2. Copy of order dated 05.02.1996 of Ministry of Welfare regarding grant of power of Dept. of Central Government to NCSC & NCSTs

3. Department of Personnel & Training O.M. No. 36036/2/97-Estt (Res) dated 01/01/1998

4. D.O. letter dated 05/03/2010 from VC, NCST to Minister for Tribal Affairs for resolving critical issues involved in efficient performance of the NCST.

\textit{CASE: ParmanadBhoi V/s State of Chhattisgarh and others}

\textbf{F.No18/3/2009/Service/RU-III}

Writ Petition (C) 1115/2009 in the High Court of Chattisgarh at Bilaspur regarding inclusion of Saura/ Sanwara in the list of Scheduled Tribes of CG filed by ParmanadBhoi V/s State of Chhattisgarh and others.

\textbf{Views of the Commission and action taken by it}

The subject matter of the WP concerns primarily the State Government of Chhattisgarh and the Union of India through Ministry of Tribal Affairs. The National Commission for Scheduled Tribes is not a respondent. National Commission for Minorities has been made respondent No. 5. The Chhattisgarh High Court however, sent a copy of the WP and the Notice for admission at the address of the Raipur Regional Office of the Commission. Since Ministry of Tribal Affairs is one of the main respondent the WP along with the notice was transferred to the Ministry of Tribal Affairs for necessary action on their part. The Commission, vide its letter dated 21/10/2010, requested the Ministry of Tribal Affairs to intimate the latest position of the case and also to furnish a copy of the Affidavit filed by the Ministry in the Bilaspur
High Court.

~CASE: Arumairaj and another Vs. BSNL

F.No CC/5/2010/MPNT2/SEOTH/RU-IV

W.P. (MD) No. 1973/2010 in the High Court of Judicature, Madras at Madurai Bench

Shri M. Arumairaj and another Vs. BSNL through its Managing Director and others. Writ Petition has been filed for a direction for enquiry through an independent agency regarding the conduct of election held for SC/ST Employees Welfare Association of BSNL at Bhopal on 30.01.2010.

Views of the Commission and action taken by it

The NCST received High Court Notice dated 23.02.2010 being respondent No. 2. The NCST vide letter dated 27.04.2010 requested the Bharat Sanchar Nigam Ltd. that since the WP relates to an internal matter of BSNL and the petitioner has not sought any relief from NCST, a reply may be filed by BSNL in the High Court in this case. A copy of the reply filed by BSNL may also be furnished to this Commission for future reference. The BSNL informed vide letter dated 03.05.2010 that the case has already been referred to Tamil Nadu for defending the case vide this office letter of even number dated 08.03.2010 with instructions to report Corporate Office from time to time about the status of the case.

4. CHECK YOUR PROGRESS

Q1 What do you understand by the term “commission”?

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Q2 The powers of the National Commission of Scheduled Tribes is similar to which judicial body? List 4 such powers of this commission?

Q3 What are the aspects which should be kept in mind while filing a complaint in National Commission for Scheduled Castes?

Q4 Name two leading cases under media coverage related to child rights?
Q5 List five functions of Commission for women?

5. SUMMARY
Therefore, it is evident that the government of India has made various attempts to protect and promote the rights of its citizens and addressing specific sections of the society of establishing these aforementioned commissions with immense powers to solve and functions to perform against the complaints of the aggrieved persons.

6. ANSWERS

7. REFERENCES