



TRAINING OF TRAINERS

TRAINING IN HUMAN RIGHTS FOR TEACHER EDUCATORS

RESOURCE MATERIAL



INSTITUTE OF
HUMAN
RIGHTS
EDUCATION

6, Vallabai Road,
Chokkikulam, Madurai 625 002,
Tamil Nadu

Ph: +91 452 2539520
Fax: +91 452 2531874

Web : www.ihre.in

01. INTRODUCTION TO HUMAN RIGHTS

“The aim of all political association is the conservation of the natural and inalienable rights of man.”

- Locke

1.1 What do we mean by ‘Human Rights’?

‘Human Rights’ have been the subject of much jurisprudential discussion, which revolves around the idea of the entitlement of human beings to a range of legal rights, which are fundamental and inviolable in nature. Proponents of some types of natural law theory argue that, because man is made in the image of his Creator, he possesses an intrinsic dignity, which must be translated into legal rights.

‘Human Rights’ is both a simple as well as a difficult expression to define and comprehend. Simple in the sense that ‘Human Rights’ is defined simply as the rights of human beings. For example, D.D. Basu has defined ‘Human Rights’ as “those minimal rights, which every individual must have against the State or other public authority by virtue of his being a member of the human family, irrespective of any other consideration.”¹ Gewirth described human rights as “rights which all persons equally have simply insofar as they are human.” Difficult, in the sense, the way in which the expression ‘Human Rights’ is defined in the Protection of Human Rights Act, 1993.²

Before trying to understand the meaning of the expression ‘Human Rights’, it will be more appropriate to understand the meaning of the word ‘Right’ in its proper sense. Allen has defined ‘Right’ as “the legally guaranteed power to realize an interest.”³ Holland has defined ‘Right’ as “the capacity residing in one man of controlling, with the assent and assistance of the State, the actions of others.”⁴ Holmes has defined ‘Right’ as “nothing but permission to exercise certain natural powers and upon certain conditions to obtain protection, restitution, or compensation by the aid of public force.”⁵ Salmond defined ‘Right’ as “an interest which the law will recognize and protect, respect for which is a legal duty, disregard of which is a legal wrong.”⁶ All the above definitions of ‘right’ stress the recognition of the person’s ‘interest’ or ‘power’ by the state/law. Therefore in view of the above definitions of ‘right,’ Human Rights will mean those interests of human beings, which are recognized and protected by the State.

However, there prevails another view, according to which 'Human Rights' are not dependent on the State. Jackson J. in **West Virginia State Board v. Barnette**⁷ has observed, "the very purpose of a Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and to establish them as legal principles to be applied by the Courts. One's right to life, liberty and prosperity, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections."

1.2. Human Rights in India

In India, though much of the human rights are protected through Part III of the Constitution of India, there is no specific definition in the Constitution of India for 'Human Rights'. Only through the enactment of the Protection of Human Rights Act, 1993⁸ the Parliament of India attempted to define 'Human Rights'. Section 2(d) of the Protection of Human Rights Act, 1993 defines 'Human Rights' as "the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India."

In India, '**Human rights**' means **rights relating to life, liberty, equality and dignity of the individual**. However, this is subject to a condition that these rights must be:

1. Guaranteed by the Constitution of India; or
2. Embodied in the International Covenants⁹ (ICCPR and ICESCR, 1966) and enforceable by courts in India;

In view of the above, "Human rights" in India refers to:

- Rights relating to life;
- Rights relating to liberty;
- Rights relating to equality; and
- Rights relating to dignity of the Individual;

guaranteed by the Constitution of India or embodied in the International Covenants and enforceable by courts in India.

1.3. Rights guaranteed by the Constitution of India

Part III of the Constitution of India guarantees to persons certain rights called 'fundamental rights'. When human rights are guaranteed by a written Constitution, they are called 'Fundamental Rights' because a written Constitution is the fundamental law of a State.¹⁰ The Constitution of India guarantees six fundamental rights. They are:

1. Right to Equality (Articles 14 to 18);
2. Right to freedoms (Articles 19 to 22);
3. Right against exploitation (Articles 23 & 24);
4. Right to freedom of religion (Articles 25 to 28);
5. Cultural and Educational Rights (Articles 29 & 30);
6. Right to Constitutional Remedies (Article 32)

Increasing awareness of human rights issues, and zeal of human rights activists, practitioners and judges, have contributed a lot in expounding the law on Human rights. The Supreme Court has adopted a very liberal and right approach in the interpretation of fundamental rights as a result of which almost every human right recognized under the International Covenants has attained the status of fundamental right in India.

1.4. Components of human rights in India

Over a period of time, the right to life, liberty, equality and dignity pertaining a human being has been given a lot of new dimension through legislations and interpretation of law by the higher courts, i.e. the Supreme Court and the High Courts in the country. They have been expanded to encompass numerous other rights within its fold. Following are an enumeration of those rights in India.

a) Rights relating to life

The right to life includes the following rights:

1. Right to live with human dignity
2. Right to basic necessities of life
3. Right to Privacy
4. Right to Shelter
5. Right to Access to Road
6. Right to Tradition, Culture and Heritage
7. Right to Livelihood
8. Right to Food, Clothing and Shelter
9. Right to Free Legal Aid
10. Right to a Speedy Trial
11. Right to Know

12. Right against delayed execution of death sentence
13. Right of a Person not to be subjected to 'Bonded Labour'
14. Right to Medical Aid
15. Right of women to be treated with decency and proper dignity
16. Right to health and medical care of workers
17. Right to Health
18. Right to healthy environment
19. Right to education
20. Right to a decent burial
21. Right to Food

b) Rights relating to liberty

This right includes the following rights:

1. Right to Travel Abroad
2. Right to socialize with members of one's family and friends
3. Right to write a book
4. Right to a Speedy Trial
5. Right to legal aid
6. Right to privacy
7. Right against solitary confinement
8. Right against bar fetters
9. Right against handcuffing
10. Right against custodial violence
11. Right to Freedom of Speech and Expression
12. Right to Receive Information
13. Freedom of the Press
14. Right to participate in picketing or demonstration
15. Right against Telephone Tapping
16. Right to assemble peacefully

17. Right to form associations or unions
18. Right to freedom of movement
19. Right to reside and settle in any part of India
20. Right to acquire, hold and dispose property
21. Right to Freedom of Trade and Occupation
22. Right against Ex-Post-Facto Law
23. Right against Double Jeopardy
24. Right against Self-incrimination
25. Right to be informed about the grounds of Arrest
26. Right to have someone informed of arrest or detention
27. Right to consult and to be defended by a lawyer
28. Right of arrestee to be produced before the nearest magistrate within 24 hours of arrest
29. Right against exploitation
30. Right of a citizen of India not to be compelled to work without wages
31. Right against exploitation of children
32. Freedom of Religion and conscience
33. Freedom to profess or practice religion
34. Freedom to manage religious affairs
35. Right to establish and maintain institutions for religious and charitable purposes
36. Right to manage its own affairs in matters of religion
37. Right to acquire and administer property
38. Freedom as to payment of taxes for promotion of any particular religion
39. Right to conserve language, script or culture
40. Right of minorities to establish and administer educational institutions - IV

c) Rights Relating to Equality

This right implies Equality before law and Equal protection of the laws. Hence, reasonable classification is allowed. But it is not antithetic to arbitrariness. Natural justice is an integral part of guarantee of equality. Though there is prohibition of discrimination but protective discrimination is allowed while making special provisions for women, children, in

favour of socially and educationally Backward Classes of Citizens or for the Scheduled Castes and the Scheduled Tribes. It speaks in terms of:

1. Equality of opportunity in public employment,
2. Right to equal pay for equal work
3. Right against practice of untouchability
4. Abolition of titles

Chapter - V

d) Rights relating to Dignity of the Individual

The right of a individual to live with dignity comprises of the following components:

1. Right to live with human dignity
2. Right of workmen to lead life with dignity
3. State to provide minimum conditions ensuring human dignity
4. Right of women to be treated with decency and proper dignity
5. Rape is violative of Right to Dignity
6. Sexual Harassment at Work Place is violative of Right to Dignity
7. Right of prostitutes to live a life of dignity
8. State's duty to provide means to citizens to live a life of dignity
9. Right to Reputation
10. Right to Dignity of foreigners
11. Right to Dignity – not to be ignored in Prisons
12. Torture or cruel, inhuman or degrading treatment would be offensive to human dignity
13. Polluted Environment offends Right to Dignity

SOURCE: Largely borrowed from **S. Shantha Kumar, *Human Rights, People's Watch-Tamil Nadu, Madurai Nov, 2005***, with modifications.

Notes:

¹ D.D. Basu, *Human Rights in Constitutional Law*, Wadhwa, Nagpur, 2003, p.8

² See Section 2(d)

³ See L.B. Curzon, *Jurisprudence*, Cavendish Publishing Limited, London, 1993, p.222

⁴ Id.

⁵ Id.

⁶ Ibid. p.229

⁷ (1943) 319 U.S. 624 (638)

⁸ Act No.10 of 1994

⁹ See Section 2(f) for definition of "International Covenants."

¹⁰ D.D. Basu, *Human Rights in Constitutional Law*, Wadhwa, Nagpur, 2003, p.2

CLASSIFICATION OF HUMAN RIGHTS

AN ENUMERATION OF THE VARIOUS RIGHTS OF INDIVIDUALS, GROUPS AND PEOPLE AS CONTAINED IN MAJOR INTERNATIONAL DECLARATION AND CONVENTIONS ON HUMAN RIGHTS

CERTAIN EXAMPLES OF CIVIL RIGHTS

- ♣ Right to life
- ♣ Right to liberty
- ♣ Right to freedom from torture
- ♣ Right to equality before the law
- ♣ Right to freedom from discrimination
- ♣ Right to judicial personality (be recognised as a person before the law)
- ♣ Right to access to court
- ♣ Right to trial before a competent, impartial and independent judicial authority.
- ♣ Right to public trial
- ♣ Right to be informed of charges
- ♣ Right to be presumed innocent.
- ♣ Right to freedom from giving self-incriminating evidence
- ♣ Right to access to relevant information
- ♣ Right to (free) legal assistance
- ♣ Right to choose defense (have legal counsel of one's choosing)
- ♣ Right to have adequate time and facilities to prepare defense
- ♣ Right to defend and be heard in person
- ♣ Right to communication with defense counsel
- ♣ Right to the free assistance of an interpreter

- ♣ Right to equality of arms (to have a reasonable opportunity to present one's case before the court under conditions which do not place one in disadvantage vis-a-vis one's opponent)
- ♣ Right to examination of witness
- ♣ Right to take proceedings (privilege of the writ of habeas corpus)
- ♣ Right to effective remedy (to have effective means of redress before authorities in case of violations guaranteed rights and freedoms)
- ♣ Right to freedom from double jeopardy
- ♣ Right to non-retro activity of penalty (freedom from penalty heavier than the one applicable at the time the offence was committed)
- ♣ Right to appeal or have one's conviction and sentence reviewed by a higher tribunal.
- ♣ Right to human treatment (freedom from cruel, degrading or inhuman treatment or punishment)
- ♣ Right to appropriate treatment as a prisoner
- ♣ Right to protection from abuse of authority
- ♣ Right to receive, seek, and impart information
- ♣ Right to freedom of conscience and to freely hold opinions (including religious and political beliefs)
- ♣ Right to security in one's privacy of home
- ♣ Right to security in one's privacy of communication
- ♣ Right to liberty of movement (freedom of travel)
- ♣ Right to freedom of residence
- ♣ Right to obtain compensation in case of miscarriage of justice
- ♣ Right not to be subjected to medical or scientific experiments without free consent
- ♣ Right to marry (including right not to enter into marriage without giving free and full consent)
- ♣ Right not to be deprived of property arbitrarily
- ♣ Right to freedom of imprisonment due to debt
- ♣ Right not to be arbitrarily exiled.

- ♣ Right to enter a country
- ♣ Right to leave a country
- ♣ Right to freedom from incitement to discrimination, hatred or violence (to be protected through the prohibition by the state of the head advocacy of national, racial or religious discrimination, hatred or violence)
- ♣ Right to conscientious objection (objection to perform compulsory military service for reasons of conscience or profound religious ethical and similar convictions)
- ♣ Right to alternative service of a civil nature offered as alternative to compulsory military service)

POLITICAL RIGHTS

- ♣ Right to freedom of expression (including press freedom)
- ♣ Right to freedom of assembly
- ♣ Right to freedom of association
- ♣ Right to vote
- ♣ Right to political participation (to campaign for and/or participate in party politics etc.,)
- ♣ Right to free and periodic elections
- ♣ Right to equal access to public service (including right to be elected to office)

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

- ♣ Right to food
- ♣ Right to housing
- ♣ Right to health
- ♣ Right to water
- ♣ Right to adequate standards of living
- ♣ Right to access to education
- ♣ Right to found a family

- ♣ Right to social security
- ♣ Right to insurance
- ♣ Right to social and medical assistance
- ♣ Right to adequate nutrition
- ♣ Right to social welfare benefits freedom indispensable for research
- ♣ Right to enjoyment of scientific advancements

RIGHTS OF PROTECTED GROUPS

RIGHTS OF WORKERS

- ♣ Right to equal remuneration (equal pay for equal work)
- ♣ Right to collective bargaining
- ♣ Right to appropriate bargaining machinery
- ♣ Right to form and join trade unions
- ♣ Right to strike
- ♣ Right to paid leave
- ♣ Right to fair remuneration
- ♣ Right to limited working hours
- ♣ Right to weekly rest periods
- ♣ Right to advance notice of dismissal
- ♣ Right to equal opportunity for promotion safe and healthy working conditions
- ♣ Right to just working conditions
- ♣ Right to joint consultation between worker and employers
- ♣ Right to progressive reduction of working hours (limitation of working hours specifically in proportion to increase of productivity)
- ♣ Right to sheltered employment
- ♣ Right to vocational guidance
- ♣ Right to vocational training

RIGHTS OF WOMEN

- ♣ Right to equal remuneration
- ♣ Right to equality of the sexes
- ♣ Right to equality of the spouses
- ♣ Right to protection from exploitation
- ♣ Right to maternity leave for pregnant women

RIGHTS OF CHILDREN AND JUVENILES

- ♣ Right to a name
- ♣ Right (of children born out of wedlock) to enjoy equal rights as those born in wedlock
- ♣ Right to access to education (including free and compulsory elementary education)
- ♣ Right to free vocational training/ apprenticeship
- ♣ Right (of arrested juveniles) to rehabilitation
- ♣ Right to freedom from capital punishment
- ♣ Right to protection from neglect, cruelty and exploitation
- ♣ Right to protection through a minimum age for employment.
- ♣ Right to opportunity for play and recreation
- ♣ Right to social services

RIGHTS OF PRISONERS

- ♣ Right to be registered as a prisoner
- ♣ Right to be separated in categories (men should be detained separately from women, untried prisoners from convicted prisoners, persons imprisoned for debt from criminals, and young persons from adults.
- ♣ Right to individual accommodation
- ♣ Right to adequate ventilation, lightning, heating sanitary facilities and other necessitates for health and hygiene

- ♣ Right to clothing and bedding
- ♣ Right to adequate food and water
- ♣ Right to suitable exercise and sport
- ♣ Right to medical services
- ♣ Right to freedom from corporal punishment and all cruel or degrading punishment.
- ♣ Right to freedom from punishment, including disciplinary measures, except in accordance with law and regulations
- ♣ Right to present request or complaints to authorities
- ♣ Right to contact with family and reputable friends (by correspondence and receiving visits)
- ♣ Right to be regularly informed of news in the outside world
- ♣ Right to use of prison library
- ♣ Right to practice religion
- ♣ Right to retain personal property
- ♣ Right to protection from public security
- ♣ Right (of women prisoner) to be attended to by women officers only
- ♣ Right (of insane and mentally abnormal prisoners) to be removed to mental institutions

RIGHTS OF AGING PERSONS

- ♣ Right to freedom from capital punishment
- ♣ Right to social security

RIGHTS OF DIFFERENTLY - ABLED PERSONS

- ♣ Right to preferential employment for differently - abled persons
- ♣ Right to occupational rehabilitation
- ♣ Right to social resettlement

RIGHTS OF INDIGENOUS PEOPLES

- ♣ Right to existence
- ♣ Right to the respect of its national and cultural identity
- ♣ Right to retain peaceful possession of its territory and to return to it if expelled
- ♣ Right to self-determination
- ♣ Right to freedom from genocide
- ♣ Right to freedom from colonial or foreign domination
- ♣ Right to freedom from apartheid
- ♣ Right to a democratic government
- ♣ Right to dispose of natural wealth and resources
- ♣ Right to participate in international scientific and technical progress
- ♣ Right to equal and just terms in international trade
- ♣ Right to culture, such as the right to linguistic and cultural freedom, and the right to its artistic, historical and cultural wealth
- ♣ Right to the conservation, protection and improvement of their environment
- ♣ Right to make use of the common heritage of human kind (the high seas, the sea bed, the outer space)
- ♣ Right to collective enjoyment of rights and freedoms
- ♣ Right to linguistic and cultural freedoms
- ♣ Right to freedom from discrimination.

Basic Principles of Human Rights Frame Work

Underlying Principles of Human Rights

Equality

The equality concept expresses the notion of respect for the inherent dignity of all human beings. As specified in Article 1 of the Universal Declaration of Human Rights, it is the basis of human rights: "All human beings are born free and equal in dignity and rights."

Non-discrimination

Non-discrimination is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The criteria identified in the treaties, however, are only examples; it does not mean that discrimination is allowed on other grounds.

Universality

Certain moral and ethical values are shared in all regions of the world, and governments and communities should recognize and uphold them. The universality of rights does not mean, however, that the rights cannot change or that they are experienced in the same manner by all people.

Human dignity

Human dignity affirms that all people deserve to be respected simply because they are human beings. Regardless of age, culture, religion, ethnic origin, colour, sex, sexual orientation, language, ability, social status, civil status or political convictions, all individuals deserve equal respect.

Indivisibility

Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights.

Interdependency

Human rights concerns appear in all spheres of life -- home, school, workplace, courts, markets -- everywhere! Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

Inalienability

The rights that individuals have cannot be taken away, surrendered, or transferred.

Responsibility

Government responsibility: human rights are not gifts bestowed at the pleasure of governments. Nor should governments withhold them or apply them to some people but not to others. When they do so, they must be held accountable. As 'duty bearers' governments have the obligation to respect, protect and fulfill human rights.

Individual responsibility: Every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them.

Other responsible entities: Every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights. A private entity such as a corporation, a family, or a local government can also be 'duty bearers'.

Sources:

Flowers, N. (2000). *The Human Rights Education Handbook: Effective Practices For Learning, Action, And Change*. Minneapolis, MN: University of Minnesota.

Ravindran, D. J. (1998). *Human Rights Praxis: A Resource Book for Study, Action and Reflection*. Bangkok, Thailand: The Asia Forum for Human Rights and Development.

HUMAN RIGHTS AND THE CONSTITUTION OF INDIA

The Indian Constitution (1949) was drafted even before the Universal Declaration (1950), but it was adopted at a time when the deliberations for the Universal Declaration were in the air, so that the framers of the Indian Constitution were influenced by the concept of human rights, and already guaranteed most of the human rights which later came to be embodied in the International Covenants in 1966.

It is thus evident that during the period between 1946 and 1949, India had formulated the concept of human rights which were divided into two parts, in much the same way as the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights. In the Indian Constitution, the justiciable human rights, broadly speaking were included in part III, while the non justiciable social and economic rights were set forth in Part IV on the Directive Principles of State policy.

A Comparison of Universal Declaration of Human Rights (1948) and Fundamental Rights enunciated in Part – III of the Indian Constitution

SUBJECT	INDIAN CONSTITUTION	UDHR (1948)
(1)	(2)	(3)
	FUNDAMENTAL RIGHTS	
(a) Equality before law	Art.14: The State shall not deny to any person equality before the Law or the equal protection of the Laws within the territory of India.	Art.7: All are equal before the Law and are entitled without any discrimination to equal protection of the Law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.
(b) Prohibition of Discrimination on grounds only of religion, race, caste, sex, place of birth or any of them.	Art.15: (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place or any of them.	Art.2. Para (1): Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property birth or other status.

<p>(c) Equality of opportunity in matters of public employment.</p>	<p>Art.16 (1): There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.</p>	<p>Art.21(2): Everyone has a right to equal access to public service in his country.</p>
<p>(d) Freedom of speech, assembly, association etc.</p>	<p>Art. 19(1): All citizens shall have the</p> <ol style="list-style-type: none"> a. Right to freedom of speech and expression. b. Right to assemble peaceably and without arms. c. Right to form Unions and Associations. d. Right to move freely throughout the territory of India; e. Right to reside and settle in any part of the territory of India. 	<p>Art.19: Everyone has the right to freedom of opinion and expression;</p> <p>Art.20 (1): Everyone has the right to freedom of peaceful assembly and association.</p> <p>Art.23 (4): Everyone has a right to form and to join trade unions for the protection of his rights.</p> <p>Art.20 (2): No one may be compelled to belong to an Association</p> <p>Art.12 (1) Everyone has the right to freedom of movement and residence within the borders of each State.</p>
<p>(e) Protection in respect of conviction for offences.</p>	<p>Art. 20 (1): No person shall be convicted of any offence except for violation of law in force at the time of the commission of the act charged as</p>	<p>Art.11 (2): No one shall be held guilty of any penal offence on account of any act or omission, which may not constitute a penal offence, under</p>

	an offence, 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.	national or international law, at the time when it was committed. Not shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.
(f) Protection of life and personal liberty.	Art. 21: No person shall be deprived of his life or personal liberty except according to procedure established by law.	Art. 3: Everyone has the right to life, liberty and security of person. Art.9: No one shall be subjected to arbitrary arrest, detention or exile.
(g) Protection of traffic in human beings and forced labour.	Art. 23: (1) Traffic in human beings and 'Begar' and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with Law.	Art. 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all forms.
(h) Freedom of conscience and free profession, practice and propagation of religion.	Art. 25 (1): Subject to public order, morality and health and to the provisions of this part, all persons are equally entitled to freedom of conscience and right freely to profess, practise, and propagate religion.	Art. 18: Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

<p>(i) Protection of interests of minorities.</p>	<p>Art. 29.(1):</p> <p>Any section of the citizens residing in the territory or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.</p>	<p>Art. 22:</p> <p>Everyone, as a member of society, has the right to social security and is entitled to realisation, through national effort and international co-operation and in accordance with the organisation and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of personality.</p>
<p>(j) Right to minorities to establish and administer educational institutions.</p>	<p>Art. 30 (1):</p> <p>All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.</p>	<p>Art. 26 (3):</p> <p>Parents have a prior right to choose the kind of education that shall be given to their children.</p>
<p>(k) Right to Constitutional remedies.</p>	<p>Art.32 (1):</p> <p>The right to move the Supreme Court by appropriate proceedings for the enforcement of rights conferred by this part is guaranteed.</p> <p>Note: 'By this part' refers to Part III – Fundamental Rights.</p>	<p>Art. 8:</p> <p>Everyone has the right to an effective remedy by the tribunals for acts violating the fundamental rights granted to him by the Constitution or by Law.</p>

THE BASIC STRUCTURE OF THE INDIAN CONSTITUTION

Compiled by Venkatesh Nayak

Introduction

The debate on the 'basic structure' of the Constitution, lying somnolent in the archives of India's constitutional history during the last decade of the 20th century, has reappeared in the public realm. While setting up the National Commission to Review the Working of the Constitution (the Commission), the National Democratic Alliance government (formed by a coalition of 24 national and regional level parties) stated that the basic structure of the Constitution would not be tampered with. Justice M.N. Venkatachalaiah, Chairman of the Commission, has emphasised on several occasions that an inquiry into the basic structure of the Constitution lay beyond the scope of the Commission's work.

Several political parties -- notably the Congress (I) and the two Communist parties which are in the opposition -- have made it clear that the review exercise was the government's ploy to seek legitimacy for its design to adopt radical constitutional reforms thus destroying the basic structure of the document.

Much of the public debate has been a victim of partial amnesia as even literate circles of urban India are unsure of the ramifications of this concept, which was hotly debated during the 1970s and 1980s. The following discussion is an attempt to chart the waters of that period rendered turbulent by the power struggle between the legislative and the judicial arms of the State.

According to the Constitution, Parliament and the state legislatures in India have the power to make laws within their respective jurisdictions. This power is not absolute in nature. The Constitution vests in the judiciary, the power to adjudicate upon the constitutional validity of all laws. If a law made by Parliament or the state legislatures violates any provision of the Constitution, the Supreme Court has the power to declare such a law invalid or ultra vires. This check notwithstanding, the founding fathers wanted the Constitution to be an adaptable document rather than a rigid framework for governance. Hence Parliament was invested with the power to amend the Constitution. Article 368 of the Constitution gives the impression that Parliament's amending powers are absolute and encompass all parts of the document. But the Supreme Court has acted as a brake to the legislative enthusiasm of Parliament ever since independence. With the intention of preserving the original ideals envisioned by the constitution-makers, the apex court pronounced that Parliament could not distort, damage or alter the basic features of the Constitution under the pretext of amending it. The phrase 'basic structure' itself cannot be found in the Constitution. The Supreme Court recognised this concept for the first time in the historic Kesavananda Bharati case in 1973.¹ Ever since the Supreme Court has been the interpreter of the Constitution and the arbiter of all amendments made by Parliament.

¹ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225: AIR 1973 SC 1461.

The pre-Kesavanada position

Parliament's authority to amend the Constitution, particularly the chapter on the fundamental rights of citizens, was challenged as early as in 1951. After independence, several laws were enacted in the states with the aim of reforming land ownership and tenancy structures. This was in keeping with the ruling Congress party's electoral promise of implementing the socialistic goals of the Constitution [contained in Article 39 (b) and (c) of the **Directive Principles of State Policy**] that required **equitable distribution of resources of production among all citizens and prevention of concentration of wealth in the hands of a few**. Property owners -- adversely affected by these laws -- petitioned the courts. The courts struck down the land reforms laws saying that they transgressed the fundamental right to property guaranteed by the Constitution. Piqued by the unfavourable judgements, Parliament placed these laws in the **Ninth Schedule**² of the Constitution through the First and Fourth amendments (1951 and 1952 respectively), thereby effectively removing them from the scope of judicial review.

[Parliament added the Ninth Schedule to the Constitution through the very first amendment in 1951 as a means of immunising certain laws against judicial review. Under the provisions of Article 31, which themselves were amended several times later, laws placed in the Ninth Schedule -- pertaining to acquisition of private property and compensation payable for such acquisition -- cannot be challenged in a court of law on the ground that they violated the fundamental rights of citizens. This protective umbrella covers more than 250 laws passed by state legislatures with the aim of regulating the size of land holdings and abolishing various tenancy systems. The Ninth Schedule was created with the primary objective of preventing the judiciary - which upheld the citizens' right to property on several occasions - from derailing the Congress party led government's agenda for a social revolution.³]

Property owners again challenged the constitutional amendments which placed land reforms laws in the Ninth Schedule before the Supreme Court, saying that they violated Article 13 (2) of the Constitution.

Article 13 (2) provides for the protection of the fundamental rights of the citizen.⁴ Parliament and the state legislatures are clearly prohibited from making laws that may take

² Originally, the Constitution guaranteed a citizen, the fundamental right to acquire hold and dispose of property under Article 19f. Under Article 31 he could not be deprived of his property unless it was acquired by the State, under a law that determined the amount of compensation he ought to receive against such an acquisition. Property owned by an individual or a firm could be acquired by the State only for public purposes and upon payment of compensation determined by the law. Article 31 has been modified six times -- beginning with the First amendment in 1951 -- progressively curtailing this fundamental right. Finally in 1978, Article 19f was omitted and Article 31 repealed by the Forty-fourth amendment. Instead Article 300A was introduced in Part XII making the right to property only a legal right. This provision implies that the executive arm of the government (civil servants and the police) could not interfere with the citizen's right to property. However, Parliament and state legislatures had the power to make laws affecting the citizens' right to property.]

³ Later on, laws relating to the nationalisation of certain sick industrial undertakings, the regulation of monopolies and restrictive trade practices, transactions in foreign exchange, abolition of bonded labour, ceiling on urban land holdings, the supply and distribution of essential commodities and reservation benefits provided for Scheduled Castes and Tribes in Tamil Nadu were added to the Ninth Schedule through various constitutional amendments.

⁴ Article 13 (2) states- "The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void." The term Part refers to Part III of the Constitution which lists the fundamental rights of the citizen.

away or abridge the fundamental rights guaranteed to the citizen. They argued that any amendment to the Constitution had the status of a law as understood by **Article 13 (2)**. In 1952 (*Sankari Prasad Singh Deo v. Union of India*⁵) and 1955 (*Sajjan Singh v. Rajasthan*⁶), the Supreme Court rejected both arguments and upheld the power of Parliament to amend any part of the Constitution including that which affects the fundamental rights of citizens. Significantly though, two dissenting judges in *Sajjan Singh v. Rajasthan* case raised doubts whether the fundamental rights of citizens could become a plaything of the majority party in Parliament.

The Golaknath verdict

In 1967 an eleven-judge bench of the Supreme Court reversed its position. Delivering its 6:5 majority judgement in the *Golaknath v. State of Punjab* case⁷, Chief Justice Subba Rao put forth the curious position that Article 368, that contained provisions related to the amendment of the Constitution, merely laid down the amending procedure. Article 368 did not confer upon Parliament the power to amend the Constitution. The amending power (constituent power) of Parliament arose from other provisions contained in the Constitution (**Articles 245, 246, 248**) which gave it the power to make laws (plenary legislative power). Thus, the apex court held that the amending power and legislative powers of Parliament were essentially the same. Therefore, any amendment of the Constitution must be deemed law as understood in **Article 13 (2)**.

The majority judgement invoked the concept of **implied limitations on Parliament's power to amend the Constitution**. This view held that the Constitution gives a place of permanence to the fundamental freedoms of the citizen. In giving the Constitution to themselves, the people had reserved the fundamental rights for themselves. **Article 13**, according to the majority view, expressed this limitation on the powers of Parliament. Parliament could not modify, restrict or impair fundamental freedoms due to this very scheme of the Constitution and the nature of the freedoms granted under it. The judges stated that the fundamental rights were so sacrosanct and transcendental in importance that they could not be restricted even if such a move were to receive unanimous approval of both houses of Parliament. They observed that a Constituent Assembly might be summoned by Parliament for the purpose of amending the fundamental rights if necessary.

In other words, the apex court held that some features of the Constitution lay at its core and required much more than the usual procedures to change them.

The phrase '**basic structure**' was introduced for the first time by M.K. Nambiar and other counsels while arguing for the petitioners in the *Golaknath* case, but it was only in 1973 that the concept surfaced in the text of the apex court's verdict.

Nationalisation of Banks and Abolition of Privy Purses

⁵ *Sankari Prasad Singh Deo v. Union of India*, AIR 1951 SC 458

⁶ *Sajjan Singh v. State of Rajasthan*, AIR 1965 SC 845.

⁷ *I.C. Golaknath v. State of Punjab*, AIR 1967 SC 1643.

Within a few weeks of the Golaknath verdict the Congress party suffered heavy losses in the parliamentary elections and lost power in several states. Though a private member's bill - tabled by Barrister Nath Pai - seeking to restore the supremacy of Parliament's power to amend the Constitution was introduced and debated both on the floor of the house and in the Select Committee, it could not be passed due to political compulsions of the time. But the opportunity to test parliamentary supremacy presented itself once again when Parliament introduced laws to provide greater access to bank credit for the agricultural sector and ensure equitable distribution of wealth and resources of production and by:

- a) nationalising banks and
- b) derecognising erstwhile princes in a bid to take away their Privy purses, which were promised in perpetuity - as a sop to accede to the Union - at the time of India's independence.

Parliament reasoned that it was implementing the **Directive Principles of State Policy** but the Supreme Court struck down both moves. By now, it was clear that the Supreme Court and Parliament were at loggerheads over the relative position of the **fundamental rights** vis-à-vis the **Directive Principles of State Policy**. At one level, the battle was about the supremacy of Parliament vis-à-vis the power of the courts to interpret and uphold the Constitution.

At another level the contention was over the sanctity of property as a fundamental right jealously guarded by an affluent class much smaller than that of the large impoverished masses for whose benefit the Congress government claimed to implement its socialist development programme.

Less than two weeks after the Supreme Court struck down the President's order derecognising the princes, in a quick move to secure the mandate of the people and to bolster her own stature Prime Minister Indira Gandhi dissolved the Lok Sabha and called a snap poll.

For the first time, the Constitution itself became the electoral issue in India. Eight of the ten manifestos in the 1971 elections called for changes in the Constitution in order to restore the supremacy of Parliament. A.K.Gopalan of the Communist Party of India (Marxist) went to the extent of saying that the Constitution be done away with lock stock and barrel and be replaced with one that enshrined the real sovereignty of the people.⁸ The Congress party returned to power with a two-thirds majority. The electorate had endorsed the Congress party's socialist agenda, which among other things spoke of making basic changes to the Constitution in order to restore Parliament's supremacy.

Through a spate of amendments made between July 1971 and June 1972 Parliament sought to regain lost ground. It restored for itself the absolute power to amend any part of the Constitution including **Part III**, dealing with fundamental rights.⁹ Even the President

⁸ Quoted in Granville Austin, Working a Democratic Constitution, The Indian Experience, Oxford University Press, New Delhi, 1999, p.235

⁹ The Constitution (**Twenty-fourth amendment**) Act 1971.

was made duty bound to give his assent to any amendment bill passed by both houses of Parliament. Several curbs on the right property were passed into law. The **right to equality before the law and equal protection of the laws (Article 14)** and the fundamental freedoms guaranteed under Article 19¹⁰ were made subordinate to **Article 39 (b) & (c)** in the **Directive Principles of State Policy**.¹¹ Privy purses of erstwhile princes were abolished and an entire category of legislation dealing with land reforms was placed in the Ninth Schedule beyond the scope of judicial review.¹²

Emergence of the Basic Structure Concept- the Kesavanada milestone

Inevitably, the constitutional validity of these amendments was challenged before a full bench of the Supreme Court (thirteen judges). Their verdict can be found in eleven separate judgements.¹³ Nine judges signed a summary statement which records the most important conclusions reached by them in this case. Granville Austin notes that there are several discrepancies between the points contained in the summary signed by the judges and the opinions expressed by them in their separate judgements.¹⁴ Nevertheless, the seminal concept of '**basic structure**' of the Constitution gained recognition in the majority verdict.

All judges upheld the validity of the **Twenty-fourth** amendment saying that Parliament had the power to amend any or all provisions of the Constitution. All signatories to the summary held that the Golaknath case had been decided wrongly and that **Article 368** contained both the power and the procedure for amending the Constitution.

However they were clear that an amendment to the Constitution was not the same as a law as understood by **Article 13 (2)**.

[It is necessary to point out the subtle difference that exists between two kinds of functions performed by the Indian Parliament:

- a) it can make laws for the country by exercising its legislative power¹⁵ and
- b) it can amend the Constitution by exercising its constituent power.

Constituent power is superior to ordinary legislative power. Unlike the British Parliament which is a sovereign body (in the absence of a written constitution), the powers and functions of the Indian Parliament and State legislatures are subject to limitations laid down in the Constitution. The Constitution does not contain all the laws that govern the country. Parliament and the state legislatures make laws from time to time on various

¹⁰ **Freedom of speech and expression, the right to assemble peacefully, the right to form unions and associations, the right to move freely and reside in any part of India and the right to practise any profession or trade** are the six fundamental freedoms guaranteed under Article 19. The right to property was also guaranteed in this section until 1979 when it was omitted by the **Forty-fourth amendment** during the Janata party regime.

¹¹ The Constitution (**Twenty-fifth amendment**) Act 1971.

¹² The Constitution (**Twenty-sixth amendment**) Act 1971 and The Constitution (**Twenty-ninth amendment**) Act 1972, respectively.

¹³ His Holiness Kesavananda Bharati Sripadagalavaru v State of Kerala and Another 1973 (4) SCC 225ff.

¹⁴ See Austin, Working a Democratic Constitution..., p.265.

¹⁵ By virtue of the powers conferred upon it in **Articles 245 and 246**, Parliament can make laws relating to any of the 97 subjects mentioned in the Union List and 47 subjects mentioned in the Concurrent List, contained in the **Seventh Schedule** of the Constitution. Upon the recommendation of the Rajya Sabha (Council of States or the Upper House in Parliament) Parliament can also make laws in the national interest, relating to any of the 66 subjects contained in the **State List**.

subjects, within their respective jurisdictions. The general framework for making these laws is provided by the Constitution. Parliament alone is given the power to make changes to this framework under Article 368¹⁶. Unlike ordinary laws, amendments to constitutional provisions require a special majority vote in Parliament.

Another illustration is useful to demonstrate the difference between Parliament's constituent power and law making powers. According to **Article 21** of the Constitution, no person in the country may be deprived of his life or personal liberty except according to procedure established by law. The Constitution does not lay down the details of the procedure as that responsibility is vested with the legislatures and the executive. Parliament and the state legislatures make the necessary laws identifying offensive activities for which a person may be imprisoned or sentenced to death. The executive lays down the procedure of implementing these laws and the accused person is tried in a court of law. Changes to these laws may be incorporated by a simple majority vote in the concerned state legislature. There is no need to amend the Constitution in order to incorporate changes to these laws. However, if there is a demand to convert **Article 21** into the fundamental right to life by abolishing death penalty, the Constitution may have to be suitably amended by Parliament using its constituent power.

Most importantly seven of the thirteen judges in the Kesavananda Bharati case, including Chief **Justice Sikri** who signed the summary statement, declared **that Parliament's constituent power was subject to inherent limitations**. Parliament could not use its amending powers under **Article 368** to '**damage**', '**emasculate**', '**destroy**', '**abrogate**', '**change**' or '**alter**' the '**basic structure**' or framework of the Constitution.

Basic Features of the Constitution according to the Kesavanada verdict

Each judge laid out separately, what he thought were the basic or essential features of the Constitution. There was no unanimity of opinion within the majority view either.

Sikri, C.J. explained that the concept of basic structure included:

- supremacy of the Constitution
- republican and democratic form of government
- secular character of the Constitution
- separation of powers between the legislature, executive and the judiciary
- federal character of the Constitution

Shelat, J. and Grover, J. added two more basic features to this list:

- the mandate to build a welfare state contained in the Directive Principles of State Policy
- unity and integrity of the nation

¹⁶ However certain constitutional amendments must be ratified by at least half of the State legislatures before they can come into force. Matters such as the election of the President of the republic, the executive and legislative powers of the Union and the States, the High Courts in the States and Union Territories, representation of States in Parliament and the Constitution amending provisions themselves, contained in Article 368, must be amended by following this procedure.

Hegde, J. and Mukherjea, J. identified a separate and shorter list of basic features:

- sovereignty of India
- democratic character of the polity
- unity of the country
- essential features of the individual freedoms secured to the citizens
- mandate to build a welfare state

Jaganmohan Reddy, J. stated that elements of the basic features were to be found in the Preamble of the Constitution and the provisions into which they translated such as:

- sovereign democratic republic
- parliamentary democracy
- three organs of the State

He said that the Constitution would not be itself without the fundamental freedoms and the directive principles.¹⁷

Only six judges on the bench (therefore a minority view) agreed that the fundamental rights of the citizen belonged to the basic structure and Parliament could not amend it.

The minority view

The minority view delivered by **Justice A.N. Ray** (whose appointment to the position of Chief Justice over and above the heads of three senior judges, soon after the pronouncement of the Kesavananda verdict, was widely considered to be politically motivated), **Justice M.H. Beg**, **Justice K.K. Mathew** and **Justice S.N. Dwivedi** also agreed that Golaknath had been decided wrongly. They upheld the validity of all three amendments challenged before the court. **Ray, J.** held that all parts of the Constitution were essential and no distinction could be made between its essential and non-essential parts. All of them agreed that Parliament could make fundamental changes in the Constitution by exercising its power under **Article 368**.

In summary the majority verdict in Kesavananda Bharati recognised the power of Parliament to amend any or all provisions of the Constitution provided such an act did not destroy its basic structure. But there was no unanimity of opinion about what appoints to that basic structure. Though the Supreme Court very nearly returned to the position of Sankari Prasad (1952) by restoring the supremacy of Parliament's amending power, in effect it strengthened the power of judicial review much more.¹⁸

Basic Structure concept reaffirmed-the Indira Gandhi Election case

In 1975, The Supreme Court again had the opportunity to pronounce on the basic structure of the Constitution. A challenge to Prime Minister Indira Gandhi's election victory

¹⁷ His Holiness Kesavananda Bharati Sripadagalavaru v State of Kerala and Another 1973 (4) SCC pp. 637-38.

¹⁸ The majority view declared certain parts of the **Twenty-fifth amendment** invalid especially those relating to **Article 31 (c)** and upheld the **Twenty-ninth amendment**- for a detailed account see Austin, Working of a Democratic Constitution..., pp.265ff.

was upheld by the Allahabad High Court on grounds of electoral malpractice in 1975. Pending appeal, the vacation judge- Justice Krishna Iyer, granted a stay that allowed Smt. Indira Gandhi to function as Prime Minister on the condition that she should not draw a salary and speak or vote in Parliament until the case was decided. Meanwhile, Parliament passed the Thirty-ninth amendment to the Constitution which removed the authority of the Supreme Court to adjudicate petitions regarding elections of the President, Vice President, Prime Minister and Speaker of the Lok Sabha. Instead, a body constituted by Parliament would be vested with the power to resolve such election disputes. Section 4 of the Amendment Bill effectively thwarted any attempt to challenge the election of an incumbent, occupying any of the above offices in a court of law. This was clearly a pre-emptive action designed to benefit Smt. Indira Gandhi whose election was the object of the ongoing dispute.

Amendments were also made to the Representation of Peoples Acts of 1951 and 1974 and placed in the **Ninth Schedule** along with the Election Laws Amendment Act, 1975 in order to save the Prime Minister from embarrassment if the apex court delivered an unfavourable verdict. The mala fide intention of the government was proved by the haste in which the Thirty-ninth amendment was passed. The bill was introduced on August 7, 1975 and passed by the Lok Sabha the same day. The Rajya Sabha (Upper House or House of Elders) passed it the next day and the President gave his assent two days later. The amendment was ratified by the state legislatures in special Saturday sessions. It was gazetted on August 10. When the Supreme Court opened the case for hearing the next day, the Attorney General asked the Court to throw out the case in the light of the new amendment.

Counsel for Raj Narain who was the political opponent challenging Mrs. Gandhi's election argued that the amendment was against the basic structure of the Constitution as it affected the conduct of free and fair elections and the power of judicial review. Counsel also argued that Parliament was not competent to use its constituent power for validating an election that was declared void by the High Court.

Four out of five judges on the bench upheld the Thirty-ninth amendment, but only after striking down that part which sought to curb the power of the judiciary to adjudicate in the current election dispute.¹⁹

One judge, **Beg, J.** upheld the amendment in its entirety. Mrs. Gandhi's election was declared valid on the basis of the amended election laws. The judges grudgingly accepted Parliament's power to pass laws that have a retrospective effect.

Basic Features of the Constitution according to the Election case verdict

Again, each judge expressed views about what amounts to the basic structure of the Constitution:

According to **Justice H.R.Khanna, democracy is a basic feature of the Constitution**

¹⁹ The Supreme Court struck down Section 4 of the **Thirty-ninth amendment Act**, i.e. **Article 329A** of the Constitution as it existed in 1975.

and includes free and fair elections.

Justice K.K. Thomas held that the **power of judicial review is an essential feature.**

Justice Y.V. Chandrachud listed four basic features which he considered unamendable:

- sovereign democratic republic status
- equality of status and opportunity of an individual
- secularism and freedom of conscience and religion
- 'government of laws and not of men' i.e. the rule of law

According to **Chief Justice A.N. Ray**, the constituent power of Parliament was above the Constitution itself and therefore not bound by the principle of separation of powers. Parliament could therefore exclude laws relating election disputes from judicial review. He opined, strangely, that **democracy was a basic feature but not free and fair elections.** **Ray, C.J.** held that ordinary legislation was not within the scope of basic features.

Justice K.K.Mathew agreed with **Ray, C.J.** that ordinary laws did not fall within the purview of basic structure. But he held that **democracy was an essential feature and that election disputes must be decided on the basis of law and facts by the judiciary.**

Justice M.H.Beg disagreed with **Ray, C.J.** on the grounds that it would be unnecessary to have a Constitution if Parliament's constituent power were said to be above it.²⁰ Judicial powers were vested in the Supreme Court and the High Courts and Parliament could not perform them. He contended that **supremacy of the Constitution and separation of powers** were basic features as understood by the majority in the Kesavananda Bharati case. **Beg, J.** emphasised that **the doctrine of basic structure included within its scope ordinary legislation also.**

Despite the disagreement between the judges on what constituted the basic structure of the Constitution, the idea that the Constitution had a core content which was sacrosanct was upheld by the majority view.

The Kesavananda Review Bench

Within three days of the decision on the Election case **Ray, C.J.** convened a thirteen judge bench to review the Kesavananda verdict on the pretext of hearing a number of petitions relating to land ceiling laws which had been languishing in high courts. The petitions contended that the application of land ceiling laws violated the basic structure of the Constitution. In effect the Review bench was to decide **whether or not the basic structure doctrine restricted Parliament's power to amend the Constitution.** The decision in the Bank Nationalisation case was also up for review.

²⁰ A comparison with the Westminster model would bring out the subtleties involved in this matter more clearly. The United Kingdom does not have a written Constitution like India or the USA. The British Parliament is a sovereign body and there is very little difference between constitutional law and ordinary law in that country. The Indian Parliament owes its existence to a written Constitution that was put together by another sovereign body, namely, the Constituent Assembly. Parliament's powers (including the power to amend) are not sui juris but essentially derived from this Constitution. Therefore it cannot be said to occupy a position superior to the Constitution.

Meanwhile Prime Minister Indira Gandhi, in a speech in Parliament, refused to accept the dogma of basic structure.²¹

It must be remembered that no specific petition seeking a review of the Kesavananda verdict filed before the apex court- a fact noted with much chagrin by several members of the bench. N.N. Palkhivala appearing for on behalf of a coal mining company eloquently argued against the move to review the Kesavananda decision. Ultimately, **Ray, C.J.** dissolved the bench after two days of hearings. Many people have suspected the government's indirect involvement in this episode seeking to undo an unfavourable judicial precedent set by the Kesavananda decision. However no concerted efforts were made to pursue the case.

The declaration of a National Emergency in June 1975 and the consequent suspension of fundamental freedoms, including the right to move courts against preventive detention, diverted the attention of the country from this issue.

Sardar Swaran Singh Committee and the Forty-second amendment

Soon after the declaration of National Emergency, the Congress party constituted a committee under the Chairmanship of Sardar Swaran Singh to study the question of amending the Constitution in the light of past experiences. Based on its recommendations, the government incorporated several changes to the Constitution including the **Preamble**, through the **Forty-second amendment** (passed in 1976 and came into effect on January 3, 1977). Among other things the amendment:

- a. gave the **Directive Principles of State Policy** precedence over the **Fundamental Rights** contained in **Article 14 (right to equality before the law and equal protection of the laws)**, **Article 19 (various freedoms like freedom of speech and expression, right to assemble peacefully, right to form associations and unions, right to move about and reside freely in any part of the country and the right to pursue any trade or profession)** and **Article 21 (right to life and personal liberty)**. **Article 31C** was amended to prohibit any challenge to laws made under any of the **Directive Principles of State Policy**;²²
- b. laid down that amendments to the Constitution made in the past or those likely to be made in future could not be questioned in any court on any ground;
- c. removed all amendments to fundamental rights from the scope of judicial review and d) removed all limits on Parliament's power to amend the Constitution under **Article 368**.

Basic structure doctrine reaffirmed- the Minerva Mills and Waman Rao cases

Within less than two years of the restoration of Parliament's amending powers to near

²¹ Speech in Parliament- October 27, 1976: see Indira Gandhi: Selected Speeches and Writings, vol. 3, p.288.

²² **Article 31C** stated that laws passed to implement the **Directive Principles of State Policy** could not be challenged in courts on the ground that they violated any fundamental right. Prior to the **Forty-second amendment** this clause was applicable only to **Article 39 (b) & (c)** of the **Directive Principles** which dealt with equitable distribution of wealth and resources of production.

absolute terms, the **Forty-second amendment** was challenged before the Supreme Court by the owners of Minerva Mills (Bangalore) a sick industrial firm which was nationalised by the government in 1974.²³

Mr. N.A. Palkhivala, renowned constitutional lawyer and counsel for the petitioners, chose not to challenge the government's action merely in terms of an infringement of the fundamental right to property. Instead, he framed the challenge in terms of Parliament's power to amend the Constitution.

Mr. Palkhivala argued that Section 55 of the amendment²⁴ had placed unlimited amending power in the hands of Parliament. The attempt to immunise constitutional amendments against judicial review violated the doctrine of basic structure which had been recognised by the Supreme Court in the Kesavananda Bharati and Indira Gandhi Election Cases. He further contended that the amended Article 31C was constitutionally bad as it violated the Preamble of the Constitution and the fundamental rights of citizens. It also took away the power of judicial review.

Chief Justice Y.V. Chandrachud, delivering the majority judgement (4:1), upheld both contentions. The majority view upheld the power of judicial review of constitutional amendments. They maintained that clauses (4) and (5) of **Article 368** conferred unlimited power on Parliament to amend the Constitution. They said that this deprived courts of the ability to question the amendment even if it damaged or destroyed the Constitution's basic structure.

The judges, who concurred with Chandrachud, C.J. ruled that a limited amending power itself is a basic feature of the Constitution.

Bhagwati, J. the dissenting judge also agreed with this view stating that no authority howsoever lofty, could claim to be the sole judge of its power and actions under the Constitution.²⁵

The majority held the amendment to **Article 31C** unconstitutional as it destroyed the harmony and balance between fundamental rights and directive principles which is an essential or basic feature of the Constitution.²⁶ The amendment to Article 31C remains a dead letter as it has not been repealed or deleted by Parliament. Nevertheless cases under it are decided as it existed prior to the Forty-second amendment.

²³ Minerva Mills Ltd. v Union of India (1980) 3 SCC 625.

²⁴ The Constitution (Forty-second amendment) Act 1976 [corresponding to Article 368 (4) & (5)]

²⁵ Such a position seems contrary to the philosophy of separation of powers that characterise the structure of governance in India. The Constitution provides for a scheme of checks and balances between the three organs of government namely, the legislature, the executive and the judiciary, against any potential abuse of power. For example, the judges of the Supreme Court and the High Courts in the States are appointed by the executive i.e. the President acting on the advice of the Prime Minister and the Chief Justice of the Supreme Court. But they may be removed from office only if they are impeached by Parliament. This measure helps the judiciary to function without any fear of the executive. Similarly, the executive is responsible to Parliament in its day to day functioning. While the President appoints the leader of the majority party or a person who he believes commands a majority in the Lok Sabha (House of the People or the Lower House) a government is duty bound to lay down power if the House adopts a motion expressing no confidence in the government.

²⁶ **Bhagwati, J.** upheld its validity and concurred that the government's takeover of the sick mill was valid.

In another case relating to a similar dispute involving agricultural property the apex court, held that all constitutional amendments made after the date of the Kesavananda Bharati judgement were open to judicial review.²⁷ All laws placed in the Ninth Schedule after the date of the Kesavananda Bharati judgement were also open to review in the courts. They can be challenged on the ground that they are beyond Parliament's constituent power or that they have damaged the basic structure of the Constitution. In essence, the Supreme Court struck a balance between its authority to interpret the Constitution and Parliament's power to amend it.

Summary

It may be said that the final word on the issue of the basic structure of the Constitution has not been pronounced by the Supreme Court- a scenario that is unlikely to change in the near future. While the idea that there is such a thing as a basic structure to the Constitution is well established its contents cannot be completely determined with any measure of finality until a judgement of the Supreme Court spells it out. Nevertheless the sovereign, democratic and secular character of the polity, rule of law, independence of the judiciary, fundamental rights of citizens etc. are some of the essential features of the Constitution that have appeared time and again in the apex court's pronouncements. One certainty that emerged out of this tussle between Parliament and the judiciary is that all laws and constitutional amendments are now subject to judicial review and laws that transgress the basic structure are likely to be struck down by the Supreme Court. In essence Parliament's power to amend the Constitution is not absolute and the Supreme Court is the final arbiter over and interpreter of all constitutional amendments.

²⁷ Waman Rao v Union of India 1981 2 SCC 362. The Supreme Court decided this case along with that of Minerva Mills. **Bhagwati, J.** who was in the minority again incorporated his opinions on both cases in a single judgment.

THE CONSTITUTION OF INDIA
PART III FUNDAMENTAL RIGHTS

General

12. Definition.—In this Part, unless the context otherwise requires, “the State” includes the Government and Parliament of India and the Government and the Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

13. Laws inconsistent with or in derogation of the fundamental rights.—(1) All laws in force in the territory of India immediately before the commencement of this Constitution, in so far as they are inconsistent with the provisions of this Part, shall, to the extent of such inconsistency, be void.

(2) The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.

(3) In this article, unless the context otherwise requires,—

(a) “law” includes any Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law;

(b) “laws in force” includes laws passed or made by a Legislature or other competent authority in the territory of India before the commencement of this Constitution and not previously repealed, notwithstanding that any such law or any part thereof may not be then in operation either at all or in particular areas.

(4) Nothing in this article shall apply to any amendment of this Constitution made under article 368.

Right to Equality

14. Equality before law.—The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.—(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition 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.

(3) Nothing in this article shall prevent the State from making any special provision for women and children.

(4) Nothing in this article or in clause (2) of article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes.

(5) Nothing in this article or in sub-clause (g) of clause (1) of article 19 shall prevent the State from making any special provision, by law, for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes or 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 referred to in clause (1) of article 30.

16. Equality of opportunity in matters of public employment.—(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State.

(4A) Nothing in this article shall prevent the State from making any provision for reservation in matters of promotion, with consequential seniority, to any class or classes of posts in the services under the State in favour of the Scheduled Castes and the Scheduled Tribes which, in the opinion of the State, are not adequately represented in the services under the State.

(4B) Nothing in this article shall prevent the State from considering any unfilled vacancies of a year which are reserved for being filled up in that year in accordance with any provision for reservation made under clause (4) or clause (4A) as a separate class of vacancies to be filled up in any succeeding year or years and such class of vacancies shall not be considered together with the vacancies of the year in which they are being filled up for determining the ceiling of fifty per cent. reservation on total number of vacancies of that year.

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.

17. Abolition of Untouchability.—“Untouchability” is abolished and its practice in any form is forbidden. The enforcement of any disability arising out of “Untouchability” shall be an offence punishable in accordance with law.

18. Abolition of titles.—(1) No title, not being a military or academic distinction, shall be conferred by the State.

(2) No citizen of India shall accept any title from any foreign State.

(3) No person who is not a citizen of India shall, while he holds any office of profit or trust under the State, accept without the consent of the President any title from any foreign State.

(4) No person holding any office of profit or trust under the State shall, without the consent of the President, accept any present, emolument, or office of any kind from or under any foreign State.

Right to Freedom

19. Protection of certain rights regarding freedom of speech, etc.— (1) All citizens shall have the right—

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms; (c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

* * * * *

(g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.

(3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing,

in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(5) Nothing in sub-clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise.

20. Protection in respect of conviction for offences.—(1) No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the Act charged as an offence, 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.

(2) No person shall be prosecuted and punished for the same offence more than once.

(3) No person accused of any offence shall be compelled to be a witness against himself.

21. Protection of life and personal liberty.—No person shall be deprived of his life or personal liberty except according to procedure established by law.

21A. Right to education.—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.

¹ **22. Protection against arrest and detention in certain cases.**—(1) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice.

¹ On the commencement of s. 3 of the Constitution (Forty-fourth Amendment) Act, 1978, art. 22 shall stand amended as directed in s. 3 of that Act. For the text of s. 3 of that Act, see Appendix III.

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

(3) Nothing in clauses (1) and (2) shall apply—

(a) to any person who for the time being is an enemy alien; or

(b) to any person who is arrested or detained under any law providing for preventive detention.

(4) No law providing for preventive detention shall authorise the detention of a person for a longer period than three months unless—

(a) an Advisory Board consisting of persons who are, or have been, or are qualified to be appointed as, Judges of a High Court has reported before the expiration of the said period of three months that there is in its opinion sufficient cause for such detention:

Provided that nothing in this sub-clause shall authorise the detention of any person beyond the maximum period prescribed by any law made by Parliament under sub-clause (b) of clause (7); or

(b) such person is detained in accordance with the provisions of any law made by Parliament under sub-clauses (a) and (b) of clause (7).

(5) When any person is detained in pursuance of an order made under any law providing for preventive detention, the authority making the order shall, as soon as may be, communicate to such person the grounds on which the order has been made and shall afford him the earliest opportunity of making a representation against the order.

(6) Nothing in clause (5) shall require the authority making any such order as is referred to in that clause to disclose facts which such authority considers to be against the public interest to disclose.

(7) Parliament may by law prescribe—

(a) the circumstances under which, and the class or classes of cases in which, a person may be detained for a period longer than three months under any law providing for preventive detention without obtaining the opinion of an Advisory Board in accordance with the provisions of sub-clause (a) of clause (4);

(b) the maximum period for which any person may in any class or classes of cases be detained under any law providing for preventive detention; and

(c) the procedure to be followed by an Advisory Board in an inquiry under sub-clause (a) of clause (4).

Right against Exploitation

23. Prohibition of traffic in human beings and forced labour.—(1) Traffic in human beings and *begar* and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.

(2) Nothing in this article shall prevent the State from imposing compulsory service for public purposes, and in imposing such service the State shall not make any discrimination on grounds only of religion, race, caste or class or any of them.

24. Prohibition of employment of children in factories, etc.—No child below the age of fourteen years shall be employed to work in any factory or mine or engaged in any other hazardous employment.

Right to Freedom of Religion

25. Freedom of conscience and free profession, practice and propagation of religion.—(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of *kirpans* shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

26. Freedom to manage religious affairs.—Subject to public order, morality and health, every religious denomination or any section thereof shall have the right—

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law.

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

28. Freedom as to attendance at religious instruction or religious worship in certain educational institutions.—(1) No religious instruction shall be provided in any educational institution wholly maintained out of State funds.

(2) Nothing in clause (1) shall apply to an educational institution which is administered by the State but has been established under any endowment or trust which requires that religious instruction shall be imparted in such institution.

(3) No person attending any educational institution recognised by the State or receiving aid out of State funds shall be required to take part in any religious instruction that may be imparted in such institution or to attend any religious worship that may be conducted in such institution or in any premises attached thereto unless such person or, if such person is a minor, his guardian has given his consent thereto.

Cultural and Educational Rights

29. Protection of interests of minorities.—(1) Any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.

(2) No citizen shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of religion, race, caste, language or any of them.

30. Right of minorities to establish and administer educational institutions.—(1) All minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

(1A) In making any law providing for the compulsory acquisition of any property of an educational institution established and administered by a minority, referred to in clause (1), the State shall ensure that the amount fixed by or determined under such law for the acquisition of such property is such as would not restrict or abrogate the right guaranteed under that clause.

(2) The State shall not, in granting aid to educational institutions, discriminate against any educational institution on the ground that it is under the management of a minority, whether based on religion or language.

* * * *

31. [*Compulsory acquisition of property.*] *Rep. by the Constitution (Forty-fourth Amendment) Act, 1978, s. 6 (w.e.f. 20-6-1979).*

Saving of Certain Laws

31A. Saving of laws providing for acquisition of estates, etc.—

(1) Notwithstanding anything contained in article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or

(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or

(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or

(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or

(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,

shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19:

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent:

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article,—

(a) the expression “estate” shall, in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

(i) any *jagir*, *inam* or *muafi* or other similar grant and in the States of Tamil Nadu and Kerala, any *janmam* right;

(ii) any land held under ryotwari settlement;

(iii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression “rights”, in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure- holder, *raiyat*, *under-raiyat* or other intermediary and any rights or privileges in respect of land revenue.

31B. Validation of certain Acts and Regulations.—Without prejudice to the generality of the provisions contained in article 31A, none of the Acts and Regulations specified in the Ninth Schedule nor any of the provisions thereof shall be deemed to be void, or ever to have become void, on the ground that such Act, Regulation or provision is inconsistent with, or takes away or abridges any of the rights conferred by, any provisions of this Part, and notwithstanding any judgment, decree or order of any court or Tribunal to the contrary, each of the said Acts and Regulations shall, subject to the power of any competent Legislature to repeal or amend it, continue in force.

31C. Saving of laws giving effect to certain directive principles.—Notwithstanding anything contained in article 13, no law giving effect to the policy of the State towards securing² [all or any of the principles laid down in Part IV] shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by article 14 or article 19;³ *and no law containing a declaration that it is for giving effect to such policy shall be called in question in any court on the ground that it does not give effect to such policy:*

Provided that where such law is made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent.

31D. [*Saving of laws in respect of anti-national activities.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 2 (w.e.f.13-4-1978).*

Right to Constitutional Remedies

32. Remedies for enforcement of rights conferred by this Part.—(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of *habeas corpus*, *mandamus*, prohibition, *quo warranto* and *certiorari*, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

32A. [*Constitutional validity of State laws not to be considered in proceedings under article 32.*] *Rep. by the Constitution (Forty-third Amendment) Act, 1977, s. 3 (w.e.f. 13-4-1978).*

² Subs. by the Constitution (Forty-second Amendment) Act, 1976, s. 4, for "the principles specified in clause (b) or clause (c) of article 39" (w.e.f. 3.1.1977). Section 4 has been declared invalid by the Supreme Court in *Minerva Mills Ltd. and others vs. Union of India and others* (1980) s. 2, S.C.C. 591.

³ In *Kesavananda Bharati vs. the State of Kerala* (1973). Supp. S.C.R.1., the Supreme Court held the provisions in italics to be invalid provisions in italics to be invalid.

33. Power of Parliament to modify the rights conferred by this Part in their application to Forces, etc.—Parliament may, by law, determine to what extent any of the rights conferred by this Part shall, in their application to,—

(a) the members of the Armed Forces; or

(b) the members of the Forces charged with the maintenance of public order;
or

(c) persons employed in any bureau or other organisation established by the State for purposes of intelligence or counter intelligence; or

(d) person employed in, or in connection with, the telecommunication systems set up for the purposes of any Force, bureau or organisation referred to in clauses (a) to (c),

be restricted or abrogated so as to ensure the proper discharge of their duties and the maintenance of discipline among them.

34. Restriction on rights conferred by this Part while martial law is in force in any area.—Notwithstanding anything in the foregoing provisions of this Part, Parliament may by law indemnify any person in the service of the Union or of a State or any other person in respect of any act done by him in connection with the maintenance or restoration of order in any area within the territory of India where martial law was in force or validate any sentence passed, punishment inflicted, forfeiture ordered or other act done under martial law in such area.

35. Legislation to give effect to the provisions of this Part.— Notwithstanding anything in this Constitution,—

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws—

(i) with respect to any of the matters which under clause (3) of article 16, clause (3) of article 32, article 33 and article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part;

and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub-clause (ii);

(b) any law in force immediately before the commencement of this Constitution in the territory of India with respect to any of the matters referred to in sub-clause (i) of clause (a) or providing for punishment for any act referred to in sub-clause (ii) of that clause shall, subject to the terms thereof and to any adaptations and modifications that may be made therein under article 372, continue in force until altered or repealed or amended by Parliament.

Explanation.—In this article, the expression "law in force" has the same meaning as in article 372.

PART IV

DIRECTIVE PRINCIPLES OF STATE POLICY

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

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

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

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

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;

(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.

39A. Equal justice and free legal aid.—The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

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

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

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

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

43A. Participation of workers in management of industries.—The State shall take steps, by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings, establishments or other organisations engaged in any industry.

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

45. Provision for early childhood care and education to children below the age of six years.—The State shall endeavour to provide early childhood care and education for all children until they complete the age of six years.

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

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

48. Organisation of agriculture and animal husbandry.—The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines

and shall, in particular, take steps for preserving and improving the breeds, and prohibiting the slaughter, of cows and calves and other milch and draught cattle.

48A. Protection and improvement of environment and safeguarding of forests and wild life.—The State shall endeavour to protect and improve the environment and to safeguard the forests and wild life of the country.

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

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

51. Promotion of international peace and security.—The State shall endeavour to—

- (a) promote international peace and security;
- (b) maintain just and honourable relations between nations;
- (c) foster respect for international law and treaty obligations in the dealings of organised peoples with one another; and
- (d) encourage settlement of international disputes by arbitration.

Learning and Integrating Human Rights as a Way of LIFE

– A Journey we must all take

In this second decade of the 21st century, where 50% of the world population – four billion people – are under 25 years old, many communities around the globe, women and men alike, are energized to re-imagine, redraft and rebuild their lives guided by their yearning, hopes and expectations for a life which is free from fear and free from want. As this promising process gains national and international authenticity we must all join in a commitment to social responsibility guided by the holistic vision and practical mission of human rights as a way of life, which all democracies must commit to – for which we have no other option.

The excellent learning and integrating document, now in your hands, aspires to evoke dialogue and discussions that lead to critical thinking about, and systemic analysis of, the future for humanity which we all hope to generate. On the pages of this book you can discover a unique, powerful framework that charts the way for women and men to achieve economic and social justice.

The indivisibility, interconnectedness and interrelatedness of human rights, attested to in these pages, are critical to a new understanding of human rights and towards achieving meaningful, lasting change in what many call the “spring of human rights” – the movement from charity to dignity.

Many are sharing their experiences and knowledge in these pages. They are challenging you to learn about the moral and political implications of human rights and know that they are firmly protected by law, accepted by most nations – and yet very few of us know of the relevance of human rights to our daily lives. As we integrate the thinking and experiences shared in his book we hope that a vital sense of responsibility will emerge for each one of us to become a mentor and monitor of human rights as a way of life. This outreach must take place in our homes, in our neighborhoods, with community organizations and as part of our economic, religious and cultural existence.

As we examine the articulations of human rights through norms and standards, all relevant to promoting and sustaining human dignity, you will join those who are learning to live in dignity with the other in respect and trust to become a creative, positive agent of change.

It was said about Voltaire that when asked “What can we do about human rights?” he would answer: “Let the people know them”. And Rosa Parks whose silent protest ignited the civil rights movement in the USA said that her actions put power in the hands of people to insist in participating in the decisions that determine their lives. To this we add: to be guided by human rights as a way of life. Human rights learning and integration is about knowing, owning, planning and taking action. The learner assumes a unique responsibility to join in the noble effort to have all people of the world, women, men, youth and children know

human rights as inalienable, belonging to all; to know that human rights are an excellent organizing tool, a unique strategy for economic, human and societal development. Drop by drop, step by step, through you and your organizations, we must engage in a labor of love to change the world by integrating meaningful human rights learning at all levels of society that leads to planning and positive actions.

Indeed every one of us inherently knows human rights. We each know when injustice is present and that justice is the ultimate expression of human rights. Spontaneously, we all move away from humiliation, but often in fear of humiliation, we humiliate others. This vicious cycle can be broken if people learn to trust and respect the other, internalizing and socializing human rights as a way of life. Learning that human rights call for mutual respect and that all conflicts must be solved, guided by human rights towards their full realization.

The comprehensive human rights framework, if known and claimed, is the ultimate guide- line to chart the future we all yearn for. It is a critical support system and a powerful tool for action against current social disintegration, poverty and intolerance prevalent around the world. It is so simple: Human rights are all about equality without discrimination. With the knowledge of human rights we can join in changing a world where the patriarchal system is prevalent, where justice is injustice, and where women as well as men exchange their equality for survival. We have no other option!

In your hands is the story of the miracle of human rights created by the United Nations. It is a gift given to humanity by many nations who have also made a commitment to implement them. Sadly, as millions of people will be born and die, they will not know that they are owners of human rights, and are unable to call on their governments to fulfill their obligations and commitments (www.pdhre.org/justice.html). We say, rightly, that imposed ignorance is a human rights violation and is a stumbling block undermining their realization.

It is this “human right violation” and many others, the ignorance about human rights that this book steps forward to eliminate. Drop by drop, step by step – so that people know, internalize and socialize the development of human rights and assure the realization of human rights for all.

As you embark on this journey, try to imagine human rights as the banks of the river in which life can flow freely. When the floods come, the people who have learned and integrated human rights will raise and fortify the banks to protect their communities and have freedom flow without obstructions. We have no other option.

(Shulamith Koenig, the founding President of PDHRE – People’s Movement for Human Rights Learning (www.pdhre.org), is the recipient of the 2003 United Nations Human Rights Award, and the 2011 Gold Medal for her “contribution to Humanity” from the Pio Munzo Center.)

NATIONAL HUMAN RIGHTS INSTITUTIONS

Introduction:

Apart from the formal justice delivery system in the country, there also exists a number of statutory as well as constitutional institutions, which are referred to as National Human Rights Institutions (NHRIs) which are entrusted with a complaint-mechanism system in case of human rights violations, overseeing the status of human rights and work for its improvement in the country. These institutions can always become important alternative avenues in the fight against the torture. They are introduced briefly in the following pages.

I. The National Human Rights Commission

The National Human Rights Commission is an expression of India's concern for the protection and promotion of human rights. It came into being in October, 1993. The Protection of Human Rights Act 1993 (PHRA) provides for the establishment of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of Human Rights and for matters connected therewith or incidental thereto.

The National as well as the State Commissions consist of a Chairperson and four members.

Website: <http://www.nhrc.nic.in>

i) The purpose of the PHRA:

The Parliament of India enacted the PHRA in 1993 for the following purposes:

1. To provide for the constitution of a National Human Rights Commission;
2. To provide for the constitution of a State Human Rights Commission in States; and
3. To provide for the constitution of Human Rights Courts for better protection of Human Rights and for matters connected therewith.

This Act came into force on 28th September 1993.

ii) Definition of Human Rights:

According to Section 2 (d) of the Protection of Human Rights Act, "Human Rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the international covenants and enforceable by courts in India.

iii) The National Human Rights Commission:

The National Human Rights Commission shall be constituted by the Central Government. It shall consist of:

1. A Chairperson, who has been a Chief Justice of the Supreme Court;
2. One Member who is, or has been, a Judge of the Supreme Court;
3. One Member who is, or has been, the Chief Justice of a High Court;

4. Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

iv) Deemed Members of the Commission

The following persons shall be deemed to be members of the commission for discharging the functions specified in clauses (b) to (j) of Section 12:

- a. The Chairperson of the National Commission for minorities
- b. The National Commission for the Scheduled Castes and Scheduled Tribes
- c. The National Commission for the Women

v) Headquarters of NHRC

The headquarters of the National Human Rights Commission shall be at Delhi. If necessary, offices may be established at other places of India with the approval of the Central Government.

vi) Functions of the National Human Rights Commission

The following are the functions to be performed by the National Human Rights Commission as per Section 12 of the Act:

1. Inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of:
 - a. Violation of human rights or abetment thereof or
 - b. Negligence in the prevention of such violation, by a public servant.
2. Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
3. Visit, under intimation to the State Government, any jail or any other institution under the control of the 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 thereon;
4. Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
5. Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
6. Study treaties and other international instruments on human rights and make recommendations for their effective implementation;
7. Undertake and promote research in the field of human rights;

8. Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
9. Encourage the efforts of non-governmental organizations and institutions working in the field of human rights;
10. Such other functions as it may consider necessary for the promotion of human rights.

vii) Procedure for dealing with complaints

The procedure for dealing with the complaints by the National Human Rights Commission is prescribed in paragraph 8 of the NHRC (Procedure) Regulations, 1994. It states that:

1. All complaints in whatever form received by the Commission shall be registered and assigned a number and placed for admission before a bench of two Members constituted for the purpose not later than two weeks of receipt thereof. Ordinarily complaints of the following nature are NOT entertained by the Commission:
 - a. In regard to events which happened more than one year before the making of the complaints;
 - b. With regard to matters which are sub-judice;
 - c. Which are vague, anonymous or pseudonymous;
 - d. Which are of frivolous nature, or
 - e. Those, which are outside the purview of the Commission.
2. No fee is chargeable on complaints.
3. Every attempt should be made to disclose a complete picture of the matter leading to the complaint and the same may be made in English or Hindi to enable the Commission to take immediate action. To facilitate the filing of the complaints, the Commission shall, however, entertain complaints in any language included in Eighth Schedule of the Constitution. It shall be open to the Commission to ask for further information and affidavits to be filed in support of allegations whenever considered necessary.
4. The Commission may, in its discretion, accept telegraphic complaints and complaints conveyed through Fax.
5. The Commission shall have power to dismiss a complaint in limine.
6. Upon admission of a complaint, the Chairperson/Commission shall direct whether the matter would be set down for inquiry by it or should be investigated into.
7. On every complaint on which the Chairperson/Commission takes a decision to either hold an inquiry or investigation, the Secretariat shall call for reports/comments from the concerned Government/authority giving the latter a reasonable time therefor.

8. On receipt of the comments of the concerned authority, a detailed note on the merits of the case shall be prepared for consideration of the Commission.
9. The directions and recommendations of the Commission shall be communicated to the concerned Government/authority and the petitioner as provided for in sections 18 and 19 of the Act within one week of completion of the proceedings before the Commission. On receipt of the comments of the concerned Government or authority, the Commission shall publish the report within one week of the receipt of the appropriate intimation.
10. The Commission may, in its discretion, afford a personal hearing to the petitioner or any other person on his behalf and such other person or persons as in the opinion of the Commission should be heard for appropriate disposal of the matter before it and, where necessary, call for records and examine witnesses in connection with it. The Commission shall afford a reasonable hearing, including opportunity of cross-examining witnesses, if any, in support of the complaint and leading of evidence in support of his stand, to a person whose conduct is enquired in to be it or where in its opinion the reputation of such person is likely to be prejudicially affected.
11. Where investigation is undertaken by the team of the Commission (The Commission shall have its own team of investigation to be headed by a person not below the rank of a Director General of Police, 2 Superintendents of Police, 6 Deputy Superintendents of Police and 24 inspectors of Police and such other categories of officers as the Commission from time to time decides. The Commission may in any given case appoint an appropriate number of outsiders to be associated with the investigation either as Investigators or Observers) or by any other person under its discretion, the report shall be submitted within a week of the completion or such further time as the Commission may allow. The Commission may, in its discretion, direct further investigation in a given case if it is of opinion that investigation has not been proper or the matter requires further investigation for ascertaining the truth or enabling it to properly dispose of the matter. On receipt of the report, the Commission on its own motion, or if moved in the matter, may direct inquiry to be carried by it and receive evidence in course of such inquiry.
12. The Commission or any of its Members when requested by the Chairperson may undertake visits for an on-the-spot study and where such study is undertaken by one or more members, a report thereon shall be furnished to the Commission as early as possible.

viii) Powers of NHRC relating to inquiries

Every proceeding before NHRC shall be deemed to be a judicial proceeding and the Commission shall be deemed to be a Civil Court. While inquiring in to complaints under the Act, the NHRC shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, and in particular NHRC shall have the following powers:

- Summoning and enforcing the attendance of witnesses and examining them on oath;
- Discovery and production of any document;

- Receiving evidence on affidavits;
- Requisitioning any public record or copy thereof from any Court or office;
- Issuing commissions for the examination of witnesses or documents;

ix) Investigation by NHRC

The NHRC shall have its own team of investigation to be headed by a person not below the rank of a Director General of Police, 2 Superintendents of Police, 6 Deputy Superintendents of Police and 24 inspectors of Police and such other categories of officers as the Commission from time to time decides. The NHRC may in any given case appoint an appropriate number of outsiders to be associated with the investigation either as Investigators or Observers.

x) Steps to be taken by NHRC after inquiry

After completion of the inquiry the NHRC may take any of the following steps:

1. Where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the commission may deem fit against the concerned person or persons;
2. Approach the Supreme court or the concerned High court for such directions, orders or writs as the Court may deem necessary;
3. Recommend to a concern Government or authority for the grant of such immediate interim relief to the victim or the members of its family as the commission may consider necessary;
4. Provide copy of the inquiry report to the petitioner or his representative;
5. Send a copy of the inquiry report together with recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the NHRC may allow, forward to NHRC, its comments on the report, including the action taken or proposed to be taken;
6. Publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the commission;

xii) State Human Rights Commission

The respective State Governments may constitute a body to be known as the (Name of the State) Human Rights Commission. The State Human Rights Commission shall consist of:

1. A Chairperson, who has been a Chief Justice of a High Court;
2. One Member who is, or has been, a Judge of a High Court;
3. One Member who is, or has been, a District Judge in that State;

4. Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

The Headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.

The State Human Rights Commission may inquire into violation of Human Rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution. If any matter is already being inquired into by the NHRC or any other Commission duly constituted under any law then the SHRC shall not inquire into the said matter.

The State Government shall make available to the Commission, an officer not below the rank of a Secretary to the State Government, who shall be the Secretary of the State Commission; and such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Human Rights Commission.

The State Human Rights Commission is conferred with the power to regulate its own procedure.

xiii) Functions and Powers of the SHRC

The functions of the State Human Rights Commission are same as that of the National Human Rights Commission. The SHRC shall perform all of any of the following functions:

1. Inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf, into complaint of:
 - a. Violation of human rights or abetment thereof or
 - b. Negligence in the prevention of such violation, by a public servant.
2. Intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
3. Visit, under intimation to the State Government, any jail or any other institution under the control of the 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 thereon;
4. Review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
5. Review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
6. Undertake and promote research in the field of human rights;

7. Spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
8. Encourage the efforts of non-governmental organizations and institutions working in the field of human rights;
9. Such other functions as it may consider necessary for the promotion of human rights.

xiv) Powers of SHRC relating to inquiries

Every proceeding before SHRC shall be deemed to be a judicial proceeding and the Commission shall be deemed to be a Civil Court. While inquiring in to complaints under the Act, the SHRC shall have all the powers of a Civil Court trying a suit under the Code of Civil Procedure, and in particular SHRC shall have the following powers:

- Summoning and enforcing the attendance of witnesses and examining them on oath;
- Discovery and production of any document;
- Receiving evidence on affidavits;
- Requisitioning any public record or copy thereof from any Court or office;
- Issuing commissions for the examination of witnesses or documents;

xv) Investigation by SHRC

The SHRC may for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or any investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be. The investigating officer shall investigate into any matter pertaining to the inquiry and submit a report to the SHRC within the period specified by SHRC.

For the purpose of investigation into any matter pertaining to the inquiry, the investigating officer or agency may summon and enforce the attendance of any person and examine him, require the discovery and production of any document, and requisition any public record or copy thereof from any office.

The SHRC shall satisfy itself about the correctness of the facts stated and the conclusion arrived at in the report submitted to it by making such inquiry including examination of the person or persons who conducted or assisted in the investigation.

No statement made by a person in the course of giving evidence shall be used against him in any civil or criminal proceeding except in prosecution for giving false evidence.

xvi) Steps to be taken by SHRC after inquiry

After completion of the inquiry the SHRC may take any of the following steps:

1. Where the inquiry discloses the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the commission may deem fit against the concerned person or persons;
2. Approach the Supreme court or the concerned High court for such directions, orders or writs as the Court may deem necessary;
3. Recommend to a concern Government or authority for the grant of such immediate interim relief to the victim or the members of its family as the commission may consider necessary;
4. Provide copy of the inquiry report to the petitioner or his representative;
5. Send a copy of the inquiry report together with recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the NHRC may allow, forward to NHRC, its comments on the report, including the action taken or proposed to be taken;
6. Publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the commission;

xvii) Human Rights Courts

The State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district, a Court of Sessions to be a Human Rights Court for the purpose of providing speedy trial of “offences arising out of violation of human rights.” The State Government shall specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than 7 years, as a Special Public Prosecutor for every Human Rights Court, for the purpose of conducting cases in the Human Rights Courts.

II. National Commission for Women

The National Commission for Women was set up as statutory body in January 1992 under the National Commission for Women Act, 1990 (Act No. 20 of 1990 of Govt.of India) to :

- review the Constitutional and Legal safeguards for women ;
- recommend remedial legislative measures ;
- facilitate redressal of grievances and
- advise the Government on all policy matters affecting women.

In keeping with its mandate, the Commission initiated various steps to improve the status of women and worked for their economic empowerment during the year under report. The Commission completed its visits to all the States/UTs except Lakshdweep and prepared Gender Profiles to assess the status of women and their empowerment. It received a large

number of complaints and acted suo-moto in several cases to provide speedy justice. It took up the issue of child marriage, sponsored legal awareness programmes, Parivarik Mahila Lok Adalats and reviewed laws such as Dowry Prohibition Act, 1961, PNDT Act 1994, Indian Penal Code 1860 and the National Commission for Women Act, 1990 to make them more stringent and effective. It organized workshops/consultations, constituted expert committees on economic empowerment of women, conducted workshops/seminars for gender awareness and took up publicity campaign against female foeticide, violence against women, etc. in order to generate awareness in the society against these social evils.

The Commission consists of a Chairperson and five members. At least one member each shall be from amongst persons belonging to Scheduled Caste and Scheduled Tribe respectively.

Website: <http://ncw.nic.in/>

III. National Commission for Minorities

The Government of India constituted a National Commission for Minorities in May, 1993. The setting up of Minorities Commission was envisaged in the Ministry of Home Affairs Resolution dated 12.01.1978, which specifically mentioned that "despite the safeguards provided in the Constitution and the laws in force, there persists among the Minorities a feeling of inequality and discrimination. In order to preserve secular traditions and to promote National Integration the Government of India attaches the highest importance to the enforcement of the safeguards provided for the Minorities and is of the firm view that effective institutional arrangements are urgently required for the enforcement and implementation of all the safeguards provided for the Minorities in the Constitution, in the Central and State Laws and in the government policies and administrative schemes enunciated from time to time." The Commission was charged with the function of evaluating the various safeguards provided in the Constitution for the protection of the minorities and in the laws passed by the Parliament and the State legislatures. In course of time, the Commission suggested that its position be strengthened by conferring on it statutory powers of enquiry under the Commissions of Inquiry Act 1952. The Commission also suggested that it be given a constitutional status so that it could function more effectively. Accordingly, the Parliament enacted the Commission for Minorities Act, 1992 to establish the National Commission for Minorities on a statutory basis.

An interesting feature of the Act is that it does not define the term 'Minority' but leaves it to the Central Government to notify minorities for the purpose of the Act.

Website: <http://www.ncm.nic.in>

IV. National Commission for Scheduled Castes

With a view to provide safeguards against the exploitation of Scheduled castes and Scheduled Tribes and to promote and protect their social, educational, economic and cultural interests, special provisions were made in the Constitution. Due to their social disability and economic backwardness, they were grossly handicapped in getting reasonable

share in elected offices, Government jobs and educational institutions and, therefore, it was considered necessary to follow a policy of reservations in their favour to ensure their equitable participation in governance. Consequently, the National Commission for Scheduled Castes and Scheduled Tribes came into being on passing of the Constitution (Sixty fifth Amendment) Bill, 1990 which was notified on 8-6-1990. However, with the Constitution (Eighty-Ninth Amendment) Act, 2003 coming into force on 19-2-2004 vide Notification of that date, the National Commission for Scheduled Castes & Scheduled Tribes got bifurcated and a separate National Commission for Scheduled Caste was constituted.

The Commission comprises of a Chairperson, a Vice-Chairperson and three other Members.

Website: <http://ncsc.nic.in/>

V. National Commission for Scheduled Tribes

Consequent upon the Constitution (Eighty-Ninth Amendment) Act, 2003 coming into force on 19-2-2004 vide Notification of that date, the National Commission for Scheduled Tribes was set up under Article 338A on the bifurcation of the erstwhile National Commission for Scheduled Castes and Scheduled Tribes to oversee the implementation of various safeguards provided to Scheduled Tribes under the Constitution. The Commission comprises a Chairperson, a Vice-Chairperson and three full time Members (including one lady Member). The term of all the Members of the Commission is three years from the date of assumption of charge. The National Commission for Scheduled Tribes functions from its Headquarters at New Delhi and from the State Offices of the Commission located in six States. The six State Offices of the National Commission for Scheduled Tribes which work closely with the Commission. They keep a watch on the formulation of policy and issue of guidelines relating to the welfare of Scheduled Tribes in the States and Union Territories and keep the Commission's Headquarters informed about the development periodically. Policy decisions taken by any State Government/UT Administration affecting the interests of the Scheduled Tribes are brought to the notice of the concerned authorities for necessary action.

To investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes, 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 STs, to make necessary recommendations for their protection, welfare and socio-economic development are some of the duties and functions assigned to the Commission.

National and State Human Rights Institutions'

National Human Rights Commission - NHRC

Manav Adhikar Bhawan Block-C, GPO Complex, INA, New Delhi - 110023

Tel: 001-24651330 Fax No. 24651329

E-Mail: covdnhrc@nic.in, ionhrc@nic.in

National Commission for Women - NCW

4, Deen Dayal Upadhayaya Marg, New Delhi - 110012

Tel: 011-23237166, 23234918, Fax No. 23236988, 23236270

E-Mail: chairperson-ncw@nic.in

National Commission for Scheduled Castes - NCSC

5th Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003

Tel: 011-24632298, 24620435

Toll Free No: 1800 1800 345 (for all State Offices of the NCSC)

Website: <http://ncsc.nic.in>

National Commission for Scheduled Tribes - NCST

6th Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003

Tel: 011-24697018, 24624628, Fax: 011-24624191

Website: <http://ncst.nic.in>, E-Mail: chairperson@ncst.nic.in

National Commissioner for Minorities - NCM

5th Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003

Tel: 011-24615583, Fax No. 24693302, 24642645, 24698410

Toll Free No: 1800110088, Website: <http://ncm.nic.in>, E-Mail: ro-ncm@nic.in

National Commission for Protection of Child Rights - NCPCR

5th Floor, Chanderlok Building, 36, Janpath, New Delhi - 110001

Tel: 011-23478200, Fax No. 011-23724026

For Complaint: www.ebaalnidan.nic.in

Website: <http://ncPCR.gov.in>, E-Mail: cp.ncPCR@nic.in

National Commission for Safai Karamcharis - NCSK

"B" Wing, 4th Floor, Lok Nayak Bhawan, Khan Market, New Delhi-110003

Tel: 011-24649352, 24649354, 2464892, Fax No. 011-24648922

Website: <http://ncsk.nic.in>

Central Information Commission - CIC

Room No. 326, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place,

New Delhi-011-26161137, Fax No. 011-26186536

CIC Helpline No. 011-61117666, Website: <http://cic.gov.in>

Chief Commissioner for Person with Disabilities - CCPD

Sarojini House, 6, Bhagwan Dass Road, New Delhi

Tel: 011-23386154, 23386054, Fax No. 011-23386006

Website: <http://ccdisabilities.nic.in>, E-Mail: cpd@nic.in

State Human Rights Institutions in Tamil Nadu

Tamilnadu State Human Rights Commission

143, P.S.Kumarasamy Raja Salai,

Greenways Road,

Chennai 600 028.

Ph: 044-24951484

Fax: 044-24951486

E.mail: shrc@tn.nic.in

Web: www.shrc.tn.nic.in

Tamil Nadu State Commission for Women

NO.735, Devaneyya Bavanar Noolagam,

2nd Floor, Anna Salai, Chennai-600002

Phone: 044 – 28592750

Tmt Saraswathi Rangasamy

Chairperson,

State Commissioner for Protection of Child Rights

No.300,Puraswalkam High Road,

Kellys,Chennai-600010

Ph: 044-26421359

Ph: 044-26426421/26427022/26421359

E.mail: scpcrtn@gmail.com

Mob: 09444961000

Tamil Nadu State Minorities Commission

735, Anna Salai

LLA Building, 3rd Floor, Chennai 600 002.

Phone: 044-2851 0303 (O)

Mobile: 9003110054

Tamil Nadu Information Commission,

No.2, Theagaraya Salai, Near Aalai Amman Koil, Teynampet,

Chennai 600 018.

Ph: 044-24347590

Fax: 044-24357580

E.mail: sic@nic.in

Commissionerate for the Welfare of the Differently Abled,

Jawaharlal Nehru Inner Ring Road, K.K.Nagar, Chennai 600 078

Ph:044-24719945

Fax: 044-24719946

E.mail: scd.tn@nic.in

The Protection of Human Rights Act, 1993

[As amended by the Protection of Human Rights (Amendment) Act, 2006—No. 43 of 2006]

THE PROTECTION OF HUMAN RIGHTS ACT, 1993*

No. 10 of 1994

(8th January, 1994)

An Act to provide for the constitution of a National Human Rights Commission, State Human Rights Commission in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto. Be it enacted by Parliament in the forty-fourth year of the

Republic of India as follows:

** As amended by the Protection of Human Rights (Amendment) Act, 2006—No. 43 of 2006.*

Chapter I

PRELIMINARY

1. Short title, extent and commencement

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

(2) It extends to the whole of India.

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

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

2. Definitions

(1) In this Act, unless the context otherwise requires-

- a) "armed forces" means the naval, military and air forces and includes any other armed forces of the Union;
- b) "Chairperson" means the Chairperson of the Commission or of the State Commission, as the case may be;
- c) "Commission" means the National Human Rights Commission under section 3;
- d) "human rights" means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.
- e) "Human Rights Court" means the Human Rights Court specified under section 30;

- f) "International Covenants" means the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted by the General Assembly of the United Nations on the 16th December, 1966;
- g) "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson;
- h) "National Commission for Minorities" means the National Commission for Minorities constituted under section 3 of the National Commission for Minorities Act, 1992;
- i) "National Commission for the Scheduled Castes and Scheduled Tribes" means the National Commission for the Scheduled Castes and Scheduled Tribes referred to in article 338 of the Constitution;
- j) "National Commission for Women" means the National Commission for Women constituted under section 3 of the National Commission for Women Act, 1990;
- k) "Notification" means a notification published in the official Gazette;
- l) "Prescribed" means prescribed by rules made under this Act;
- m) "Public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code;
- n) (n) "State Commission" means a State Human Rights Commission constituted under section 21.

(2) Any reference in this Act to a law, which is not in force in the State of Jammu and Kashmir, shall, in relation to that State, be construed as a reference to a corresponding law, if any, in force in that State.

Chapter II

THE NATIONAL HUMAN RIGHTS COMMISSION

3. Constitution of a National Human Rights Commission

(1) The Central Government shall constitute a body to be known as the National Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to it, under this Act.

(2) The Commission shall consist of:

- a) Chairperson who has been a Chief Justice of the Supreme Court;
- b) one Member who is or has been, a Judge of the Supreme Court;
- c) one Member who is, or has been, the Chief Justice of a High Court;
- d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

(3) The Chairpersons of the National Commission for Minorities, the National Commission for the Scheduled Castes and Scheduled Tribes and the National Commission for Women shall be deemed to be Members of the Commission for the discharge of functions specified in clauses (b) to (j) of section 12.

(4) There shall be a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions of the Commission as it may delegate to him.

(5) The headquarters of the Commission shall be at Delhi and the Commission may, with the previous approval of the Central Government, establish offices at other places in India.

4. Appointment of Chairperson and other Members

(1) The Chairperson and other Members shall be appointed by the President by warrant under his hand and seal.

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Committee consisting of

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

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

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.

5. Removal of a Member of the Commission

(1) Subject to the provisions of sub-section (2), the Chairperson or any other Member of the Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be

- a) is adjudged an insolvent; or
- b) engages during his term of office in any paid employment out side the duties of his office: or

- c) is unfit to continue in office by reason of infirmity of mind or body; or
- d) is of unsound mind and stands so declared by a competent court; or
- e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

6. Term of office of Members

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

(2) A person appointed as a Member shall hold office for a term of five years from the date on which he enters upon his office and shall be eligible for re-appointment for another term of five years. Provided that no Member shall hold office after he has attained the age of seventy years.

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

7. Member to act as Chairperson or to discharge his functions in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the President may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

8. Terms and conditions of service of Members

The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed. Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

9. Vacancies, etc., not to invalidate the proceedings of the Commission.

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

10. Procedure to be regulated by the Commission

(1) The Commission shall meet at such time and place as the Chairperson may think fit.

(2) The Commission shall regulate its own procedure.

(3) All orders and decisions of the Commission shall be audited by the Secretary-General or any other officer of the Commission duly authorised by the Chairperson in this behalf.

11. Officers and other staff of the Commission

(1) The Central Government shall make available to the Commission:

- a) an officer of the rank of the Secretary to the Government of India who shall be the Secretary-General of the Commission; and
- b) such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the Commission.

(2) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

Chapter III

FUNCTIONS AND POWERS OF THE COMMISSION

12. Functions of the Commission

- a) The Commission shall perform all or any of the following functions, namely :
 - (a) inquire, suo motu or on a petition presented to it by a victim or any person on his behalf, into complaint of
 - (i) violation of human rights or abetment thereof or
 - (ii) negligence in the prevention of such violation, by a public servant;
 - b) intervene in any proceeding involving any allegation of violation of human rights pending before a court with the approval of such court;
 - c) (c) visit, under intimation to the State Government, any jail or any other institution under the control of the 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 thereon;
 - d) review the safeguards provided by or under the Constitution or any law for the time being in force for the protection of human rights and recommend measures for their effective implementation;
 - e) review the factors, including acts of terrorism that inhibit the enjoyment of human rights and recommend appropriate remedial measures;
 - f) study treaties and other international instruments on human rights and make recommendations for their effective implementation;

- g) undertake and promote research in the field of human rights;
- h) spread human rights literacy among various sections of society and promote awareness of the safeguards available for the protection of these rights through publications, the media, seminars and other available means;
- i) encourage the efforts of non-governmental organisations and institutions working in the field of human rights;
- j) such other functions as it may consider necessary for the protection of human rights.

13. Powers relating to inquiries

(1) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular in respect of the following matters, namely :

- a) summoning and enforcing the attendance of witnesses and examine them on oath;
- b) discovery and production of any document;
- 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 or documents;
- f) any other matter which may be prescribed.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

(3) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document relating to the subject matter of the inquiry may be found, and may seize any such document or take extracts or copies therefrom subject to the provisions of section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable.

(4) The Commission shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the 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 as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973.

(5) Every proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Commission shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

(6) Where the Commission considers it necessary or expedient so to do, it may, by order, transfer any complaint filed or pending before it to the State Commission of the State from which the complaint arises, for disposal in accordance with the provisions of this Act;

Provided that no such complaint shall be transferred unless the same in one respecting which the State Commission has jurisdiction to certain the same.

(7) Every complaint transferred under sub-section(6) shall be dealt with and disposed of by the State Commission as if were a complaint initially filed before it.

14. Investigation

(1) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (1) may, subject to the direction and control of the Commission.

- a) summon and enforce the attendance of any person and examine him;
- b) require the discovery and production of any document; and
- c) requisition any public record or copy thereof from any office.

(3) The provisions of section 15 shall apply in relation to any statement made by a person before any officer or agency whose services are utilised under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.

(4) The officer or agency whose services are utilised under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf.

(5) The Commission shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report subbed to it under sub-section (4) and for this purpose the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

15. Statement made by persons to the Commission

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statement:

Provided that the statement —

- a) is made in reply to the question which he is required by the Commission to answer; or
- b) is relevant to the subject matter of the inquiry.

16. Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the Commission-

- a) considers it necessary to inquire into the conduct of any person; or
- b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence:

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

Chapter IV

PROCEDURE

17. Inquiry into complaints

The Commission while inquiring into the complaints of violations of human rights may-

(i) call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it;

Provided that-

- a) if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;
- b) if, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

18. Steps after inquiry

The Commission may take any of the following steps upon the completion of an inquiry held under this Act namely :

(a) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for

prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(i) to make payment of compensation or damages to the complainant or to the victim or the members of his family as the Commission may consider necessary;

(ii) to initiate proceedings for prosecution or such other suitable action as the Commission may deem fit against the concerned person or persons;

(iii) to take such further action as it may think fit;

(2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(3) recommend to the concerned Government or authority for the grant of such immediate interim relief to the victim or the members of his family as the Commission may consider necessary;

(4) subject to the provisions of clause (5), provide a copy of the inquiry report to the petitioner or his representative;

(5) the Commission shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(6) the Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

19. Procedure with respect to armed forces

(1) Notwithstanding anything contained in this Act, while dealing with complaints of violation of human rights by members of the armed forces, the Commission shall adopt the following procedure, namely:

1) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

2) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that Government.

(2) The Central Government shall inform the Commission of the action taken on the recommendations within three months or such further time as the Commission may allow.

(3) The Commission shall publish its report together with its recommendations made to the Central Government and the action taken by that Government on such recommendations.

- (4) The Commission shall provide a copy of the report published under sub-section (3) to the petitioner or his representative.

20. Annual and special reports of the Commission

(1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The Central Government and the State Government, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any.

Chapter V

STATE HUMAN RIGHTS COMMISSIONS

21. Constitution of State Human Rights Commissions

- 1) A State Government may constitute a body to be known as the (name of the State) Human Rights Commission to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this chapter.
- 2) The State Commission shall consist of
 - (a) a Chairperson who has been a Chief Justice of a High Court;
 - (b) one Member who is, or has been, a Judge of a High Court;
 - (c) one Member who is, or has been, a district judge in that State;
 - (d) two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.
- 3) There shall be a Secretary who shall be the Chief Executive Officer of the State Commission and shall exercise such powers and discharge such functions of the State Commission as it may delegate to him.
- 4) The headquarters of the State Commission shall be at such place as the State Government may, by notification, specify.
- 5) A State Commission may inquire into violation of human rights only in respect of matters relatable to any of the entries enumerated in List II and List III in the Seventh Schedule to the Constitution:

Provided that if any such matter is already being inquired into by the Commission or any other Commission duly constituted under any law for the time being in force, the State Commission shall not inquire into the said matter:

Provided further that in relation to the Jammu and Kashmir Human Rights Commission, this sub-section shall have effect as if for the words and figures "List II and List III in the Seventh Schedule to the Constitution", the words and figures "List III in the Seventh Schedule to the Constitution as applicable to the State of Jammu and Kashmir and in respect of matters in relation to which the Legislature of that State has power to make laws" had been substituted.

22. Appointment of Chairperson and other Members of State Commission

(1) The Chairperson and other Members shall be appointed by the Governor by warrant under his hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of

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

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

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

(2) No appointment of a Chairperson or a Member of the State Commission shall be invalid merely by reason of any vacancy in the Committee.

23. Removal of a Member of the State Commission

(1) Subject to the provisions of sub-section (2), the Chairperson or any other member of the State Commission shall only be removed from his office by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference being made to it by the President, has, on inquiry held in accordance with the procedure prescribed in that behalf by the Supreme Court, reported that the Chairperson or such other Member, as the case may be, ought on any such ground to be removed.

(2) Notwithstanding anything in sub-section (1), the President may by order remove from office the Chairperson or any other Member if the Chairperson or such other Member, as the case may be –

- a) is adjudged an insolvent; OR
- b) engages during his term of office in any paid employment outside the duties of his office; OR
- c) is unfit to continue in office by reason of infirmity of mind or body; OR
- d) is of unsound mind and stands so declared by a competent court; OR
- e) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

24. Term of office of Members of the State Commission

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

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

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

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

25. Member to act as Chairperson or to discharge his functions in certain circumstances

(1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, such one of the Members as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

26. Terms and conditions of service of Members of the State Commission

The salaries and allowances payable to, and other terms and conditions of service of, the Members shall be such as may be prescribed by the State Government.

Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to his disadvantage after his appointment.

27. Officers and other staff of the State Commission

(1) The State Government shall make available to the Commission

- a) an officer not below the rank of a Secretary to the State Government who shall be the Secretary of the State Commission; and
- b) such police and investigative staff under an officer not below the rank of an Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Commission.

(2) subject to such rules as may be made by the State Government in this behalf, the State Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

28. Annual and special reports of State Commission

(1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.

(2) The State Government shall cause the annual and special reports of the State Commission to be laid before each House of State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House along with a memorandum of action taken or proposed to be taken on the recommendations of the State Commission and the reasons for non-acceptance of the recommendations, if any.

29. Application of certain provisions relating to National Human Rights Commission to State Commissions

The provisions of sections 9, 10, 12, 13, 14, 15, 16, 17 and 18 shall apply to a State Commission and shall have effect, subject to the following modifications, namely :-

- a) references to "Commission" shall be construed as references to "State Commission";
- b) in section 10, in sub-section (3), for the word "Secretary General", the word "Secretary" shall be substituted;
- c) in section 12, clause (f) shall be omitted;
- d) in section 17, in clause (i), the words "Central Government or any" shall be omitted;

Chapter VI

HUMAN RIGHTS COURTS

30. For the purpose of providing speedy trial of offences arising out of violation of human rights, the State

Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences.

Provided that nothing in this section shall apply if

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

31. Special Public Prosecutor

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

Chapter VII

FINANCE, ACCOUNTS AND AUDIT

32. Grants by the Central Government

- (1) The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.
- (2) The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

33. Grants by the State Government

- (1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.
- (2) The State Commission may spend such sums as it thinks fit for performing the functions under Chapter V, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

34. Accounts and Audit

- (1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- (2) The Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
- (4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded only to the Central Government by the Commission and the Central Government shall cause the audit report to be laid as soon as may be after it is received before each House of Parliament.

35. Accounts and Audit of State Commission

- (1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.
- (2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.
- (3) The Comptroller and Auditor-General or any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.
- (4) The accounts of the State Commission, as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

Chapter VIII

MISCELLANEOUS

36. Matters not subject to jurisdiction of the Commission

- (1) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.
- (2) The Commission or the State Commission shall not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

37. Constitution of special investigation teams

Notwithstanding anything contained in any other law for the time being in force, where the Government considers it necessary so to do, it may constitute one or more special investigation teams, consisting of such police officers as it thinks necessary for purposes of investigation and prosecution of offences arising out of violations of human rights.

38. Protection of action taken in good faith

No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the State Commission or any Member thereof or any person acting under the

direction either of the Central Government, State Government, Commission or the State Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the State Commission of any report paper or proceedings.

39. Members and officers to be public servants

Every Member of the Commission, State Commission and every officer appointed or authorised by the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

40. Power of Central Government to make rules

- 1) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- 2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely :
 - a. the salaries and allowances and other terms and conditions of service of the Members under section 8;
 - b. the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 11;
 - c. any other power of a civil court required to be prescribed under clause (f) of sub-section (1) of section 13;
 - d. the form in which the annual statement of accounts is to be prepared by the Commission under sub-section (1) of section 34; and
 - e. any other matter which has to be, or may be, prescribed.
- 3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

41. Power of State Government to make rules

- (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

- (2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :
- (a) the salaries and allowances and other terms and conditions of service of the members under section 26;
 - (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Commission and the salaries and allowances of officers and other staff under sub-section (3) of section 27;
 - (c) the form in which the annual statement of accounts is to be prepared under sub-section (1) of section 35.
- (3) (3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

42. Power to remove difficulties

- (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty. Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.
- (2) Every order made under this section shall, as soon as may be after it is made, be laid before each house of Parliament.

43. Repeal and Savings

- (1) The Protection of Human Rights Ordinance, 1993 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance, shall be deemed to have been done or taken under the corresponding provisions of this Act.

Resource: <http://www1.umn.edu/humanrts/research/humanrightsact-1993.html>

THE NATIONAL COMMISSION FOR WOMEN ACT, 1990 NO. 20 OF 1990.

An Act to constitute a National Commission for Women and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-First Year of the Republic of India as follows:-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.- (1) This Act may be called the National Commission for Women Act, 1990.
2. It extends to the whole of India except the State of Jammu and Kashmir.
3. It shall come into force on such date's as the Central Government may, by notification in the Official Gazette, appoint.
4. Definitions.- In this Act, unless the context otherwise requires,-
 - a. "Commission" means the National Commission for Women constituted under section 3 ;
 - b. "Member" means a Member of the Commission and includes the Member-Secretary;
 - c. "prescribed" means prescribed by rules made under this Act.

CHAPTER II

THE NATIONAL COMMISSION FOR WOMEN

3. Constitution of the National Commission for women;-

1. The Central Government shall constitute a body to be known as the National Commission for Women to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
2. The Commission shall consist of:-
 - a. a chairperson, committed to the cause of women, to be nominated by the Central Government;
 - b. five Members to be nominated by the Central Government from amongst persons of ability, integrity, and standing who have had experience in law or legislation, trade unionism, management of an industry or organisation committed to increasing the employment potential of women, women's voluntary organisations (including women activists), administration,

economic development, health, education or social welfare:

Provided that at least one Member each shall be from amongst persons belonging to the Scheduled Castes and Scheduled Tribes respectively:-

- c. Member-Secretary to be nominated by the Central Government. Who shall be-
- i. an expert in the field of management, organisational structure or sociological movement, or
 - ii. an officer who is a member of a civil service of the Union or of all-India service or holds a civil post under the Union with appropriate experience.

1. Term of office and conditions of service of Chairperson and Members.-

1. The Chairperson and Member shall hold office for such period, not exceeding three years, as may be specified by the Central Government in this behalf.
2. The Chairperson or a Member (other than the Member-Secretary who is a member of a civil service of the Union or of an all-India service or holds a civil post under the Union) may, by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.
3. The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person, -
 - a) becomes an un-discharged insolvent;
 - b) gets convicted and sentenced to imprisonment for an offence which in the opinion of the Central government involves moral turpitude;
 - c) becomes of unsound mind and stands so declared by a competent court,
 - d) refuses to act or becomes incapable of acting;
 - e) is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or
 - f) in the opinion of the Central Government has so abused the position of Chairperson or Member as to render that person's continuance in office detrimental to the public interest.

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

4. A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.
5. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

a) **Officers and other employees of the Commission.-**

(1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

(2) The salaries and allowances payable to, and the other terms and conditions of service of, the officer and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

b) **Salaries and allowances to be paid out of grants .-** the salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to sub-section (1) of section 11.

c) **Vacancies, etc. not to invalidate proceedings of the Commission.** No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or dated in the constitution of the Commission.

d) **Committees of the Commission.-**

(1) The commission may appoint such committees as may be necessary for dealing with such special issues as may be taken up by the Commission from time to time.

(2) The Commission shall have the power to co-opt as members of any committee appointed under sub-section (1) such number of persons, who are not Members of the Commission, as it may think fit as the persons so co-opted shall have the right to attend the meetings of the committee and take part its proceedings but shall not have the right to vote.

(3) The persons so co-opted shall be entitled to receive such allowances for attending the meetings of the committee as may be prescribed.

e) **Procedure to be regulated by the Commission,-**

- 1) The Commission or a Committee thereof shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.
- 2) The Commission shall regulate its own procedure and the procedure of the committees thereof.
- 3) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by the Member-Secretary in this behalf.

CHAPTER III

FUNCTIONS OF THE COMMISSION

f) **Functions of the Commission.-** (1) The Commission shall perform all or any of the following functions, namely:-

- a) investigate and examine all matters relating to the safeguard provided for women under the Constitution and other laws;
- b) present to the Central Government, annually and at such other times as the Commission may deem fit, reports upon the working of those safeguards;
- c) make in such reports recommendations for the effective implementation of those safeguards for improving the conditions of women by the Union or any State;
- d) review, from time to time, the existing provisions of the Constituting 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;
- e) take up the cases of violation of the provisions of the constitution and of other laws relating to women with the appropriate authorities;
- f) look into complaints and take suo moto notice of matters relating to :-
 - (i) deprivation of women's rights;

- (ii) non-implementation of laws enacted to provide protection to women and also to achieve the objective of equality and development;
 - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and providing relief to women, and take up the issues arising out of such matters with appropriate authorities;
- g) call for special studies or investigations into specific problems or situations arising out of discrimination and atrocities against women and identify the constraints so as to recommend strategies for their removal;
 - h) undertake promotional and educational research so as to suggest ways of ensuring due representation of women in all spheres and identify factors responsible for impeding their advancement, such as, lack of access to housing and basic services, inadequate support services and technologies for reducing drudgery and occupational health hazards and for increasing their productivity;
 - i) participate and advise on the planning process of socio-economic development of women;
 - j) evaluate the progress of the development of women under the Union and any State;
 - k) inspect or cause to be inspected a jail, remand home, women's institution or other place of custody where women are kept as prisoners or otherwise, and take up with the concerned authorities for remedial action, of found necessary;
 - l) fund legislation involving issues affecting a large body of women;
 - m) make periodical reports to the Government on any matter pertaining to women various difficulties under which women toil;
 - n) any other matter which may be referred to it by Central Government.
- 2) The Central Government shall cause all the reports referred to in clause (b) of sub-section (1) laid before each House of Parliament along with a memorandum explaining the action taken or to be taken on the recommendations relating to the Union and the reasons for the non-acceptance if any, of any of such recommendations.
 - 3) Where any such report or any part thereof relates to any matter with which any State Government concerned, the Commission shall forward a copy of such

report or part to such State Government shall cause it to be laid before the Legislature of the State along with a memorandum explaining action taken or proposed to be taken on the recommendations relating to the State and there for the non-acceptance, if any, of any of such recommendations.

- 4) The commission shall, while investigating any matter referred to in clause (a) or sub-clause (l) of (f) of sub-section (1), have all the powers of a civil court trying a suit and, in particular inters the following matters, namely:-
- a. summoning and enforcing the attendance of any person from any part of India and examining on oath;
 - b. requiring the discovery and production of any document;
 - 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; and
 - f. any other matter which may be prescribed..

CHAPTER IV FINANCE, ACCOUNTS AND AUDIT

11. Grants by the Central Government.-

(1) The Central government shall, after due appropriation Parliament by law in this behalf, pay to the Commission by way of grants such sums of money Central Government may think fit for being utilised for the purposes of this Act.

(2) The Commission may spend such sums as it thinks fit for performing the functions under this Act such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

12. Accounts and Audit.-

(1) The Commission shall maintain proper accounts and other relevant record prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

(2) the accounts of the Commission shall be audited by the comptroller and Auditor-General at intervals as may be specified by him and any

expenditure incurred in connection with such audit be payable by the Commission to the Comptroller and Auditor-General.

(3) The Comptroller and Auditor-General and any person appointed by him in connection with the accounts of the Commission under this Act shall have the same rights and privileges an authority in connection with such audit as the Comptroller and Auditor-General generally connation with the audit of Government accounts and, in particulate, shall have the right to do the production of books, accounts, connected vouchers and other documents and papers and to if any of the offices of the Commission.

(4) The accounts of the Commission, as certified by the Comptroller and Auditor-General or any other appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission.

13. **Annual report.-** The Commission shall prepare in such form and at such time, for each financial year, as may be prescribed , its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

14. **Annual report and audit report to be laid before Parliament.-** The Central Government shall cause the annual report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V MISCELLANEOUS

15. **Chairperson, members and staff of the Commission to be public servants:-**
The Chairperson, the members, officers and other employees of the commission shall be deemed to be public servants within meaning of Section 21 of the Indian Penal Code (45 of 1860

16. **Central Government to consult Commission:-** The Central Government shall consult the Commission on all major policy matters affecting women.
17. **Power to make rules:**
1. The Central Government may; by notification in the Official Gazette, make rules for carrying out the provisions of this Act
 2. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - a. Salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;
 - b. Allowances for attending the meetings of the committee by the co-opted persons under sub-section (3) of section 8;\
 - c. Other matters under clause (f) of sub-section (4) of section 10;
 - d. The form in which the annual statement of accounts shall be maintained under sub-section (1) of section 12;
 - e. The form in, and the time at, which the annual report shall be prepared under section 13
 - f. Any other matter which is required to be, or may be, prescribed
 3. Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprise in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or successive session afore said, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Source: <http://wcddel.in/nca.html>

<http://www.ncw.nic.in/PDFFiles/ncwact.pdf>

NATIONAL MINORITIES ACT XIX OF 1992

Act XIX of 1992, passed on 17.5.1992, enforced w.e.f 17.5.1993; amended by National Commission for Minorities (Amendment) Act 1995 [Act XLI of 1995 passed on 8.9.1995] for creating the post of a Vice-Chairman out of the originally six Members.

- [Chapter I : Preliminary](#)
- [Chapter II : The National Commission for Minorities](#)
- [Chapter III : Functions of the Commission](#)
- [Chapter IV : Finance, Accounts and Audit](#)
- [Chapter V : Miscellaneous](#)

An Act to constitute a National Commission for Minorities and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-third year of the Republic of India as follows:-

CHAPTER I : PRELIMINARY

1. Short title, extent and commencement

- i. This Act may be called the National Commission for Minorities Act, 1992.
- ii. It extends to the whole of India except the State of Jammu and Kashmir.
- iii. It shall come into force on such date as the Central Government may, by notification in Official Gazette, appoint.

2. Definitions.-

In this Act, unless the context otherwise requires.

- i. "Commission" means the National Commission for Minorities constituted under section 3.
- ii. "Member" means a Member of the Commission [and includes the Vice Chairperson].
- iii. "Minority", for the purposes of this Act, means a community notified as such by the Central Government.
- iv. "prescribed" means prescribed by Rules made under this Act.

CHAPTER II : THE NATIONAL COMMISSION FOR MINORITIES

3. Constitution of the National Commission for Minorities.-

- i. The Central Government shall constitute a body to be known as the National Commission for Minorities to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

- ii. The Commission shall consist of a Chairperson, [a Vice Chairperson and five] Members to be nominated by the Central Government from amongst persons of eminence, ability and integrity; Provided that five Members including the Chairperson shall be from amongst the Minority communities.

4. Term of office & conditions of service of Chairperson & Members.-

- i. The Chairperson and every Member shall hold office for a term of three years from the date he assumes office.
- ii. The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign from the office of Chairperson or, as the case may be, of the Member at any time.
- iii. The Central Government shall remove a person from the office of Chairperson or a Member referred to in sub-section (2) if that person -
 - a. becomes an undischarged insolvent.
 - b. is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude.
 - c. becomes of unsound mind and stands so declared by a competent court.
 - d. refuses to act or becomes incapable of acting.
 - e. is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.
 - f. has, in the opinion of the Central Government, so abused the position of Chairperson, or Member, as to render that person's continuance in office detrimental to the interests of Minorities or the public interest: Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.
- iv. A vacancy caused under sub-section (2) or otherwise shall be filled by fresh nomination.
- v. The salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed.

5. Officers and other employees of the Commission.-

- i. The Central Government shall provide the Commission with a Secretary and such other officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.
- ii. The salaries and allowances payable to, and the other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.

6. Salaries and allowances to be paid out of grants.-

The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the officers and other employees referred to in section 5, shall be paid out of the grants referred to in sub-section (1) of section 10.

7. Vacancies, etc. not to invalidate proceedings of the Commission.-

No act or proceeding of the Commission shall be questioned or shall be invalid merely on the ground of the existence of any vacancy or defect in the constitution of the Commission.

8. Procedure to be regulated by the Commission.-

- i. The Commission shall meet as and when necessary at such time and places as the Chairperson may think fit.
- ii. The Commission shall regulate its own procedure.
- iii. All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary on his behalf.

CHAPTER III : FUNCTIONS OF THE COMMISSION

9. Functions of the Commission.-

- i. The Commission shall perform all or any of the following functions, namely:-
 - a. evaluate the progress of the development of Minorities under the Union and States.
 - b. monitor the working of the safeguards provided in the Constitution and in laws enacted by Parliament and the State Legislatures.
 - c. make recommendations for the effective implementation of safeguards for the protection of the interests of Minorities by the Central Government or the State Governments.
 - d. look into specific complaints regarding deprivation of rights and safeguards of the Minorities and take up such matters with the appropriate authorities.
 - e. cause studies to be undertaken into problems arising out of any discrimination against Minorities and recommend measures for their removal.
 - f. conduct studies, research and analysis on the issues relating to socio-economic and educational development of Minorities.
 - g. suggest appropriate measures in respect of any Minority to be undertaken by the Central Government or the State Governments.
 - h. make periodical or special reports to the Central Government on any matter pertaining to Minorities and in particular the difficulties confronted by them.
 - i. any other matter which may be referred to it by the Central Government.

- ii. The Central Government shall cause the recommendations referred to in clause (c) of sub-section (1) to be laid before each House of Parliament along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.
- iii. Where any recommendation referred to in clause (c) of sub-section (1) or any part thereof is such with which any State Government is concerned, the Commission shall forward a copy of such recommendation or part to such State Government who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendation or part.
- iv. The Commission shall, while performing any of the functions mentioned in sub-clauses (a), (b) and (d) of sub-section (1), 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 document.
 - c. receiving evidence of affidavits.
 - d. requisitioning any public record or copy thereof from any court or office.
 - e. issuing commissions for the examination of witnesses and documents; and
 - f. any other matter which may be prescribed.

CHAPTER IV: FINANCE, ACCOUNTS AND AUDIT

10. Grants by the Central Government.-

- i. The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilized for the purposes of this Act.
- ii. The Commission may spend such sums as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

11. Accounts and audit.-

- i. The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

- ii. The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- iii. The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

12. Annual Report.-

The Commission shall prepare, in such form and at such time, for each financial year, as may be prescribed, its annual report, giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

13. Annual Report and audit report to be laid before Parliament.-

The Central Government shall cause the Annual Report together with a memorandum of action taken on the recommendations contained therein, in so far as they relate to the Central Government, and the reasons for the non-acceptance, if any, of any of such recommendations and the audit report to be laid, as soon as may be after the reports are received, before each House of Parliament.

CHAPTER V : MISCELLANEOUS

14. Chairperson, Members & staff of Commission to be public servants;-

The Chairperson, Members and employees of the Commission shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code.

15. Power to make rules.-

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

(ii) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- a. salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson and Members under sub-section (5) of section 4 and of officers and other employees under sub-section (2) of section 5;
- b. any other matter under clause (f) of sub-section (4) of section 9.
- c. the form in which the annual statement of accounts shall be maintained under sub-section (1) of section 11.

- d. the form in, and the time at, which the Annual Report shall be prepared under section 12.
- e. any other matter which is required to be, or may be, prescribed.

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

16. Power to remove difficulties.-

- i. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act.
- ii. Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament

THE COMMISSIONS FOR PROTECTION OF CHILD RIGHTS ACT, 2005

1. Short title, extend and commencement. -

- 1) This Act may be called the Commissions for Protection of Child Rights Act, 2005.
- 2) It extends to the whole of India except the State of Jammu and Kashmir.
- 3) It shall come into force on such date¹ as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions.-In this Act, unless the context otherwise requires,- "Chairperson" means the Chairperson of the Commission or of the State Commission, as the case may be; "child rights" includes the children's rights adopted in the United Nations convention on the Rights of the Child on the 20th November, 1989 and ratified by the Government of India on the 11th December, 1992; "Commission" means the National Commission for Protection of Child Rights constituted under section 3; "Member" means a Member of the Commission or of the State Commission, as the case may be, and includes the Chairperson; "notification" means a notification published in the Official Gazette; "prescribed" means prescribed by rules made under this Act; "State Commission" means State Commission for Protection of Child Rights constituted under section 17.

3. Constitution of National Commission for Protection of Child Rights.-

1. The Central Government shall, by notification, constitute a body to be known as the National Commission for Protection of Child Rights to exercise the powers conferred on, and to perform the functions assigned to it under this Act.
2. The Commission shall consist of the following Members, namely:-
 - a) a Chairperson who, is a person of eminence and has done outstanding work for promoting the welfare of children; and
 - b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the Central Government from amongst persons of eminence, ability, integrity, standing and experience in,-
 - i. education;
 - ii. child health, care, welfare or child development;
 - iii. juvenile justice or care of neglected or marginalized children or children with disabilities;
 - iv. elimination of child labour or children in distress;
 - v. child psychology or sociology; and
 - vi. laws relating to children.

(3) The office of the Commission shall be at Delhi.

3. **Appointment of Chairperson and Members.-**The Central Government shall, by notification, appoint the Chairperson and other Members: Provided that the

Chairperson shall be appointed on the recommendation of a three member Selection Committee constituted by the Central Government under the Chairmanship of the ² [Minister in-charge of the Ministry or the Department of Women and Child Development.]

4. Term of office and conditions of service of Chairperson and Members.-

1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office: Provided that no Chairperson or a Member shall hold the office for more than two terms: Provided further that no Chairperson or any other Member shall hold office as such after he has attained-

(a) in the case of the Chairperson, the age of sixty-five years; and

(b) in the case of a Member, the age of sixty years.

2) The Chairperson or a Member may, by writing under his hand addressed to the Central Government, resign his office at any time.

5. Salary and allowances of Chairperson and Members.-The salary and allowances payable to, and other terms and conditions of service of, the Chairperson and Members, shall be such as may be prescribed by the Central Government: Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

6. Removal from office.-

(1) Subject to the provisions of sub-section (2), the Chairperson may be removed from his office by an order of the Central Government on the ground of proved misbehaviour or incapacity.

(2) Notwithstanding anything contained in sub-section (1), the Central Government may by order remove from office the Chairperson or any other Member, if the Chairperson or, as the case may be, such other Member, -

a. is adjudged an insolvent; or

b. engages during his term of office in any paid employment outside the duties of his office; or

c. refuses to act or becomes incapable of acting; or

d. is of unsound mind and stands so declared by a competent court; or

e. has so abused his office as to render his continuance in office detrimental to the public interest; or

f. is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude; or

g. is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission.

(3) No person shall be removed under this section until that person has been given an opportunity of being heard in the matter.

8. Vacation of office by Chairperson or Member.-

(1) If the Chairperson or, as the case may be, a Member,-

- a. becomes subject to any of the disqualifications mentioned in section 7; or
- b. tenders his resignation under sub-section (2) of section 5, his seat shall thereupon become vacant.

(2) If a casual vacancy occurs in the office of the Chairperson or a Member, whether by reason of his death, resignation or otherwise, such vacancy shall be filled within a period of ninety days by making afresh appointment in accordance with the provisions of section 4 and the person so appointed shall hold office for the remainder of the term of office for which the Chairperson, or a Member, as the case may be, in whose place he is so appointed would have held that office.

9. Vacancies, etc., not to invalidate proceedings of Commission.-No act or proceeding of the Commission shall be invalid merely by reason of-

- a) any vacancy in, or any defect in the constitution of, the Commission; or
- b) any defect in the appointment of a person as the Chairperson or a Member; or
- c) any irregularity in the procedure of the Commission not affecting the merits of the case.

10. Procedure for transaction of business.-

- 1) The Commission shall meet regularly at its office at such time as the Chairperson thinks fit, but three months shall not intervene between its last and the next meeting.
- 2) All decisions at a meeting shall be taken by majority: Provided that in the case of equality of votes, the Chairperson, or in his absence the person presiding, shall have and exercise a second or casting vote.
- 3) If for any reason, the Chairperson, is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting, shall preside.
- 4) The Commission shall observe such rules of procedure in the transaction of its business at a meeting, including the quorum at such meeting, as may be prescribed by the Central Government.
- 5) All orders and decisions of the Commission shall be authenticated by the Member-Secretary or any other officer of the Commission duly authorised by Member-Secretary in this behalf.

11. Member-Secretary, officers and other employees of Commission.-

- 1) The Central Government shall, by notification, appoint an officer not below the rank of the Joint Secretary or the Additional Secretary to the Government of India as a

Member-Secretary of the Commission and shall make available to the Commission such other officers and employees as may be necessary for the efficient performance of its functions.

- 2) The Member-Secretary shall be responsible for the proper administration of the affairs of the Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the Central Government.
- 3) The salary and allowances payable to, and the other terms and conditions of service of the Member-Secretary, other officers and employees, appointed for the purpose of the Commission shall be such as may be prescribed by the Central Government.

12. Salaries and allowances to be paid out of grants.-The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Member-Secretary, other officers and employees referred to in section 11, shall be paid out of the grants referred to in sub-section (1) of section 27.

13. Functions of Commission.-

(1) The Commission shall perform all or any of the following functions, namely:-

- a) examine and review the safeguards provided by or under any law for the time being in force for the protection of child rights and recommend measures for their effective implementation;
- b) present to the Central Government, annually and at such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;
- c) inquire into violation of child rights and recommend initiation of proceedings in such cases;
- d) examine all factors that inhibit the enjoyment of rights of children affected by terrorism, communal violence, riots, natural disaster, domestic violence, HIV/AIDS, trafficking, maltreatment, torture and exploitation, pornography and prostitution and recommend appropriate remedial measures;
- e) look into the matters relating to children in need of special care and protection including children in distress, marginalized and disadvantaged children, children in conflict with law, juveniles, children without family and children of prisoners and recommend appropriate remedial measures;
- f) study treaties and other international instruments and undertake periodical review of existing policies, programmes and other activities on child rights and make recommendations for their effective implementation in the best interest of children;
- g) undertake and promote research in the field of child rights;

- h) spread child rights literacy among various sections of the society and promote awareness of the safeguards available for protection of these rights through publications, the media, seminars and other available means;
- i) inspect or cause to be inspected any juvenile custodial home, or any other place of residence or institution meant for children, under the control of the Central Government or any State Government or any other authority, including any institution run by a social organisation; where children are detained or lodged for the purpose of treatment, reformation or protection and take up with these authorities for remedial action, if found necessary;
- j) inquire into complaints and take suo motu notice of matters relating to,-
 - (i) deprivation and violation of child rights;
 - (ii) non-implementation of laws providing for protection and development of children;
 - (iii) non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships to and ensuring welfare of the children and to provide relief to such children, or take up the issues arising out of such matters with appropriate authorities; and
- k) such other functions as it may consider necessary for the promotion of child rights and any other matter incidental to the above functions.

(2) The commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

14. Powers relating to inquiries.-

(1) The Commission shall, while inquiring into any matter referred to in clause (j) of sub-section (1) of section 13 have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908) and, in particular, in respect of the following matters, namely:-

- a) summoning and enforcing the attendance of any person and examining him on oath;
- b) discovery and production of any document;
- c) receiving evidence on affidavits;
- d) requisitioning any public record or copy thereof from any court or office; and
- e) issuing commissions for the examination of witnesses or documents.

(2) The Commission shall have the power to forward 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 as if the case has been forwarded to him under section 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

15. Steps after inquiry.-The Commission may take any of the following steps upon the completion of an inquiry held under this Act, namely:-

- i. where the inquiry discloses, the Commission of violation of child rights of a serious nature or contravention of provisions of any law for the time being in force, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;
- ii. approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;
- iii. recommend 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 may consider necessary.

16. Annual and special reports of Commission.-

- 1) The Commission shall submit an annual report to the Central Government and to the State Government concerned and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.
- 2) The Central Government and the State Government concerned, as the case may be, shall cause the annual and special reports of the Commission to be laid before each House of Parliament or the State Legislature respectively, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any, within a period of one year from the date of receipt of such report.
- 3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the Central Government.

17. Constitution of State Commission for Protection of Child Rights.-

- 1) A State Government may constitute a body to be known as the.....(name of the State) Commission for Protection of Child Rights to exercise the powers conferred upon, and to perform the functions assigned to, a State Commission under this Chapter.
- 2) The State Commission shall consist of the following Members, namely:-
 - a) a Chairperson who is a person of eminence and has done outstanding work for promoting the welfare of children; and
 - b) six Members, out of which at least two shall be women, from the following fields, to be appointed by the State Government from amongst persons of eminence, ability, integrity, standing and experience in,-
 - i. education;
 - ii. child health, care, welfare or child development;

- iii. juvenile justice or care of neglected or marginalized children or children with disabilities;
- iv. elimination of child labour or children in distress;
- v. child psychology or sociology; and
- vi. laws relating to children.

3) The headquarter of the State Commission shall be at such place as the State Government may, by notification, specify.

18. Appointment of Chairperson and other Members.-The State Government shall, by notification, appoint the Chairperson and other Members: Provided that the Chairperson shall be appointed on the recommendation of a three Member Selection Committee constituted by the State Government under the Chairmanship of the Minister in-charge of the Department dealing with children.

19. Term of office and conditions of service of Chairperson and Members.-

- 1) The Chairperson and every Member shall hold office as such for a term of three years from the date on which he assumes office: Provided that no Chairperson or a Member shall hold the office for more than two terms: Provided further that no Chairperson or any other Member shall hold office as such after he has attained-
 - a. in the case of Chairperson, the age of sixty-five years; and
 - b. in the case of a Member, the age of sixty years.
- 2) The Chairperson or a Member may, by writing under his hand addressed to the State Government, resign his office at any time.

20. Salary and allowances of Chairperson and Members.-The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson and Members shall be such as may be prescribed by the State Government: Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson or a Member, as the case may be, shall be varied to his disadvantage after his appointment.

21. Secretary, officers and other employees of the State Commission.-

- 1) The State Government shall, by notification, appoint an officer not below the rank of the Secretary to the State Government as the Secretary of the State Commission and shall make available to the State Commission such other officers and employees as may be necessary for the efficient performance of its functions.
- 2) The Secretary shall be responsible for the proper administration of the affairs of the State Commission and its day-to-day management and shall exercise and discharge such other powers and perform such other duties as may be prescribed by the State Government.

- 3) The salary and allowances payable to, and the other terms and conditions of service of the Secretary, other officers and employees, appointed for the purpose of the State Commission shall be such as may be prescribed by the State Government.

22. Salaries and allowances to be paid out of grants.-The salaries and allowances payable to the Chairperson and Members and the administrative expenses, including salaries, allowances and pensions payable to the Secretary, other officers and employees referred to in section 21, shall be paid out of the grants referred to in sub-section (1) of section 28.

23. Annual and special reports of State Commission.-

- 1) The State Commission shall submit an annual report to the State Government and may at any time submit special reports on any matter which, in its opinion, is of such urgency or importance that it should not be deferred till submission of the annual report.
- 2) The State Government shall cause all the reports referred to in sub-section (1) to be laid before each House of State Legislature, where it consists of two Houses, or where such Legislature consist of one House, before that House along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any of such recommendations.
- 3) The annual report shall be prepared in such form, manner and contain such details as may be prescribed by the State Government.

24. Application of certain provisions relating to National Commission for Protection of Child Rights to State Commissions.-The provisions of sections 7, 8, 9, 10, sub-section

- 1) (1) of section 13 and sections 14 and 15 shall apply to a State Commission and shall have effect, subject to the following modifications, namely:-
 - a. references to "Commission" shall be construed as references to "State Commission";
 - b. references to "Central Government" shall be construed as references to "State Government"; and
 - c. references to "Member-Secretary" shall be construed as references to "Secretary".

25. Children's Courts.-For the purpose of providing speedy trial of offences against children or of violation of child rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify at least a court in the State or specify, for each district, a Court of Session to be a Children's Court to try the said offences: Provided that nothing in this section shall apply if-

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

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

27. Grants by Central Government.-

- 1) The Central Government shall, after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may think fit for being utilised for the purposes of this Act.
- 2) The Commission may spend such sums of money as it thinks fit for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

28. Grants by State Governments.-

- 1) The State Government shall, after due appropriation made by Legislature by law in this behalf, pay to the State Commission by way of grants such sums of money as the State Government may think fit for being utilised for the purposes of this Act.
- 2) The State Commission may spend such sums of money as it thinks fit for performing the functions under Chapter III of this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

29. Accounts and audit of Commission.-

- 1) The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.
- 2) The accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- 3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.
- 4) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the Central Government by the Commission and the Central Government shall cause the audit report to be laid, as soon as may be after it is received, before each House of Parliament.

30. Accounts and audit of State Commission.-

- 1) The State Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the State Government in consultation with the Comptroller and Auditor-General of India.
- 2) The accounts of the State Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the State Commission to the Comptroller and Auditor-General.
- 3) The Comptroller and Auditor-General and any person appointed by him in connection with the audit of the accounts of the State Commission under this Act shall, have the same rights and privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the State Commission.
- 4) The accounts of the State Commission as certified by the Comptroller and Auditor-General or any other person appointed by him in this behalf, together with the audit report thereon shall be forwarded annually to the State Government by the State Commission and the State Government shall cause the audit report to be laid, as soon as may be after it is received, before the State Legislature.

31. Protection of action taken in good faith.-No suit, prosecution or other legal proceeding shall lie against the Central Government, the State Government, the Commission, the State Commission, or any Member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the State Commission, in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission, or the State Commission of any report or paper.

32. Chairperson, Members and other officers to be public servant.-Every Member of the Commission, State Commission and every officer appointed in the Commission or the State Commission to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (45 of 1860).

33. Directions by Central Government.-

- 1) In the discharge of its functions under this Act, the Commission shall be guided by such directions on questions of policy relating to national purposes, as may be given to it by the Central Government.

- 2) If any dispute arises between the Central Government and the Commission as to whether a question is or is not a question of policy relating to national purposes, the decision of the Central Government thereon shall be final.

34. Returns or information.-The Commission shall furnish to the Central Government such returns or other information with respect to its activities as the Central Government may, from time to time, require.

35. Power of Central Government to make rules.-

- 1) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- 2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - a) terms and conditions of service of the Chairperson and Members of the Commission and their salaries and allowances under section 6;
 - b) the procedure to be followed by the Commission in the transaction of its business at a meeting under sub-section (4) of section 10;
 - c) the powers and duties which may be exercised and performed by the Member-Secretary of the Commission under sub-section (2) of section 11;
 - d) the salary and allowances and other terms and conditions of service of officers and other employees of the Commission under sub-section (3) of section 11; and
 - e) form of the statement of accounts and other records to be prepared by the Commission under sub-section (1) of section 29.
- 3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

36. Power of State Government to make rules.-

- 1) The State Government may, by notification, make rules to carry out the provisions of this Act.
- 2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-
 - a) terms and conditions of service of the Chairperson and Members of the State Commission and their salaries and allowances under section 20;

- b) the procedure to be followed by the State Commission in the transaction of its business at a meeting under sub-section (4) of section 10 read with section 24;
 - c) the powers and duties which may be exercised and performed by the Secretary of the State Commission under sub-section (2) of section 21;
 - d) the salary and allowances and other terms and conditions of service of officers and other employees of the State Commission under sub-section (3) of section 21; and
 - e) form of the statement of accounts and other records to be prepared by the State Commission under sub-section (1) of section 30.
3. Every rule made by the State Government under this section shall be laid, as soon as may be after it is made before each House of the State Legislature where it consists of two Houses, or where such State Legislature consists of one House, before that House.

37. Power to remove difficulties.-

- 1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.
- 2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

1. Came into force on 15th February, 2007, vide S.O. 229(E), dated 15-2-2007.

2. Subs. by Act 4 of 2007, sec. 2, for the words "Minister-in-charge of the Ministry of Human Resource Development" (w.e.f. 29-12-2006).

<http://indiankanoon.org/doc/506243/>

THE RIGHT TO INFORMATION ACT, 2005

No. 22 of 2005

An Act to provide for setting out the practical regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto.

Whereas the Constitution of India has established democratic Republic;

And whereas democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed;

And whereas revelation of information in actual practice is likely to conflict with other public interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information;

And whereas it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal;

Now, therefore, it is expedient to provide for furnishing certain information to citizens who desire to have it.

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

CHAPTER I

Preliminary

1	(1)		This Act may be called the Right to Information Act, 2005.
	(2)		It extends to the whole of India except the State of Jammu and Kashmir.
	(3)		The provisions of sub-section (1) of section 4, sub-sections (1) and (2) of section 5, sections 12, 13, 15,16, 24 , 27 and 28 shall come into force at once, and the remaining provisions of this Act shall come into force on the one hundred and twentieth day of its enactment.
2			In this Act, unless the context otherwise requires,—
	(a)		"appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—
		(i)	by the Central Government or the Union territory administration, the Central Government;
		(ii)	by the State Government, the State Government;
	(b)		"Central Information Commission" means the Central Information Commission constituted under sub-section (1) of section 12;

	(c)		"Central Public Information Officer" means the Central Public Information Officer designated under sub-section (1) and includes a Central Assistant Public Information Officer designated as such under sub-section (2) of section 5;
	(d)		"Chief Information Commissioner" and "Information Commissioner" mean the Chief Information Commissioner and Information Commissioner appointed under sub-section (3) of section 12;
	(e)		"competent authority" means—
		(i)	the Speaker in the case of the House of the People or the Legislative Assembly of a State or a Union territory having such Assembly and the Chairman in the case of the Council of States or Legislative Council of a State;
		(ii)	the Chief Justice of India in the case of the Supreme Court;
		(iii)	the Chief Justice of the High Court in the case of a High Court;
		(iv)	the President or the Governor, as the case may be, in the case of other authorities established or constituted by or under the Constitution;
		(v)	the administrator appointed under article 239 of the Constitution;
	(f)		"information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force;
	(g)		"prescribed" means prescribed by rules made under this Act by the appropriate Government or the competent authority, as the case may be;
	(h)		"public authority" means any authority or body or institution of self-government established or constituted—
		(a)	by or under the Constitution;
		(b)	by any other law made by Parliament;
		(c)	by any other law made by State Legislature;
		(d)	by notification issued or order made by the appropriate Government, and includes any—
		(i)	body owned, controlled or substantially financed;
		(ii)	non-Government organization substantially financed,
			directly or indirectly by funds provided by the appropriate Government;

	(i)	"record" includes—
	(a)	any document, manuscript and file;
	(b)	any microfilm, microfiche and facsimile copy of a document;
	(c)	any reproduction of image or images embodied in such microfilm (whether enlarged or not); and
	(d)	any other material produced by a computer or any other device;
	(j)	"right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—
	(i)	inspection of work, documents, records;
	(ii)	taking notes, extracts or certified copies of documents or records;
	(iii)	taking certified samples of material;
	(iv)	obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;
	(k)	"State Information Commission" means the State Information Commission constituted under sub-section (1) of section 15;
	(l)	"State Chief Information Commissioner" and "State Information Commissioner" mean the State Chief Information Commissioner and the State Information Commissioner appointed under sub-section (3) of section 15;
	(m)	"State Public Information Officer" means the State Public Information Officer designated under sub-section (1) and includes a State Assistant Public Information Officer designated as such under sub-section (2) of section 5;
	(n)	"third party" means a person other than the citizen making a request for information and includes a public authority.

CHAPTER II

Right to information and obligations of public authorities

3		Subject to the provisions of this Act, all citizens shall have the right to information.
4	(1)	Every public authority shall—
	(a)	maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected

			through a network all over the country on different systems so that access to such records is facilitated;
		(b)	publish within one hundred and twenty days from the enactment of this Act,—
		(i)	the particulars of its organisation, functions and duties;
		(ii)	the powers and duties of its officers and employees;
		(iii)	the procedure followed in the decision making process, including channels of supervision and accountability;
		(iv)	the norms set by it for the discharge of its functions;
		(v)	the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
		(vi)	a statement of the categories of documents that are held by it or under its control;
		(vii)	the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
		(viii)	a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards, councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
		(ix)	a directory of its officers and employees;
		(x)	the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
		(xi)	the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
		(xii)	the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
		(xiii)	particulars of recipients of concessions, permits or authorisations granted by it;
		(xiv)	details in respect of the information, available to or held by it, reduced in an electronic form;

		(xv)	the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
		(xvi)	the names, designations and other particulars of the Public Information Officers;
		(xvii)	such other information as may be prescribed and thereafter update these publications every year;
		(c)	publish all relevant facts while formulating important policies or announcing the decisions which affect public;
		(d)	provide reasons for its administrative or quasi-judicial decisions to affected persons.
(2)			It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause (b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.
	(3)		For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.
	(4)		All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.
			Explanation.—For the purposes of sub-sections (3) and (4), "disseminated" means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.
5	(1)		Every public authority shall, within one hundred days of the enactment of this Act, designate as many officers as the Central Public Information Officers or State Public Information Officers, as the case may be, in all administrative units or offices under it as may be necessary to provide information to persons requesting for the information under this Act.
	(2)		Without prejudice to the provisions of sub-section (1), every public authority shall designate an officer, within one hundred days of the enactment of this Act, at each sub-divisional level or other sub-district level as a Central

		<p>Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, to receive the applications for information or appeals under this Act for forwarding the same forthwith to the Central Public Information Officer or the State Public Information Officer or senior officer specified under sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be:</p> <p>Provided that where an application for information or appeal is given to a Central Assistant Public Information Officer or a State Assistant Public Information Officer, as the case may be, a period of five days shall be added in computing the period for response specified under sub-section (1) of section 7.</p>
	(3)	Every Central Public Information Officer or State Public Information Officer, as the case may be, shall deal with requests from persons seeking information and render reasonable assistance to the persons seeking such information.
	(4)	The Central Public Information Officer or State Public Information Officer, as the case may be, may seek the assistance of any other officer as he or she considers it necessary for the proper discharge of his or her duties.
	(5)	Any officer, whose assistance has been sought under sub-section (4), shall render all assistance to the Central Public Information Officer or State Public Information Officer, as the case may be, seeking his or her assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be treated as a Central Public Information Officer or State Public Information Officer, as the case may be.
6	(1)	A person, who desires to obtain any information under this Act, shall make a request in writing or through electronic means in English or Hindi or in the official language of the area in which the application is being made, accompanying such fee as may be prescribed, to—
	(a)	the Central Public Information Officer or State Public Information Officer, as the case may be, of the concerned public authority;
	(b)	<p>the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, specifying the particulars of the information sought by him or her:</p> <p>Provided that where such request cannot be made in writing, the Central Public Information Officer or State Public Information Officer, as the case may be, shall render all reasonable assistance to the person making the request orally to reduce the same in writing.</p>

	(2)		An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.
	(3)		Where an application is made to a public authority requesting for an information,—
		(i)	which is held by another public authority; or
		(ii)	the subject matter of which is more closely connected with the functions of another public authority, the public authority, to which such application is made, shall transfer the application or such part of it as may be appropriate to that other public authority and inform the applicant immediately about such transfer: Provided that the transfer of an application pursuant to this sub-section shall be made as soon as practicable but in no case later than five days from the date of receipt of the application.
7	(1)		Subject to the proviso to sub-section (2) of section 5 or the proviso to sub-section (3) of section 6, the Central Public Information Officer or State Public Information Officer, as the case may be, on receipt of a request under section 6 shall, as expeditiously as possible, and in any case within thirty days of the receipt of the request, either provide the information on payment of such fee as may be prescribed or reject the request for any of the reasons specified in sections 8 and 9: Provided that where the information sought for concerns the life or liberty of a person, the same shall be provided within forty-eight hours of the receipt of the request.
	(2)		If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request.
	(3)		Where a decision is taken to provide the information on payment of any further fee representing the cost of providing the information, the Central Public Information Officer or State Public Information Officer, as the case may be, shall send an intimation to the person making the request, giving—
		(a)	the details of further fees representing the cost of providing the information as determined by him, together with the calculations made to arrive at the amount in accordance with fee prescribed under sub-section (1), requesting him to deposit that fees, and the period intervening between the despatch of the said intimation and payment of fees shall be excluded for the purpose of calculating the period of thirty days referred to in that sub-section;

	(b)	information concerning his or her right with respect to review the decision as to the amount of fees charged or the form of access provided, including the particulars of the appellate authority, time limit, process and any other forms.
	(4)	Where access to the record or a part thereof is required to be provided under this Act and the person to whom access is to be provided is sensorily disabled, the Central Public Information Officer or State Public Information Officer, as the case may be, shall provide assistance to enable access to the information, including providing such assistance as may be appropriate for the inspection.
	(5)	Where access to information is to be provided in the printed or in any electronic format, the applicant shall, subject to the provisions of sub-section (6), pay such fee as may be prescribed: Provided that the fee prescribed under sub-section (1) of section 6 and sub-sections (1) and (5) of section 7 shall be reasonable and no such fee shall be charged from the persons who are of below poverty line as may be determined by the appropriate Government.
	(6)	Notwithstanding anything contained in sub-section (5), the person making request for the information shall be provided the information free of charge where a public authority fails to comply with the time limits specified in sub-section (1).
	(7)	Before taking any decision under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall take into consideration the representation made by a third party under section 11.
	(8)	Where a request has been rejected under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall communicate to the person making the request,—
	(i)	the reasons for such rejection;
	(ii)	the period within which an appeal against such rejection may be preferred; and
	(iii)	the particulars of the appellate authority.
	(9)	An information shall ordinarily be provided in the form in which it is sought unless it would disproportionately divert the resources of the public authority or would be detrimental to the safety or preservation of the record in question.
8	(1)	Notwithstanding anything contained in this Act, there shall be no obligation to give any citizen,—

		(a)	information, disclosure of which would prejudicially affect the sovereignty and integrity of India, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
		(b)	information which has been expressly forbidden to be published by any court of law or tribunal or the disclosure of which may constitute contempt of court;
		(c)	information, the disclosure of which would cause a breach of privilege of Parliament or the State Legislature;
		(d)	information including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the competitive position of a third party, unless the competent authority is satisfied that larger public interest warrants the disclosure of such information;
		(e)	information available to a person in his fiduciary relationship, unless the competent authority is satisfied that the larger public interest warrants the disclosure of such information;
		(f)	information received in confidence from foreign Government;
		(g)	information, the disclosure of which would endanger the life or physical safety of any person or identify the source of information or assistance given in confidence for law enforcement or security purposes;
		(h)	information which would impede the process of investigation or apprehension or prosecution of offenders;
		(i)	cabinet papers including records of deliberations of the Council of Ministers, Secretaries and other officers:
			Provided that the decisions of Council of Ministers, the reasons thereof, and the material on the basis of which the decisions were taken shall be made public after the decision has been taken, and the matter is complete, or over: Provided further that those matters which come under the exemptions specified in this section shall not be disclosed;
		(j)	information which relates to personal information the disclosure of which has no relationship to any public activity or interest, or which would cause unwarranted invasion of the privacy of the individual unless the Central Public Information Officer or the State Public Information Officer or the appellate authority, as the case may be, is satisfied that the larger public interest justifies the disclosure of such information:
			Provided that the information which cannot be denied to the Parliament or a State Legislature shall not be denied to any person.

	(2)		Notwithstanding anything in the Official Secrets Act, 1923 nor any of the exemptions permissible in accordance with sub-section (1), a public authority may allow access to information, if public interest in disclosure outweighs the harm to the protected interests.
	(3)		Subject to the provisions of clauses (a), (c) and (i) of sub-section (1), any information relating to any occurrence, event or matter which has taken place, occurred or happened twenty years before the date on which any request is made under section 6 shall be provided to any person making a request under that section:
			Provided that where any question arises as to the date from which the said period of twenty years has to be computed, the decision of the Central Government shall be final, subject to the usual appeals provided for in this Act.
9			Without prejudice to the provisions of section 8, a Central Public Information Officer or a State Public Information Officer, as the case may be, may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.
10	(1)		Where a request for access to information is rejected on the ground that it is in relation to information which is exempt from disclosure, then, notwithstanding anything contained in this Act, access may be provided to that part of the record which does not contain any information which is exempt from disclosure under this Act and which can reasonably be severed from any part that contains exempt information.
	(2)		Where access is granted to a part of the record under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall give a notice to the applicant, informing—
		(a)	that only part of the record requested, after severance of the record containing information which is exempt from disclosure, is being provided;
		(b)	the reasons for the decision, including any findings on any material question of fact, referring to the material on which those findings were based;
		(c)	the name and designation of the person giving the decision;
		(d)	the details of the fees calculated by him or her and the amount of fee which the applicant is required to deposit; and
		(e)	his or her rights with respect to review of the decision regarding non-disclosure of part of the information, the amount of fee charged or the form of access provided, including the particulars of the senior officer specified under sub-section (1) of section 19 or the Central Information Commission

		or the State Information Commission, as the case may be, time limit, process and any other form of access.
11	(1)	<p>Where a Central Public Information Officer or a State Public Information Officer, as the case may be, intends to disclose any information or record, or part thereof on a request made under this Act, which relates to or has been supplied by a third party and has been treated as confidential by that third party, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within five days from the receipt of the request, give a written notice to such third party of the request and of the fact that the Central Public Information Officer or State Public Information Officer, as the case may be, intends to disclose the information or record, or part thereof, and invite the third party to make a submission in writing or orally, regarding whether the information should be disclosed, and such submission of the third party shall be kept in view while taking a decision about disclosure of information:</p> <p>Provided that except in the case of trade or commercial secrets protected by law, disclosure may be allowed if the public interest in disclosure outweighs in importance any possible harm or injury to the interests of such third party.</p>
	(2)	Where a notice is served by the Central Public Information Officer or State Public Information Officer, as the case may be, under sub-section (1) to a third party in respect of any information or record or part thereof, the third party shall, within ten days from the date of receipt of such notice, be given the opportunity to make representation against the proposed disclosure.
	(3)	Notwithstanding anything contained in section 7, the Central Public Information Officer or State Public Information Officer, as the case may be, shall, within forty days after receipt of the request under section 6, if the third party has been given an opportunity to make representation under sub-section (2), make a decision as to whether or not to disclose the information or record or part thereof and give in writing the notice of his decision to the third party.
	(4)	A notice given under sub-section (3) shall include a statement that the third party to whom the notice is given is entitled to prefer an appeal under section 19 against the decision.

CHAPTER III

The Central Information Commission

12	(1)	The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the Central Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
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	(2)		The Central Information Commission shall consist of—
		(a)	the Chief Information Commissioner; and
		(b)	such number of Central Information Commissioners, not exceeding ten, as may be deemed necessary.
	(3)		The Chief Information Commissioner and Information Commissioners shall be appointed by the President on the recommendation of a committee consisting of—
		(i)	the Prime Minister, who shall be the Chairperson of the committee;
		(ii)	the Leader of Opposition in the Lok Sabha; and
		(iii)	a Union Cabinet Minister to be nominated by the Prime Minister.
			Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the House of the People has not been recognised as such, the Leader of the single largest group in opposition of the Government in the House of the People shall be deemed to be the Leader of Opposition.
	(4)		The general superintendence, direction and management of the affairs of the Central Information Commission shall vest in the Chief Information Commissioner who shall be assisted by the Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the Central Information Commission autonomously without being subjected to directions by any other authority under this Act.
	(5)		The Chief Information Commissioner and Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
	(6)		The Chief Information Commissioner or an Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
	(7)		The headquarters of the Central Information Commission shall be at Delhi and the Central Information Commission may, with the previous approval of the Central Government, establish offices at other places in India.

13	(1)	<p>The Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:</p> <p>Provided that no Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.</p>
	(2)	<p>Every Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such Information Commissioner:</p> <p>Provided that every Information Commissioner shall, on vacating his office under this sub-section be eligible for appointment as the Chief Information Commissioner in the manner specified in sub-section (3) of section 12:</p> <p>Provided further that where the Information Commissioner is appointed as the Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the Information Commissioner and the Chief Information Commissioner.</p>
	(3)	<p>The Chief Information Commissioner or an Information Commissioner shall before he enters upon his office make and subscribe before the President or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.</p>
	(4)	<p>The Chief Information Commissioner or an Information Commissioner may, at any time, by writing under his hand addressed to the President, resign from his office:</p> <p>Provided that the Chief Information Commissioner or an Information Commissioner may be removed in the manner specified under section 14.</p>
	(5)	<p>The salaries and allowances payable to and other terms and conditions of service of —</p>
	(a)	<p>the Chief Information Commissioner shall be the same as that of the Chief Election Commissioner;</p>
	(b)	<p>an Information Commissioner shall be the same as that of an Election Commissioner:</p>
		<p>Provided that if the Chief Information Commissioner or an Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a</p>

		State, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:
		Provided further that if the Chief Information Commissioner or an Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as the Chief Information Commissioner or an Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:
		Provided also that the salaries, allowances and other conditions of service of the Chief Information Commissioner and the Information Commissioners shall not be varied to their disadvantage after their appointment.
	(6)	The Central Government shall provide the Chief Information Commissioner and the Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.
14	(1)	Subject to the provisions of sub-section (3), the Chief Information Commissioner or any Information Commissioner shall be removed from his office only by order of the President on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the President, has, on inquiry, reported that the Chief Information Commissioner or any Information Commissioner, as the case may be, ought on such ground be removed.
	(2)	The President may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the Chief Information Commissioner or Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the President has passed orders on receipt of the report of the Supreme Court on such reference.
	(3)	Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Information Commissioner or

		any Information Commissioner if the Chief Information Commissioner or a Information Commissioner, as the case may be,—
	(a)	is adjudged an insolvent; or
	(b)	has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or
	(c)	engages during his term of office in any paid employment outside the duties of his office; or
	(d)	is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or
	(e)	has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Information Commissioner or a Information Commissioner.
	(4)	If the Chief Information Commissioner or a Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of India or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehavior.

CHAPTER IV

The State Information Commission

15	(1)	Every State Government shall, by notification in the Official Gazette, constitute a body to be known as the (name of the State) Information Commission to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.
	(2)	The State Information Commission shall consist of—
	(a)	the State Chief Information Commissioner, and
	(b)	such number of State Information Commissioners, not exceeding ten, as may be deemed necessary.
	(3)	The State Chief Information Commissioner and the State Information Commissioners shall be appointed by the Governor on the recommendation of a committee consisting of—
	(i)	the Chief Minister, who shall be the Chairperson of the committee;
	(ii)	the Leader of Opposition in the Legislative Assembly; and
	(iii)	a Cabinet Minister to be nominated by the Chief Minister.

		Explanation.—For the purposes of removal of doubts, it is hereby declared that where the Leader of Opposition in the Legislative Assembly has not been recognised as such, the Leader of the single largest group in opposition of the Government in the Legislative Assembly shall be deemed to be the Leader of Opposition.
	(4)	The general superintendence, direction and management of the affairs of the State Information Commission shall vest in the State Chief Information Commissioner who shall be assisted by the State Information Commissioners and may exercise all such powers and do all such acts and things which may be exercised or done by the State Information Commission autonomously without being subjected to directions by any other authority under this Act.
	(5)	The State Chief Information Commissioner and the State Information Commissioners shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.
	(6)	The State Chief Information Commissioner or a State Information Commissioner shall not be a Member of Parliament or Member of the Legislature of any State or Union territory, as the case may be, or hold any other office of profit or connected with any political party or carrying on any business or pursuing any profession.
	(7)	The headquarters of the State Information Commission shall be at such place in the State as the State Government may, by notification in the Official Gazette, specify and the State Information Commission may, with the previous approval of the State Government, establish offices at other places in the State.
16	(1)	The State Chief Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment:
		Provided that no State Chief Information Commissioner shall hold office as such after he has attained the age of sixty-five years.
	(2)	Every State Information Commissioner shall hold office for a term of five years from the date on which he enters upon his office or till he attains the age of sixty-five years, whichever is earlier, and shall not be eligible for reappointment as such State Information Commissioner:
		Provided that every State Information Commissioner shall, on vacating his office under this sub-section, be eligible for appointment as the State

		Chief Information Commissioner in the manner specified in sub-section (3) of section 15:
		Provided further that where the State Information Commissioner is appointed as the State Chief Information Commissioner, his term of office shall not be more than five years in aggregate as the State Information Commissioner and the State Chief Information Commissioner.
	(3)	The State Chief Information Commissioner or a State Information Commissioner, shall before he enters upon his office make and subscribe before the Governor or some other person appointed by him in that behalf, an oath or affirmation according to the form set out for the purpose in the First Schedule.
	(4)	The State Chief Information Commissioner or a State Information Commissioner may, at any time, by writing under his hand addressed to the Governor, resign from his office:
		Provided that the State Chief Information Commissioner or a State Information Commissioner may be removed in the manner specified under section 17.
	(5)	The salaries and allowances payable to and other terms and conditions of service of—
		(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;
		(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government:
		Provided that if the State Chief Information Commissioner or a State Information Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension, in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of the service as the State Chief Information Commissioner or a State Information Commissioner shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity:
		Provided further that where the State Chief Information Commissioner or a State Information Commissioner if, at the time of his appointment is, in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government

		or the State Government, his salary in respect of the service as the State Chief Information Commissioner or the State Information Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:
		Provided also that the salaries, allowances and other conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall not be varied to their disadvantage after their appointment.
	(6)	The State Government shall provide the State Chief Information Commissioner and the State Information Commissioners with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed for the purpose of this Act shall be such as may be prescribed.
17	(1)	Subject to the provisions of sub-section (3), the State Chief Information Commissioner or a State Information Commissioner shall be removed from his office only by order of the Governor on the ground of proved misbehaviour or incapacity after the Supreme Court, on a reference made to it by the Governor, has on inquiry, reported that the State Chief Information Commissioner or a State Information Commissioner, as the case may be, ought on such ground be removed.
	(2)	The Governor may suspend from office, and if deem necessary prohibit also from attending the office during inquiry, the State Chief Information Commissioner or a State Information Commissioner in respect of whom a reference has been made to the Supreme Court under sub-section (1) until the Governor has passed orders on receipt of the report of the Supreme Court on such reference.
	(3)	Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the State Chief Information Commissioner or a State Information Commissioner if a State Chief Information Commissioner or a State Information Commissioner, as the case may be,—
		(a) is adjudged an insolvent; or
	(b)	has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or
	(c)	engages during his term of office in any paid employment outside the duties of his office; or

		(d)	is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body; or
		(e)	has acquired such financial or other interest as is likely to affect prejudicially his functions as the State Chief Information Commissioner or a State Information Commissioner.
	(4)		If the State Chief Information Commissioner or a State Information Commissioner in any way, concerned or interested in any contract or agreement made by or on behalf of the Government of the State or participates in any way in the profit thereof or in any benefit or emoluments arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (1), be deemed to be guilty of misbehaviour.

CHAPTER V

Powers and functions of the Information Commissions, appeal and penalties

18	(1)		Subject to the provisions of this Act, it shall be the duty of the Central Information Commission or State Information Commission, as the case may be, to receive and inquire into a complaint from any person,—
		(a)	who has been unable to submit a request to a Central Public Information Officer or State Public Information Officer, as the case may be, either by reason that no such officer has been appointed under this Act, or because the Central Assistant Public Information Officer or State Assistant Public Information Officer, as the case may be, has refused to accept his or her application for information or appeal under this Act for forwarding the same to the Central Public Information Officer or State Public Information Officer or senior officer specified in sub-section (1) of section 19 or the Central Information Commission or the State Information Commission, as the case may be;
		(b)	who has been refused access to any information requested under this Act;
		(c)	who has not been given a response to a request for information or access to information within the time limit specified under this Act;
		(d)	who has been required to pay an amount of fee which he or she considers unreasonable;
		(e)	who believes that he or she has been given incomplete, misleading or false information under this Act; and

		(f)	in respect of any other matter relating to requesting or obtaining access to records under this Act.
	(2)		Where the Central Information Commission or State Information Commission, as the case may be, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry in respect thereof.
	(3)		The Central Information Commission or State Information Commission, as the case may be, shall, while inquiring into any matter under this section, have the same powers as are vested in a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—
		(a)	summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
		(b)	requiring the discovery and inspection of documents;
		(c)	receiving evidence on affidavit;
		(d)	requisitioning any public record or copies thereof from any court or office;
		(e)	issuing summons for examination of witnesses or documents; and
		(f)	any other matter which may be prescribed.
	(4)		Notwithstanding anything inconsistent contained in any other Act of Parliament or State Legislature, as the case may be, the Central Information Commission or the State Information Commission, as the case may be, may, during the inquiry of any complaint under this Act, examine any record to which this Act applies which is under the control of the public authority, and no such record may be withheld from it on any grounds.
19	(1)		Any person who, does not receive a decision within the time specified in sub-section (1) or clause (a) of sub-section (3) of section 7, or is aggrieved by a decision of the Central Public Information Officer or State Public Information Officer, as the case may be, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to such officer who is senior in rank to the Central Public Information Officer or State Public Information Officer as the case may be, in each public authority:
			Provided that such officer may admit the appeal after the expiry of the period of thirty days if he or she is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

	(2)		Where an appeal is preferred against an order made by a Central Public Information Officer or a State Public Information Officer, as the case may be, under section 11 to disclose third party information, the appeal by the concerned third party shall be made within thirty days from the date of the order.
	(3)		A second appeal against the decision under sub-section (1) shall lie within ninety days from the date on which the decision should have been made or was actually received, with the Central Information Commission or the State Information Commission:
			Provided that the Central Information Commission or the State Information Commission, as the case may be, may admit the appeal after the expiry of the period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
	(4)		If the decision of the Central Public Information Officer or State Public Information Officer, as the case may be, against which an appeal is preferred relates to information of a third party, the Central Information Commission or State Information Commission, as the case may be, shall give a reasonable opportunity of being heard to that third party.
	(5)		In any appeal proceedings, the onus to prove that a denial of a request was justified shall be on the Central Public Information Officer or State Public Information Officer, as the case may be, who denied the request.
	(6)		An appeal under sub-section (1) or sub-section (2) shall be disposed of within thirty days of the receipt of the appeal or within such extended period not exceeding a total of forty-five days from the date of filing thereof, as the case may be, for reasons to be recorded in writing.
	(7)		The decision of the Central Information Commission or State Information Commission, as the case may be, shall be binding.
	(8)		In its decision, the Central Information Commission or State Information Commission, as the case may be, has the power to—
		(a)	require the public authority to take any such steps as may be necessary to secure compliance with the provisions of this Act, including—
		(i)	by providing access to information, if so requested, in a particular form;
		(ii)	by appointing a Central Public Information Officer or State Public Information Officer, as the case may be;
		(iii)	by publishing certain information or categories of information;

		(iv)	by making necessary changes to its practices in relation to the maintenance, management and destruction of records;
		(v)	by enhancing the provision of training on the right to information for its officials;
		(vi)	by providing it with an annual report in compliance with clause (b) of sub-section (1) of section 4;
		(b)	require the public authority to compensate the complainant for any loss or other detriment suffered;
		(c)	impose any of the penalties provided under this Act;
		(d)	reject the application.
	(9)		The Central Information Commission or State Information Commission, as the case may be, shall give notice of its decision, including any right of appeal, to the complainant and the public authority.
	(10)		The Central Information Commission or State Information Commission, as the case may be, shall decide the appeal in accordance with such procedure as may be prescribed.
20	(1)		Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees:
			Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:
			Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.
	(2)		Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or

		<p>appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.</p>
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CHAPTER VI

Miscellaneous

21		<p>No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any rule made thereunder.</p>
22		<p>The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in the Official Secrets Act, 1923, and any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.</p>
23		<p>No court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.</p>
24	(1)	<p>Nothing contained in this Act shall apply to the intelligence and security organisations specified in the Second Schedule, being organisations established by the Central Government or any information furnished by such organisations to that Government:</p>
		<p>Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:</p>
		<p>Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the Central Information Commission, and notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.</p>
	(2)	<p>The Central Government may, by notification in the Official Gazette, amend the Schedule by including therein any other intelligence or security organisation established by that Government or omitting therefrom any organisation already specified therein and on the publication of such</p>

		notification, such organisation shall be deemed to be included in or, as the case may be, omitted from the Schedule.
	(3)	Every notification issued under sub-section (2) shall be laid before each House of Parliament.
	(4)	Nothing contained in this Act shall apply to such intelligence and security organisation being organisations established by the State Government, as that Government may, from time to time, by notification in the Official Gazette, specify:
		Provided that the information pertaining to the allegations of corruption and human rights violations shall not be excluded under this sub-section:
		Provided further that in the case of information sought for is in respect of allegations of violation of human rights, the information shall only be provided after the approval of the State Information Commission and, notwithstanding anything contained in section 7, such information shall be provided within forty-five days from the date of the receipt of request.
	(5)	Every notification issued under sub-section (4) shall be laid before the State Legislature.
25	(1)	The Central Information Commission or State Information Commission, as the case may be, shall, as soon as practicable after the end of each year, prepare a report on the implementation of the provisions of this Act during that year and forward a copy thereof to the appropriate Government.
	(2)	Each Ministry or Department shall, in relation to the public authorities within their jurisdiction, collect and provide such information to the Central Information Commission or State Information Commission, as the case may be, as is required to prepare the report under this section and comply with the requirements concerning the furnishing of that information and keeping of records for the purposes of this section.
	(3)	Each report shall state in respect of the year to which the report relates,—
	(a)	the number of requests made to each public authority;
	(b)	the number of decisions where applicants were not entitled to access to the documents pursuant to the requests, the provisions of this Act under which these decisions were made and the number of times such provisions were invoked;
	(c)	the number of appeals referred to the Central Information Commission or State Information Commission, as the case may be, for review, the nature of the appeals and the outcome of the appeals;

		(d)	particulars of any disciplinary action taken against any officer in respect of the administration of this Act;
		(e)	the amount of charges collected by each public authority under this Act;
		(f)	any facts which indicate an effort by the public authorities to administer and implement the spirit and intention of this Act;
		(g)	recommendations for reform, including recommendations in respect of the particular public authorities, for the development, improvement, modernisation, reform or amendment to this Act or other legislation or common law or any other matter relevant for operationalising the right to access information.
	(4)		The Central Government or the State Government, as the case may be, may, as soon as practicable after the end of each year, cause a copy of the report of the Central Information Commission or the State Information Commission, as the case may be, referred to in sub-section (1) to be laid before each House of Parliament or, as the case may be, before each House of the State Legislature, where there are two Houses, and where there is one House of the State Legislature before that House.
	(5)		If it appears to the Central Information Commission or State Information Commission, as the case may be, that the practice of a public authority in relation to the exercise of its functions under this Act does not conform with the provisions or spirit of this Act, it may give to the authority a recommendation specifying the steps which ought in its opinion to be taken for promoting such conformity.
26	(1)		The appropriate Government may, to the extent of availability of financial and other resources,—
		(a)	develop and organise educational programmes to advance the understanding of the public, in particular of disadvantaged communities as to how to exercise the rights contemplated under this Act;
		(b)	encourage public authorities to participate in the development and organisation of programmes referred to in clause (a) and to undertake such programmes themselves;
		(c)	promote timely and effective dissemination of accurate information by public authorities about their activities; and
		(d)	train Central Public Information Officers or State Public Information Officers, as the case may be, of public authorities and produce relevant training materials for use by the public authorities themselves.

	(2)		The appropriate Government shall, within eighteen months from the commencement of this Act, compile in its official language a guide containing such information, in an easily comprehensible form and manner, as may reasonably be required by a person who wishes to exercise any right specified in this Act.
	(3)		The appropriate Government shall, if necessary, update and publish the guidelines referred to in sub-section (2) at regular intervals which shall, in particular and without prejudice to the generality of sub-section (2), include—
		(a)	the objects of this Act;
		(b)	the postal and street address, the phone and fax number and, if available, electronic mail address of the Central Public Information Officer or State Public Information Officer, as the case may be, of every public authority appointed under sub-section (1) of section 5;
		(c)	the manner and the form in which request for access to an information shall be made to a Central Public Information Officer or State Public Information Officer, as the case may be;
		(d)	the assistance available from and the duties of the Central Public Information Officer or State Public Information Officer, as the case may be, of a public authority under this Act;
		(e)	the assistance available from the Central Information Commission or State Information Commission, as the case may be;
		(f)	all remedies in law available regarding an act or failure to act in respect of a right or duty conferred or imposed by this Act including the manner of filing an appeal to the Commission;
		(g)	the provisions providing for the voluntary disclosure of categories of records in accordance with section 4;
		(h)	the notices regarding fees to be paid in relation to requests for access to an information; and
		(i)	any additional regulations or circulars made or issued in relation to obtaining access to an information in accordance with this Act.
	(4)		The appropriate Government must, if necessary, update and publish the guidelines at regular intervals.
27	(1)		The appropriate Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.

	(2)		In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
		(a)	the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
		(b)	the fee payable under sub-section (1) of section 6;
		(c)	the fee payable under sub-sections (1) and (5) of section 7;
		(d)	the salaries and allowances payable to and the terms and conditions of service of the officers and other employees under sub-section (6) of section 13 and sub-section (6) of section 16;
		(e)	the procedure to be adopted by the Central Information Commission or State Information Commission, as the case may be, in deciding the appeals under sub-section (10) of section 19; and
		(f)	any other matter which is required to be, or may be, prescribed.
28	(1)		The competent authority may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.
	(2)		In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—
		(i)	the cost of the medium or print cost price of the materials to be disseminated under sub-section (4) of section 4;
		(ii)	the fee payable under sub-section (1) of section 6;
		(iii)	the fee payable under sub-section (1) of section 7; and
		(iv)	any other matter which is required to be, or may be, prescribed.
29	(1)		Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.
	(2)		Every rule made under this Act by a State Government shall be laid, as soon as may be after it is notified, before the State Legislature.
30	(1)		If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make

		such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removal of the difficulty:
		Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.
	(2)	Every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.
31		The Freedom of Information Act, 2002 is hereby repealed.

THE FIRST SCHEDULE
[See sections 13(3) and 16(3)]

Form of oath or affirmation to be made by the Chief Information Commissioner/the Information Commissioner/the State Chief Information Commissioner/the State Information Commissioner

"I,, having been appointed Chief Information Commissioner/Information Commissioner/State Chief Information Commissioner/State Information Commissioner
swear in the name of God

solemnly affirm

that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear or favour, affection or ill-will and that I will uphold the Constitution and the laws."

THE SECOND SCHEDULE

(See section 24)

Intelligence and security organisation established by the Central Government

- | | |
|-----------------------------------------------------------|----------------------------------------------------------|
| 1. Intelligence Bureau. | 10. Central Reserve Police Force. |
| 2. Research and Analysis Wing of the Cabinet Secretariat. | 11. Indo-Tibetan Border Police. |
| 3. Directorate of Revenue Intelligence. | 12. Central Industrial Security Force. |
| 4. Central Economic Intelligence Bureau. | 13. National Security Guards. |
| 5. Directorate of Enforcement. | 14. Assam Rifles. |
| 6. Narcotics Control Bureau. | 15. Special Service Bureau. |
| 7. Aviation Research Centre. | 16. Special Branch (CID), Andaman and Nicobar. |
| 8. Special Frontier Force. | 17. The Crime Branch-C.I.D.- CB, Dadra and Nagar Haveli. |
| 9. Border Security Force. | 18. Special Branch, Lakshadweep Police. |

Source: <http://cic.gov.in/rti-act.htm>

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

(1 of 1996)

PUBLISHED IN PART II, SECTION 1 OF THE EXTRAORDINARY GAZETTE OF INDIA

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Legislative Department)

New Delhi, the 1st January, 1996/Pausa 11, 1917 (Saka)

The following Act of Parliament received the assent of the President on the 1st January, 1996, and is hereby published for general information: -

No.1 OF 1996

[1st January 1996]

An Act to give effect to the Proclamation on the Full Participation and Equality of the People with Disabilities in the Asian and Pacific Region.

WHEREAS the Meeting to Launch the Asian and Pacific Decade of Disabled Persons 1993-2002 convened by the Economic and Social Commission for Asia and Pacific held at Beijing on 1st to 5th December, 1992, adopted the Proclamation on the Full Participation and Equality of People with Disabilities in the Asian and Pacific Region;

AND WHEREAS India is a signatory to the said Proclamation;

AND WHEREAS it is considered necessary to implement the Proclamation aforesaid.

Be it enacted by Parliament in the Forty-sixth Year of the Republic of India as follows: -

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement.-

1. This Act may be called the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
2. It extends to the whole of India except the State of Jammu and Kashmir.
3. It shall come into force on such date as the Central Government may, by notification, appoint.

2. Definitions. - In this Act, unless the context otherwise requires,-

- a. "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 Cantonment Act, 1924, 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;
 - iii. in respect of the Central Co-ordination Committee and the Central Executive Committee, the Central Government;
 - iv. in respect of the State Co-ordination Committee and the State Executive Committee, the State Government;
- b. "blindness" refers to a condition where a person suffers from any of the following conditions, namely:-
 - i. total absence of sight; or
 - ii. visual acuity not exceeding 6/60 or 20/200 (snellen) in the better eye with correcting lenses; or
 - iii. limitation of the field of vision subtending an angle of 20 degree or worse;
- c. "Central Co-ordination Committee" means the Central Co-ordination Committee constituted under sub-section (1) of section 3;
- d. "Central Executive Committee" means the Central Executive Committee constituted under sub-section (1) of section 9;
- e. "cerebral palsy" means a group of non-progressive conditions of a person characterized by abnormal motor control posture resulting from brain insult or injuries occurring in the pre-natal, peri-natal or infant period of development;
- f. "Chief Commissioner" means the Chief Commissioner appointed under sub-section (1) of section 57
- g. "Commissioner" means the Commissioner appointed under sub-section (1) of section 60;
- h. "competent authority" means the authority appointed under section 50;
- i. "Disability" means-
 - i. blindness;
 - ii. low vision;
 - iii. leprosy-cured;
 - iv. hearing impairment;
 - v. loco motor disability;
 - vi. mental retardation;
 - vii. mental illness;
- j. "employer" means,-

- i. In relation to a Government, the authority notified by the Head of the Department in this behalf or where no such authority is notified, the Head of the Department; and
 - ii. in relation to an establishment, the Chief Executive Officer of that establishment;
- k. "establishment" means a corporation established by or under a Central, Provincial 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 617 of the Companies Act, 1956 (1 of 1956) and includes Departments of a Government;
- l. "hearing impairment" means loss of sixty decibels or more in the better ear in the conversational range of frequencies;
- m. "institution for persons with disabilities" means an institution for the reception, care, protection, education, training, rehabilitation or any other service of persons with disabilities;
- n. "leprosy cured person" means any person who has been cured of leprosy but is suffering from-
 - i. loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;
 - ii. manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;
 - iii. Extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation, and the expression "leprosy cured" shall be construed accordingly;
- o. "loco motor disability" means disability of the bones, joints or muscles leading to substantial restriction of the movement of the limbs or any form of cerebral palsy;
- p. "medical authority" means any hospital or institution specified for the purposes of this Act by notification by the appropriate Government;
- q. "mental illness" means any mental disorder other than mental retardation;
- r. "mental retardation" means a condition of arrested or incomplete development of mind of a person which is specially characterized by sub normality of intelligence;
- s. "notification" means a notification published in the Official Gazette;
- t. "person with disability" means a person suffering from not less than forty per cent of any disability as certified by a medical authority;
- u. "person with low vision" means a person with impairment of visual functioning even after treatment or standard refractive correction but who uses or is potentially capable of using vision for the planning or execution of a task with appropriate assistive device;

- v. "prescribed" means prescribed by rules made under this Act;
- w. "rehabilitation" refers to a process aimed at enabling persons with disabilities to reach and maintain their optimal physical, sensory, intellectual, psychiatric or social functional levels;
- x. "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, respecting-
 - i. persons who seek to engage employees from amongst the persons suffering from disabilities;
 - ii. persons with disability who seek employment;
 - iii. vacancies to which person with disability seeking employment may be appointed;
- y. "State Co-ordination Committee" means the State Co-ordination Committee constituted under sub-section (1) of section 13;
- z. "State Executive Committee" means the State Executive Committee constituted under subsection (I) of section 19.

CHAPTER II

THE CENTRAL COORDINATION COMMITTEE

3. Central Co-ordination Committee. - (1) The Central Government shall by notification constitute a body to be known as the Central Co-ordination Committee to exercise the powers conferred on, and to perform the functions assigned to it, under this Act.

(2) The Central Co-ordination Committee shall consist of-

- a. The Minister-in-charge of the Department of Welfare in the Central Government, Chairperson, **ex officio**;
- b. The Minister of State-in-charge of the Department of Welfare in the Central Government, Vice Chairperson, **ex officio**;
- c. Secretaries to the Government of India in-charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Legal Affairs, Public Enterprises, Members, **ex officio**;
- d. Chief Commissioner, Member, **ex officio**;
- e. Chairman Railway Board, Member, **ex officio**;
- f. Director-General of Labour, Employment and Training, Member, **ex officio**;
- g. Director, National Council for Educational Research and Training, Member, **ex officio**;

- h. three Members of Parliament. of whom two shall be elected by the House of the People and one by the Council of States, Members;
- i. three persons to be nominated by the Central Government to represent the interests, which in the opinion of that Government ought to be represented, Members;
- j. Directors of the-
 - i. National Institute for the Visually Handicapped, Dehradun;
 - ii. National Institute for the Mentally Handicapped, Secundrabad;
 - iii. National Institute for the Orthopaedically Handicapped, Calcutta;
 - iv. Ali Yavar Jung National Institute for the Hearing Handicapped, Bombay, Members, *ex officio*;
- k. four Members to be nominated by the Central Government by rotation to represent the States and the Union territories in such manner as may be prescribed by the Central Government:
Provided that no appointment under this clause shall be made except on the recommendation of the State Government or, as the case may be, the Union territory;
- l. five persons as far as practicable, being persons with disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members:
Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
- m. Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, **ex officio**;

(3) The office of the Member of the Central Co-ordination Committee shall not disqualify its holder for being chosen as or for being a Member of either House of Parliament.

4. Term of office of Members. -

1. Save as otherwise provided by or under this Act a Member of Central Co-ordination Committee nominated under clause (i) or clause (l) of sub-section (2) of section 3 shall hold office for a term of three years from the date of his nomination:
Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
2. The term of office of an **ex officio**; Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
3. The Central Government may if it thinks fit remove any Member nominated under clause (i) or clause (1) of sub-section (2) of the section 3, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.

4. A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.
5. A casual vacancy in the Central Co-ordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.
6. A Member nominated under clause (i) or clause (1) of sub-section (2) of section 3 shall be eligible for renomination.
7. Members nominated under clause (i) and clause (1) of sub-section (2) of section 3 shall receive such allowances as may be prescribed by the Central Government.

5. Disqualifications. -

1. No person shall be a Member of the Central Coordination Committee, who-
 - a. is, or at any time has been, adjudged insolvent or has suspended payment of his debts or has compounded with his creditors, or
 - b. is of unsound mind and stands so declared by a competent court, or
 - c. is or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or
 - d. is or at any time has been convicted of an offence under this Act, or
 - e. has so abused in the opinion of the Central Government his position as a Member as to render his continuance in the Central Coordination Committee detrimental to the interests of the general public.
2. No order of removal shall be made by the Central Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
3. Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 4, a Member who has been removed under this section shall not be eligible for renomination as a Member.

6. Vacation of seats by Members. -If a Member of the Central Coordination Committee becomes subject to any of the disqualifications specified in section 5, his seat shall become vacant.

7. Meetings of the Central Co-ordination Committee. - The Central Coordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.

8. Functions of the Central Co-ordination Committee. -

1. Subject to the provisions of this Act, the function of the Central Coordination Committee shall be to serve as the national focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.
2. In particular and without prejudice to the generality of the foregoing, the Central Coordination Committee may perform all or any of the following functions, namely:-
 - a. review and coordinate the activities of all the Departments of Government and other Governmental and non-Governmental Organizations which are dealing with matters relating to persons with disabilities;
 - b. develop a national policy to address issues faced by, persons with disabilities;
 - c. advise the Central Government on the formulation of policies, programmes, legislation and projects with respect to disability;
 - d. take up the cause of persons with disabilities with the concerned authorities and the international organizations with a view, to provide for schemes and projects for the disabled in the national plans and other programmes and policies evolved by the international agencies;
 - e. review in consultation with the donor agencies their funding policies from the perspective of their impact on persons with disabilities;
 - f. take such other steps to ensure barrier-free environment in public places, work-places, public utilities, schools and other institutions;
 - g. monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
 - h. to perform such other functions as may be prescribed by the Central Government.

9. Central Executive Committee. -

1. The Central Government shall constitute a Committee to be known as the Central Executive Committee to perform the functions assigned to it under this Act.
2. The Central Executive Committee shall consist of-
 - a. the Secretary to the Government of India in the Ministry of Welfare, Chairperson, **ex officio**;
 - b. the Chief Commissioner, Member, **ex officio**;
 - c. the Director-General for Health Services, Member, **ex officio**;
 - d. the Director-General, Employment and Training, Member, **ex officio**;
 - e. six persons not below the rank of a Joint Secretary to the Government of India, to represent the Ministries or Departments of Rural Development, Education,

Welfare, Personnel, Public Grievances and Pension and Urban Affairs and Employment, Science and Technology, Members, **ex officio**;

- f. the Financial Advisor, Ministry of Welfare in the Central Government, Member, **ex officio**;
 - g. Advisor (Tariff) Railway Board, Member, **ex officio**;
 - h. four members to be nominated by the Central Government, by rotation, to represent the State Governments and the Union territories in such manner as may be prescribed by the Central Government.
 - i. one person to be nominated by the Central Government to represent the interest, which in the opinion of the Central Government ought to be represented, Member;
 - j. five persons, as far as practicable, being persons with disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the Central Government, one from each area of disability, Members:
Provided that while nominating persons under this clause, the Central Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - k. Joint Secretary to the Government of India in the Ministry of Welfare dealing with the welfare of the handicapped, Member-Secretary, **ex officio**;
3. Members nominated under clause (i) and clause (j) of sub-section (2) shall receive such allowances as may be prescribed by the Central Government.
 4. A Member nominated under clause (i) or clause (j) of sub-section (2) may at any time resign his office by writing under his hand addressed to the Central Government and the seat of the said Member shall thereupon become vacant.

10. Functions of the Central Executive Committee. -

1. The Central Executive Committee shall be the executive body of the Central Coordination Committee and shall be responsible for carrying out the decisions of the Central Coordination Committee.
2. (2) Without prejudice to the provisions of sub-section (1), the Central Executive Committee shall also perform such other functions as may be delegated to it by the Central Coordination Committee.

11. Meetings of the Central Executive Committee. - The Central Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the Central Government.

12. Temporary association of persons with Central Executive Committee for particular purposes. -

1. The Central Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the Central Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
2. A person associated with the Central Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the Central Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
3. A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the Central Government.

CHAPTER III

THE STATE CO-ORDINATION COMMITTEE

13. State Co-ordination Committee. -

1. Every State Government shall, by notification, constitute a body to be known as the State Co-ordination Committee to exercise the powers conferred on, and to perform the function assigned to it, under this Act.
2. the State Coordination Committee shall consist of-
 - a. The Minister-in-charge of the Department of Social Welfare in the State Government, Chairperson, **ex officio**;
 - b. the Minister of State in charge of the Department of Social Welfare, if any, Vice-Chairperson, **ex officio**;
 - c. Secretaries to the State Government in charge of the Departments of Welfare, Education, Woman and Child Development, Expenditure, Personnel Training and Public Grievances, Health, Rural Development, Industrial Development, Urban Affairs and Employment, Science and Technology, Public Enterprises, by whatever name called, Members, **ex officio**;
 - d. Secretary of any other Department, which the State Government considers necessary, Member, **ex officio**;
 - e. Chairman Bureau of Public Enterprises (by whatever name called) Member, **ex officio**;
 - f. five persons, as far as practicable, being persons with disabilities, to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of

disability, Members: Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;

- g. three Members of State Legislature, of whom two shall be elected by the Legislative Assembly and one by the Legislative Council, if any;
 - h. three persons to be nominated by that State Government to represent agriculture, industry or trade or any other interest, which in the opinion of State Government ought to be represented, Members, **ex officio**;
 - i. The Commissioner, Member, **ex officio**;
 - j. Secretary to the State Government dealing with the welfare of the handicapped, Member-Secretary, **ex officio**.
3. Notwithstanding anything contained in this section, no State Co-ordination Committee shall be constituted for a Union territory and in relation to a Union territory, the Central Coordination Committee shall exercise the functions and perform the functions of a State Coordination Committee for the Union territory:

Provided that in relation to a Union territory. The Central Coordination Committee may delegate all or any of its powers and functions under this sub-section to such person or body of persons as the Central Government may specify.

14. Terms and Conditions of Service of Members. -

1. Save as otherwise provided by or under this Act, a Member of a State Co-ordination Committee nominated under clause (f) or clause (h) of subsection (2) of section 13 shall hold office for a term of three years from the date of his nomination: Provided that such a Member shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office.
2. The term of office of an **ex officio** Member shall come to an end as soon as he ceases to hold the office by virtue of which he was so nominated.
3. The State Government may, if it thinks fit, remove any Member nominated under clause (f) or clause (h) of sub-section (2) of section 13, before the expiry of his term of office after giving him a reasonable opportunity of showing cause against the same.
4. A Member nominated under clause (f) or clause (h) of sub-section (2) of section 13 may, at any time, resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.
5. A casual vacancy in the State Co-ordination Committee shall be filled by a fresh nomination and the person nominated to fill the vacancy shall hold office only for the remainder of the term for which the Member in whose place he was so nominated.
6. A Member nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall be eligible for renomination.

7. Members nominated under clause (f) and clause (h) of sub-section (2) of section 13 shall receive such allowances as may be prescribed by the State Government.

15. Disqualifications. -

1. No person shall be a Member of the State Co-ordination Committee, who -
 - a. is, or at any time, has been adjudged insolvent or has suspended payment of his debts or has compounded with his creditors; or
 - b. is of unsound mind and stands so declared by a competent court, or
 - c. is or has been convicted of an offence which in the opinion of the State Government involves moral turpitude, or
 - d. is or at any time has been convicted of an offence under this Act, or
 - e. has so abused, in the opinion of the State Government, his position as a member as to render his continuance in the State Co-ordination Committee detrimental to the interests of the general public.
2. No order of removal shall be made by the State Government under this section unless the Member concerned has been given a reasonable opportunity of showing cause against the same.
3. Notwithstanding anything contained in sub-section (1) or sub-section (6) of section 14, a Member who has been removed under this section shall not be eligible for renomination as a Member.

16. Vacation of Seats. - If a Member of the State Co-ordination Committee becomes subject to any of the disqualifications specified in section 15, his seat shall become vacant.

17. Meetings of The State Co-ordination Committee. - The State Co-ordination Committee shall meet at least once in every six months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed.

18. Functions of the State Co-ordination Committee. -

1. Subject to the provisions of this Act, the function of the State Co-ordination Committee shall be to serve as the state focal point on disability matters and facilitate the continuous evolution of a comprehensive policy towards solving the problems faced by persons with disabilities.
2. In particular and without prejudice to the generality of the foregoing function the State Co-ordination Committee may, within the State perform all or any of the following functions, namely:-
 - a. review and coordinate the activities of all the Departments of Government and other Governmental and Non-Governmental Organizations which are dealing with matters relating to persons with disabilities.,
 - b. develop a State policy to address issues faced by persons with disabilities;

- c. advise the State Government on the formulation of policies, Programmes, legislation and projects with respect to disability;
- d. review, in consultation with the donor agencies, their funding from the perspective of their impact on persons with disabilities;
- e. take such other steps to ensure barrier-free environment in public places, work places, public utilities, schools and other institutions;

Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;

- f. monitor and evaluate the impact of policies and programmes designed for achieving equality and full participation of persons with disabilities;
- g. to perform such other functions as may be prescribed by the State Government.

19. State Executive Committee. -

1. The State Government shall constitute a committee to be known as the State Executive Committee to perform the functions assigned to it under this Act.
2. The State Executive Committee shall consist of-
 - a. the Secretary, Department of Social Welfare, Chairperson, **ex officio**;
 - b. the Commissioner, Member, **ex officio**;
 - c. nine persons not below the rank of a Joint Secretary to the State Government, to represent the Departments of Health, Finance, Rural Development, Education, Welfare, Personnel Public Grievances, Urban Affairs Labor and Employment, Science and Technology, Members, **ex officio**;
 - d. one person to be nominated by the State Government to represent the interest, which in the opinion of the State Government ought to be represented. Member;
 - e. five persons, as far as practicable being persons with disabilities. to represent nongovernmental organizations or associations which are concerned with disabilities, to be nominated by the State Government, one from each area of disability, Members:

Provided that while nominating persons under this clause, the State Government shall nominate at least one woman and one person belonging to Scheduled Castes or Scheduled Tribes;
 - f. Joint Secretary dealing with the disability division in the Department of Welfare, Member-Secretary, **ex officio**.
3. Members nominated under clause (d) and clause (e) of sub-section (2) shall receive such allowances as may be prescribed by the State Government.

4. A Member nominated under clause (d) or clause (e) may at any time resign his office by writing under his hand addressed to the State Government and the seat of the said Member shall thereupon become vacant.

20. Functions of the State Executive Committee. -

1. The State Executive Committee shall be the executive body of the State Co-ordination Committee and shall be responsible for carrying out the decisions of the State Co-ordination Committee.
2. Without prejudice to the provisions of sub-section (1), the State Executive Committee shall also perform such other functions as may be delegated to it by the State Co-ordination Committee.

21. Meetings of the State Executive Committee. - The State Executive Committee shall meet at least once in three months and shall observe such rules of procedure in regard to the transaction of business at its meetings as may be prescribed by the State Government.

22. Temporary association of Persons with State Executive Committee for particular purposes. -

1. The State Executive Committee may associate with itself in such manner and for such purposes as may be prescribed by the State Government any person whose assistance or advice it may desire to obtain in performing any of its functions under this Act.
2. A person associated with the State Executive Committee under sub-section (1) for any purpose shall have the right to take part in the discussions of the State Executive Committee relevant to that purpose, but shall not have a right to vote at a meeting of the said Committee, and shall not be a member for any other purpose.
3. A person associated with the said Committee under sub-section (1) for any purpose shall be paid such fees and allowances, for attending its meetings and for attending to any other work of the said Committee, as may be prescribed by the State Government.

23. Power to give directions. - In the performance of its functions under this Act,-

- a. the Central Co-ordination Committee shall be bound by such directions in writing, as the Central Government may give to it; and
- b. the State Co-ordination Committee shall be bound by such directions in writing, as the Central Co-ordination Committee or the State Government may give to it: Provided that where a direction given by the State Government is inconsistent with any direction given by the Central Co-ordination Committee, the matter shall be referred to the Central Government for its decision.

24. Vacancies not to invalidate proceedings. - No act or proceeding of the Central Co-ordination Committee, the Central Executive Committee, a State Co-ordination Committee or a State Executive Committee shall be called in question on the ground merely on the existence of any vacancy in or any defect in the constitution of such Committees.

CHAPTER IV

PREVENTATION AND EARLY DETECTION OF DISABILITIES

25. Appropriate Governments and local authorities to take certain steps for the prevention of occurrence of disabilities. - Within the limits of their economic capacity and development, the appropriate Governments and the local authorities, with a view to preventing the occurrence of disabilities, shall-

- a. undertake or cause to be undertaken surveys, investigations and research concerning the cause of occurrence of disabilities;
- b. promote various methods of preventing disabilities;
- c. screen all the children at least once in a year for the purpose of identifying "at-risk" cases;
- d. provide facilities for training to the staff at the primary health centres;
- e. sponsor or cause to be sponsored awareness campaigns and disseminate or cause to be disseminated information for general hygiene, health and sanitation;
- f. take measures for pre-natal, parental and post-natal care of mother and child;
- g. educate the public through the pre-schools, schools, primary health centres, village level workers and anganwadi workers;
- h. create awareness amongst the masses through television, radio and other mass media on the causes of disabilities and the preventive measures to be adopted.

CHAPTER V

EDUCATION

26. Appropriate Governments and local authorities to provide children with disabilities free education, etc. -The appropriate Governments and the local authorities shall-

- a. ensure that every child with a disability has access to free education in an appropriate environment till he attains the age of eighteen years;
- b. endeavor to promote the integration of students with disabilities in the normal schools;
- c. promote setting up of special schools in Government and private sector for those in need of special education, in such a manner that children with disabilities living in any part of the country have access to such schools;
- d. endeavor to equip the special schools for children with disabilities with vocational training facilities.

27. Appropriate Governments and local authorities to make schemes and programmes for non-formal education, etc.- The appropriate Governments and the local authorities shall by notification make schemes for-

- a. conducting part-time classes in respect of children with disabilities who having completed education up to class fifth and could not continue their studies on a whole-time basis;
- b. conducting special part-time classes for providing functional literacy for children in the age group of sixteen and above;
- c. imparting non-formal education by utilizing the available manpower in rural areas after giving them appropriate orientation;
- d. imparting education through open schools or open universities;
- e. conducting class and discussions through interactive electronic or other media;
- f. providing every child with disability free of cost special books and equipments needed for his education.

28. Research for designing and developing new assistive devices, teaching aids, etc.

- The appropriate Governments shall initiate or cause to be initiated research by official and non-Governmental agencies for the purpose of designing and developing new assistive devices, teaching aids, special teaching materials or such other items as are necessary to give a child with disability equal opportunities in education.

29. Appropriate Governments to set up teachers' training institutions to develop trained manpower for schools for children with disabilities.

- The appropriate Governments shall set up adequate number of teachers' training institutions and assist the national institutes and other voluntary organizations to develop teachers' training programmes specializing in disabilities so that requisite trained manpower is available for special schools and integrated schools for children with disabilities.

30. Appropriate Governments to prepare a comprehensive education scheme providing for transport facilities, supply of books, etc.

- Without prejudice to the foregoing provisions, the appropriate Governments shall by notification prepare a comprehensive education scheme which shall make Provision for-

- a. transport facilities to the children with disabilities or in the alternative financial incentives to parents or guardians to enable their children with disabilities to attend schools;
- b. the removal of architectural barriers from schools, colleges or other institutions, imparting vocational and professional training;
- c. the supply of books, uniforms and other materials to children with disabilities attending school;
- d. the grant of scholarship to students with disabilities;
- e. setting up of appropriate fora for the redressal of grievances of parents regarding the placement of their children with disabilities;

- f. suitable modification in the examination system to eliminate purely mathematical questions for the benefit of blind students and students with low vision;
- g. restructuring of curriculum for the benefit of children with disabilities;
- h. restructuring the curriculum for benefit of students with hearing impairment to facilitate them to take only one language as part of their curriculum.

31. Educational institutions to provide amanuensis to students with visual handicap.

– All educational institutions shall provide or cause to be provided amanuensis to blind students and students with or low vision.

CHAPTER VI

EMPLOYMENT

32. Identification of posts which can be reserved for persons with disabilities.

- Appropriate Governments shall -

- a. identify posts, in the establishments, which can be reserved for the persons with disability;
- b. at periodical intervals not exceeding three years, review the list of posts identified and up-date the list taking into consideration the developments in technology.

33. Reservation of Posts - Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent. for persons or class of persons with disability of which one per cent. each shall be reserved for persons suffering from-

- i. blindness or low vision;
- ii. hearing impairment;
- iii. locomotor disability or cerebral palsy, in the posts identified for each disability: Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

34. Special Employment Exchange -

1. The appropriate Government may, by notification require that from such date as may be specified, by notification, the employer in every establishment shall furnish such information or return as may be prescribed in relation to vacancies appointed for persons with disability that have occurred or are about to occur in that establishment to such Special Employment Exchange as may be prescribed and the establishment shall thereupon comply with such requisition.
2. The form in which and the intervals of time for which information or returns shall be furnished and the particulars, they shall contain shall be such as may be prescribed.

35. Power to inspect record or document in possession of any establishment - Any person authorized by the Special Employment Exchange in writing, shall have access to any relevant record or document in the possession of any establishment, and may enter at any reasonable time and premises where he believes such record or document to be, and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information.

36. Vacancies not filled up to be carried forward - Where in any recruitment year any vacancy under section 33, cannot be filled up due to non-availability of a suitable person with disability or, for any other sufficient reason, such vacancy shall be carried forward in the succeeding recruitment year and if in the succeeding recruitment year also suitable person with disability is not available, it may first be filled by interchange among the three categories and only when there is no person with disability available for the post in that year, the employer shall fill up the vacancy by appointment of a person, other than a person with disability:

Provided that if the nature of vacancies in an establishment is such that a given category of person cannot be employed, the vacancies may be interchanged among the three categories with the prior approval of the appropriate Government.

37. Employers to maintain records -

1. Every employer shall maintain such record in relation to the person with disability employed in his establishment in such form and in such manner as may be prescribed by the appropriate Government.
2. The records maintained under sub-section (1) shall be open to inspection at all reasonable hours by such persons as may be authorized in this behalf by general or special order by the appropriate Government.

38. Schemes for ensuring employment of persons with disabilities - (1) The appropriate Governments and local authorities shall by notification formulate schemes for ensuring employment of persons with disabilities, and such schemes may provide for-

- a. the training and welfare of persons with disabilities;
- b. the relaxation of upper age limit;
- c. regulating the employment;
- d. health and safety measures and creation of a non-handicapping environment in places where persons with disabilities are employed;
- e. the manner in which and the persons by whom the cost of operating the schemes is to be defrayed; and
- f. constituting the authority responsible for the administration of the scheme.

39. All educational institutions to reserve seats for persons with disabilities - All Government educational institutions and other educational institutions receiving aid from the Government, shall reserve not less than three per cent seats for persons with disabilities.

40. Vacancies to be reserved in poverty alleviation schemes - The appropriate Governments and local authorities shall reserve not less than three per cent. in all poverty alleviation schemes for the benefit of persons with disabilities.

41. Incentives to employers to ensure five per cent of the work force is composed of persons with disabilities - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide incentives to employers both in public and private sectors to ensure that at least five per cent. of their work force is composed of persons with disabilities.

CHAPTER VII

AFFIRMATIVE ACTION

42. Aids and appliances to persons with disabilities - The appropriate Governments shall by notification make schemes to provide aids and appliances to persons with disabilities.

43. Schemes for preferential allotment of land for certain purposes - The appropriate Governments and local authorities shall by notification frame schemes in favor of persons with disabilities, for the preferential allotment of land at concessional rates for -

- a. house;
- b. setting up business;
- c. setting up of special recreation centers;
- d. establishment of special schools;
- e. establishment of research centers;
- f. establishment of factories by entrepreneurs with disabilities.

CHAPTER VIII

NON-DISCRIMINATION

44. Non-discrimination in transport - Establishments in the transport sector shall, within the limits of their economic capacity and development for the benefit of persons with disabilities, take special measures to-

- a. adapt rail compartments, buses, vessels and aircrafts in such a way as to permit easy access to such persons;
- b. adapt toilets in rail compartments, vessels, aircrafts and waiting rooms in such a way as to permit the wheel chair users to use them conveniently.

45. Non-discrimination on the road - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-

- a. installation of auditory signals at red lights in the public roads for the benefit of persons with visually handicap;

- b. causing curb cuts and slopes to be made in pavements for the easy access of wheel chair users;
- c. engraving on the surface of the zebra crossing for the blind or for persons with low vision;
- d. engraving on the edge of railway platforms for the blind or for persons with low vision;
- e. devising appropriate symbols of disability;
- f. warning signals at appropriate places.

46. Non-discrimination in the built environment - The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-

- a. ramps in public buildings;
- b. adaptation of toilets for wheel chair users;
- c. braille symbols and auditory signals in elevators or lifts;
- d. ramps in hospitals, primary health centers and other medical care and rehabilitation institutions.

47. Non-discrimination in Government Employment - (1) No establishment shall dispense with, or reduce in rank, an employee who acquires a disability during his service:

Provided that, if an employee, after acquiring disability is not suitable for the post he was holding, could be shifted to some other post with the same pay scale and service benefits:

Provided further that if it is not possible to adjust the employee against any post, he may be kept on a supernumerary post until a suitable post is available or he attains the age of superannuation, whichever is earlier.

(2) No promotion shall be denied to a person merely on the ground of his disability:

Provided that the appropriate Government may, having regard to the type of work carried on in any establishment, by notification and subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section.

CHAPTER IX

RESEARCH AND MANPOWER DEVELOPMENT

48. Research - The appropriate Governments and local authorities shall promote and sponsor research, *inter alia*, in the following areas-

- a. prevention of disability;
- b. rehabilitation including community based rehabilitation;
- c. development of assistive devices including their psycho-social aspects;
- d. job identification;
- e. on site modifications in offices and factories.

49. Financial incentives to Universities to enable them to undertake research - The appropriate Governments shall provide financial assistance to universities, other institutions of higher learning, professional bodies and non-Governmental research units or institutions, for undertaking research for special education rehabilitation and manpower development.

CHAPTER X

RECOGNITION OF INSTITUTIONS FOR PERSONS WITH DISABILITIES

50. Competent authority - The State Government shall appoint any authority as it deems fit to be a competent authority for the purposes of this Act.

51. No person to establish or maintain an institution for persons with disabilities except in accordance with a certificate of registration - Save as otherwise provided under this Act, no person shall establish or maintain any institution for persons with disabilities except under and in accordance with a certificate of registration issued in this behalf by the competent authority:

Provided that a person maintaining an institution for persons with disabilities immediately before the commencement of this Act may continue to maintain such institution for a period of six months from such commencement and if he has made an application for such certificate under this section within the said period of six months, till the disposal of such application.

52. Certificate of registration. -

1. Every application for a certificate of registration shall be made to the competent authority in such form and in such manner as may be prescribed by the State Government.
2. On receipt of an application under sub-section (1), the competent authority shall make such enquiries as it may deem fit and where it is satisfied that the applicant has complied with the requirements of this Act and the rules made thereunder it shall grant a certificate of registration to the applicant and where it is not so satisfied the competent authority shall, by order, refuse to grant the certificate applied for:

Provided that before making any order refusing to grant a certificate the competent authority shall give to the applicant a reasonable opportunity of being heard and every order of refusal to grant a certificate shall be communicated to the applicant in such manner as may be prescribed by the State Government.

3. No certificate of registration shall be granted under sub-section (2) unless the institution with respect to which an application has been made is in a position to provide such facilities and maintain such standards as may be prescribed by the State Government.
4. A certificate of registration granted under this section,-
 - a. shall, unless revoked under section 53, remain in force for such period as may be prescribed by the State Government;

- b. may be renewed from time to time for a like period; and
 - c. shall be in such form and shall be subject to such conditions as may be prescribed by the State Government.
5. An application for renewal of a certificate of registration shall be made not less than sixty days before the period of validity.
6. The certificate of registration shall be displayed by the institution in a conspicuous place.

53. Revocation of certificate -

1. The competent authority may, if it has reasonable cause to believe that the holder of the certificate of registration granted under sub-section (2) of section 52 has -
- a. made a statement in relation to any application for the issue or renewal of the certificate which is incorrect or false in material particulars; or
 - b. committed or has caused to be committed any breach of rules or any conditions subject to which the certificate was granted, it may after making such inquiry, as it deems fit, by order, revoke the certificate:
 - c. Provided that no such order shall be made until an opportunity is given to the holder of the certificate to show cause as to why the certificate should not be revoked.
2. Where a certificate in respect of an institution has been revoked under sub-section (1), such institution shall cease to function from the date of such revocation:
- Provided that where an appeal lies under section 54 against the order of revocation, such institution shall cease to function -
- a. where no appeal has been preferred immediately on the expiry of the period prescribed for the filing of such appeal, or
 - b. where such appeal has been preferred, but the order of revocation has been upheld, from the date of the order of appeal.
3. On the revocation of a certificate in respect of an institution, the competent authority may direct that any person with disability who is an inmate of such institution on the date of such revocation, shall be-
- a. restored to the custody of her or his parent, spouse or lawful guardian, as the case may be, or
 - b. transferred to any other institution specified by the competent authority.
4. Every institution, which holds a certificate of registration, which is revoked, under this section shall, immediately after such revocation, surrender such certificate to the competent authority.

54. Appeal - (1) Any person aggrieved by the order of the competent authority, refusing to grant a certificate or revoking a certificate may, within such period as may be prescribed by the State Government, prefer an appeal to that Government against such refusal or revocation.

(2) The order of the State Government on such appeal shall be final.

55. Act not to apply to institutions established or maintained by the Central or State Government -

Nothing contained in this Chapter shall apply to an institution for persons with disabilities established or maintained by the Central Government or a State Government.

CHAPTER XI

INSTITUTION FOR PERSONS WITH SEVERE DISABILITIES

56. Institutions for persons with severe disabilities - The appropriate Government may establish and maintain institutions for persons with severe disabilities at such places as it thinks fit.

(2) Where, the appropriate Government is of opinion that any institution other than an institution, established under sub-section (1), is fit for the rehabilitation of the persons with severe disabilities, the Government may recognize such institution as an institution for persons with severe disabilities for the purposes of this Act:

Provided that no institution shall be recognized under this section unless such institution has complied with the requirements of this Act and the rules made thereunder.

(3) Every institution established under sub-section (1) shall be maintained in such manner and satisfy such conditions as may be prescribed by the appropriate Government.

(4) For the purposes of this section "person with severe disability" means a person with eighty per cent. or more of one or more disabilities.

CHAPTER XII

THE CHIEF COMMISSIONER AND COMMISSIONERS FOR PERSONS WITH DISABILITIES

57. Appointment of Chief Commissioner for persons with disabilities -

1. The Central Government may, by notification appoint a Chief Commissioner for persons with disabilities for the purposes of this Act.
2. A person shall not be qualified for appointment as the Chief Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
3. The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits of the Chief Commissioner shall be such as may be prescribed by the Central Government.

4. The Central Government shall determine the nature and categories of officers and other employees required to assist the Chief Commissioner in the discharge of his functions and provide the Chief Commissioner with such officers and other employees as it thinks fit.
5. The officers and employees provided to the Chief Commissioner shall discharge their functions under the general superintendence of the Chief Commissioner.
6. The salaries and allowances and other conditions of service of officers and employees provided to the Chief Commissioner shall be such as may be prescribed by the Central Government.

58. Functions of the Chief Commissioner - The Chief commissioner shall -

- a. coordinate the work of the Commissioners;
- b. monitor the utilization of funds disbursed by the Central Government;
- c. take steps to safeguard the rights and facilities made available to persons with disabilities;
- d. Submit reports to the Central Government on the implementation of the Act at such intervals as the Government may prescribe.

59. Chief Commissioner to look into complaints with respect to deprivation of rights of persons with disabilities - Without prejudice to the provisions of section 58 the Chief Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to -

- a. deprivation of rights of persons with disabilities;
- b. non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights or persons with disabilities, and take up the matter with the appropriate authorities.

60. Appointment of Commissioners for persons with disabilities -

1. Every State Government may, by notification appoint a Commissioner for persons with disabilities for the purposes of this Act.
2. A person shall not be qualified for appointment as a Commissioner unless he has special knowledge or practical experience in respect of matters relating to rehabilitation.
3. The salary and allowances payable to and other terms and conditions of service (including pension, gratuity and other retirement benefits) of the Commissioner shall be such as may be prescribed by the State Government.
4. The State Government shall determine the nature and categories of officers and other employees required to assist the Commissioner in the discharge of his functions and provide the Commissioner with such officers and other employees as it thinks fit.

5. The officers and employees provided to the Commissioner shall discharge their functions under the general superintendence of the Commissioner.
6. The salaries and allowances and other conditions of service of officers and employees provided to the Commissioner shall be such as may be prescribed by the State Government.

61. Powers of the Commissioner - The Commissioner within the State shall -

- a. co-ordinate with the departments of the State Government for the programmes and schemes, for the benefit of persons with disabilities;
- b. monitor the utilization of funds disbursed by the State Government;
- c. take steps to safeguard the rights and facilities made available to persons with disabilities;
- d. submit reports to the State Government on the implementation of the Act at such intervals as that Government may prescribe and forward a copy thereof to the Chief Commissioner.

62. Commissioner to look into complaints with respect to matters relating to deprivation of rights of persons with disabilities - Without prejudice to the provisions of section 61 the Commissioner may of his own motion or on the application of any aggrieved person or otherwise look into complaints with respect to matters relating to -

- (a) deprivation of rights of persons with disabilities;
- (b) Non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, And take up the matter with the appropriate authorities.
- (c) non-implementation of laws, rules, bye-laws, regulations, executive orders, guidelines or instructions made or issued by the appropriate Governments and the local authorities for the welfare and protection of rights of persons with disabilities, and take up the matter with the appropriate authorities.

63. Authorities and officers to have certain powers of civil court - The Chief Commissioner and the Commissioners shall, for the purpose of discharging their functions under this Act, have the same powers as are vested in a court under the Code of Civil Procedure, 1908 while trying a suit, in respect of the following matters, namely:-

- a. summoning and enforcing the attendance of witnesses;
- b. requiring the discovery and production of any document;
- c. requisitioning any public record or copy thereof from any court or office;
- d. receiving evidence on affidavits; and
- e. issuing commissions for the examination of witnesses or documents.

(2) Every proceeding before the Chief Commissioner and Commissioners shall be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code and the Chief Commissioner, the Commissioner, the competent authority, shall be deemed to be a

civil court for the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

64. Annual report to be prepared by the Chief Commissioner -

1. The Chief Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the Central Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the Central Government.
2. The Central Government shall cause the annual report to be laid before each House of Parliament along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein insofar as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation or part.

65. Annual reports to be prepared by the Commissioners -

1. The Commissioner shall prepare in such form and at such time for each financial year as may be prescribed by the State Government an annual report giving a full account of his activities during the previous financial year and forward a copy thereof to the State Government.
2. The State Government shall cause the annual report to be laid before each State Legislature along with the recommendations explaining the action taken or proposed to be taken on the recommendation made therein insofar as they relate to the State Government and the reasons for non-acceptance, if any, of any such recommendation or part.

CHAPTER XIII

SOCIAL SECURITY

66. Appropriate Governments and local authorities to undertake rehabilitation -

1. The appropriate Governments and the local authorities shall within the limits of their economic capacity and development undertake or cause to be undertaken rehabilitation of all persons with disabilities.
2. For purposes of sub-section (1), the appropriate Governments and local authorities shall grant financial assistance to non-governmental organizations.
3. The appropriate Governments and local authorities while formulating rehabilitation policies shall consult the non-governmental organizations working for the cause of persons with disabilities.

67. Insurance scheme for employees with disabilities -

1. The appropriate Government shall by notification frame an insurance scheme for the benefit of its employees with disabilities.

2. Notwithstanding anything contained in this section, the appropriate Government may instead of framing an insurance scheme frame an alternative security scheme for its employees with disabilities.

68. Unemployment allowance. - The appropriate Governments shall within the limits of their economic capacity and development shall by notification frame a scheme for payment of an unemployment allowance to persons with disabilities registered with the Special Employment Exchange for more than two years and who could not be placed in any gainful occupation.

CHAPTER XIV

MISCELLANEOUS

69. Punishment for fraudulently availing any benefit meant for persons with disabilities

- Whoever, fraudulently avails or attempts to avail, any benefit meant for persons with disabilities, shall be punishable with imprisonment for a term which may extend to two years or with fine which may extend to twenty thousand rupees or with both.

70. Chief Commissioners, Commissioners, officers and other staff to be public servants

- The Chief Commissioner, the Commissioners and other officers and staff provided to them shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

71. Protection of action taken in good faith - No suit, prosecution or other legal proceedings shall lie against the Central Government, the State Governments or the local authority or any officer of the Government in respect of anything which is done in good faith or intended to be done in pursuance of this Act and any rules or orders made there under.

72. Act to be in addition to and not in derogation of any other law - The provisions of this Act, or the rules made thereunder shall be in addition to, and not in derogation of any other law for the time being in force or any rules, order or any instructions issued there under, enacted or issued for the benefit of persons with disabilities.

73. Power of appropriate Government to make rules - (1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

- a) the manner in which a State Government or a Union territory shall be chosen under clause (k) of sub-section (2) of section 3;
- b) allowances which members shall receive under sub-section (7) of section 4;
- c) rules of procedure, which the Central Co-ordination Committee shall observe in regard to the transaction of business in its meetings under section 7;
- d) such other functions which the Central Co-ordination Committee may perform under clause (h) of sub-section (2) of section 8;
- e) the manner in which a State Government or a Union territory shall be chosen under clause (h) of sub-section (2) of section 9;

- f) the allowances which the Members shall receive under sub-section (3) of section 9;
- g) rules of procedure which the Central Executive Committee shall observe in regard to transaction of business at its meetings under section 11;
- h) the manner and purposes for which a person may be associated under sub-section (1) of section 12;
- i) fees and allowances which a person associated with the Central Executive Committee shall receive under sub-section (3) of section 12;
- j) allowances which members shall receive under sub-section (7) of section 14;
- k) rules of procedure which a State Co-ordination Committee shall observe in regard to transaction of business in its meetings under section 17;
- l) such other functions which a State Co-ordination Committee may perform under clause (g) of sub-section (2) of section 18;
- m) the allowances which Members shall receive under sub-section (3) of section 19;
- n) rules of procedure which a State Executive Committee shall observe in regard to transaction of business at its meetings under section 21;
- o) the manner and purposes for which a person may be associated under sub-section (1) of section 22;
- p) fees and allowances which a person associated with the State Executive Committee may receive under sub-section (3) of Section 22;
- q) information or return which the employer in every establishment should furnish and the Special Employment Exchange to which such information or return shall be furnished under subsection (1) of section 34;
- r) the form and the manner in which record shall be maintained by an employer under subsection (1) of section 37;
- s) the form and manner in which an application shall be made under sub-section (1) of section 52;
- t) the manner in which an order of refusal shall be communicated under sub-section (2) of section 52;
- u) facilities or standards required to be provided or maintained under sub-section (3) of section 52;
- v) the period for which a certificate of registration shall be valid under clause (a) of sub-section (4) of section 52;
- w) the form in which and conditions subject to which a certificate of registration shall be granted under clause (c) of sub-section (4) of section 52;
- x) period within which an appeal shall lie under sub-section (1) of section 54;
- y) the manner in which an institution for persons with severe disabilities shall be maintained and conditions which have to be satisfied under sub-section (3) of section 60;
- z) the salary, allowances and other terms and conditions of service of the Chief Commissioner under sub-section (3) of section 57;
- (za) the salary, allowances and other conditions of service of officers and employees under subsection (6) of section 57;

- (zb) intervals at which the Chief Commissioner shall report to the Central Government under clause (d) of section 58;
- (zc) the salary, allowances and other terms and conditions of service of the Commissioner under sub-section (3) of section 60;
- (zd) the salary, allowances and other conditions of service of officers and employees under subsection (6) of section 60;
- (ze) intervals within which the Commissioner shall report to the State Government under clause (d) of section 61;
- (zf) the form and time in which annual report shall be prepared under sub-section (1) of section 64;
- (zg) the form and time in which annual report shall be prepared under sub-section (1) of section 65;
- (zh) any other matter which is required to be or may be prescribed.

(3) Every notification made by the Central Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme framed by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, notification or scheme, both Houses agree that the rule, notification or scheme should not be made, the rule, notification or scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or scheme, as the case may be.

(4) Every notification made by the State Government under the proviso to section 33, proviso to sub-section (2) of section 47, every scheme made by it under section 27, section 30, sub-section (1) of section 38, section 42, section 43, section 67, section 68 and every rule made by it under sub-section (1), shall be laid, as soon as may be after it is made, before each House of State Legislature, where it consists of two Houses or where such legislature consists of one House before that House.

74. Amendment of Act 39 of 1987 - In section 12 of the Legal Services Authorities Act, 1987, for clause (d), the following clause shall be *substituted*, namely:-

"(d) a person with disability as defined in clause (i) of section 2 of the Persons With Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995."

K. L. MOHANPURIA.
Secy. to the Govt. of India

Source: <http://socialjustice.nic.in/pwdact1995.php?pageid=1>

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

**MINISTRY OF LAW AND JUSTICE
(Legislative Department)**

New Delhi, the 30th September, 2003/Asvina 8, 1925 (Saka)

The following Act of Parliament received the assent of the President on the 28th September, 2003, and is hereby published for general information:-

THE CONSTITUTION (EIGHTY-NINTH AMENDMENT) ACT, 2003

[28th September, 2003]

An Act further to amend the Constitution of India.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:-

- | | |
|----------------------------------------------------------------------------------------------------------------------------|------------------------------|
| 1.(1) This Act may be called the Constitution (Eighty-ninth Amendment) Act, 2003. | Short title and Commencement |
| (2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint. | |
| 2. In article 338 of the Constitution-- | Amendment of article 338 |
| (a) for the marginal heading, the following marginal heading shall be substituted namely:- | |

“National Commission for Scheduled Castes”,

(b) for clause (1) and (2), the following clauses shall be substituted, namely:-

(1) There shall be a Commission for the Scheduled castes to be known as the National Commission for Scheduled Castes.

(2) Subject to the provisions of any law made in this behalf by Parliament the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other Members so appointed shall be such as the President may by rule determine.:

(c) in-clauses (5) and (10), the words “and Scheduled Tribes” where they occur shall be omitted.

Insertion of New Article 338A. (3). After Article 338 of the Constitution, the following article shall be inserted namely:-

National Commission for Scheduled Tribes “338 A (1) There shall be a Commission for the Scheduled tribes to be known as the National Commission for the Scheduled Tribes.

(2) Subject to the provisions of any law made in this behalf by Parliament, the Commission shall consist of a Chairperson, Vice-Chairperson and three other Members and the conditions of service and tenure of office of the Chairperson, Vice-Chairperson and other members so appointed shall be such as the President may by rule determine.

(3) The Chairperson, Vice-Chairperson and other Members of the Commission shall be appointed by the President by warrant under his hand and seal.

(4) The Commission shall have the power to regulate its own procedure

(5) It shall be the duty of the Commission----

(a) to investigate and monitor all matters relating to the safeguards provided for the Scheduled Tribes under this Constitution or under any order of the Government and to evaluate the working of such safeguards;

(b) to inquire into specific complaints with respect to the deprivation of rights and safeguards of the Scheduled tribes;

(c) to participate and advise on 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;

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

(e) 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 tribes; and

(f) to discharge such other functions insolation 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.

(6) The President shall cause all such reports to be laid before each House of Parliament alongwith a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the Union and the reasons for the non-acceptance, if any, of any of such recommendations.

(7) Where any such report, or any part thereof, relates to any matter with which any State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any of any of such recommendations.

(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 manners 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 document;
- (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.

(9) The Union and every State Government shall consult the Commission on all major policy matters affecting Scheduled Tribes.”

SUBHASH C. JAIN
Secy to the Govt. of India

THE NATIONAL COMMISSION FOR SAFAI

KARAMCHARIS ACT, 1993

No.64 of 1993

(4th September, 1993)

An Act to constitute a National Commission for Safai Karamcharis and to provide for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Forty-fourth Year of the Republic of India as follows :-

CHAPTER I - PRELIMINARY

CHAPTER II - THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS

CHAPTER III - FUNCTIONS AND POWERS OF THE COMMISSION

CHAPTER IV - MISCELLANEOUS

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Commission for Safai Karamcharis Act, 1993.
 - (2) It extends to the whole of India except the State of Jammu and Kashmir.
 - (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.
 - (4) It shall cease to have effect after the 31st day of March, 1997, except as respects things done or omitted to be done before such cesser, and upon such cesser section 6 of the General Clauses Act, 1897, shall apply as if this Act had then been repealed by a Central Act.
2. In this Act, unless the context otherwise requires:-
 - (a) "Chairperson" means the Chairperson of the Commission;
 - (b) "Commission" means the National Commission for Safai Karamcharis constituted under section 3;
 - (c) "Member" means a Member of the Commission;
 - (d) "prescribed" means prescribed by rules made under this Act;
 - (e) "Safai Karamchari" means a person engaged in, or employed for, manually carrying human excreta or any sanitation work;
 - (f) "Vice-Chairperson" means the Vice-Chairperson of the Commission.

CHAPTER II

THE NATIONAL COMMISSION FOR SAFAI KARAMCHARIS

3. (1) The Central Government shall, by notification in the Official Gazette, constitute a body to be known as the National Commission for Safai Karamcharis to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall consist of :-

- (a) a Chairperson;
- (b) a Vice-Chairperson;
- (c) five Members;

to be nominated, from amongst the persons of eminence connected with the socio-economic development and welfare of Safai Karamcharis, by the Central Government:

Provided that at least one of the Members shall be a woman.

4. (1) The Chairperson, Vice-Chairperson and every Member shall hold office for such period not exceeding three years as may be specified by the Central Government in this behalf or up to the 31st day of March, 1997, whichever is earlier.

(2) The Chairperson, Vice-Chairperson or a Member may, by notice in writing addressed to the Central Government, resign from the office of Chairperson, Vice-Chairperson, or as the case may be, of the Member at any time.

(3) The Central Government shall remove a person from the office of Chairperson, Vice-Chairperson or a Member if that person:-

- (a) becomes an undischarged insolvent;
- (b) is convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude;
- (c) becomes of unsound mind and stands so declared by a competent court;
- (d) refuses to set or becomes incapable of acting;
- (e) is, without obtaining leave of absence from the Commission, absents from three consecutive meetings of the Commission; or

(f) in the opinion of the Central Government has so abused the position of Chairperson, Vice-Chairperson or Member as to render that person's continuance in office detrimental to the public interest:

Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

- (4) A vacancy caused under sub-section (2) or sub-section (3) or otherwise shall be filled by fresh nomination and a person so nominated shall hold office for the unexpired period of the term for which his predecessor in office would have held office if such vacancy had not arisen.
- (4) The salaries and allowances payable to, and other terms and conditions of service of, the Chairperson, Vice-Chairperson and Members shall be such as may be prescribed.
5. (1) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.
- (2) The salaries and allowances payable to, and other terms and conditions of service of, the officers and other employees appointed for the purpose of the Commission shall be such as may be prescribed.
6. No act or proceeding of the Commission shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Commission.
7. (1) The Commission shall meet as and when necessary and shall meet at such time and place as the Chairperson may think fit.
- (2) The Commission shall regulate its own procedure.

CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

8. (1) The Commission shall perform all or any of the following functions, namely:-
- (a) recommend to the Central Government specific programmes of action towards elimination of inequalities in status, facilities and opportunities for Safai Karamcharis under a time-bound action plan;
- (b) study and evaluate the implementation of the programmes and schemes relating to the social and economic rehabilitation of Safai Karamcharis and make recommendations to the Central Government

and State Government for better co-ordination and implementation of such programmes and schemes;

(c) investigate specific grievances and take suo moto notice of matters relating to non-implementation of :-

(i) programmes or schemes in respect of any group of Safai Karamcharis;

(ii) decisions, guidelines or instructions, aimed at mitigating the hardship of Safai Karamcharis;

(iii) measures for the social and economic upliftment of Safai Karamcharis;

(iv) the provisions of any law in its application to Safai Karamcharis;

and take up such matters with the concerned authorities or with the Central or State Governments;

(d) make periodical reports to the Central and State Governments on any matter concerning Safai Karamcharis, taking into account any difficulties or disabilities being encountered by Safai Karamcharis;

(e) any other matter which may be referred to it by the Central Government.

(2) In the discharge of its functions under sub-section (1), the Commission shall have power to call for information with respect to any matter specified in that sub-section from any Government or local or other authority.

CHAPTER IV

MISCELLANEOUS

9. The Chairperson, Vice-Chairperson, Member, officers and other employees of the Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

10. The Central Government shall consult the Commission on all major policy matters affecting Safai Karamcharis.

11. The Commission shall prepare in such form and at such time for each financial year as may be prescribed its annual report giving a full account of its activities during the previous financial year and forward a copy thereof to the Central Government.

12. (1) The Central Government shall cause the annual report to be laid before each House of Parliament along with the memorandum explaining the action taken

or proposed to be taken on the recommendations contained therein in so far as they relate to the Central Government and the reasons for non-acceptance, if any, of any such recommendation.

- (2) Where the said report or any part thereof relates to any matter with which a State Government is concerned, a copy of such report shall be forwarded to the Governor of the State who shall cause it to be laid before the Legislature of the State along with a memorandum explaining the action taken or proposed to be taken on the recommendations relating to the State and the reasons for the non-acceptance, if any, of any such recommendation or part.

13. The Commission may, by general or special order, delegate to the Chairperson, Vice-Chairperson or any Member or to any officer of the Commission subject to such conditions and limitations, if any, as may be specified therein, such of its powers and duties under this Act as it may deem fit.

14. No suit, prosecution or other legal proceeding shall lie against the Central Government, Commission, Chairperson, Vice-Chairperson, Members or any officer or other employee of the Commission for anything which is in good faith done or intended to be done under this Act.

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

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:-

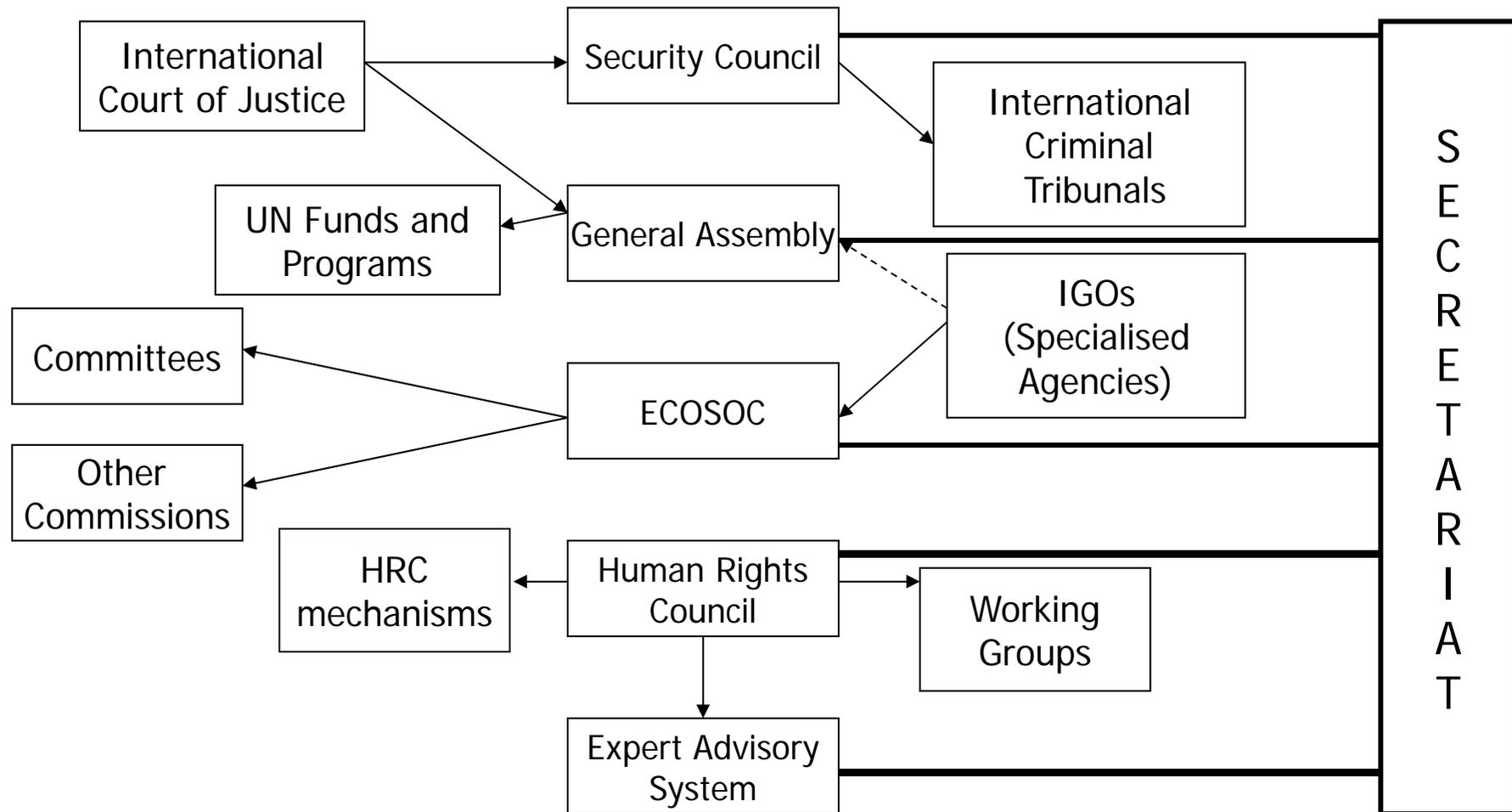
(a) salaries and allowances payable to, and the other terms and conditions of service of, the Chairperson, Vice-Chairperson and Members under sub-section (5) of section 4 and of officers and other employees of the Commission under sub-section (2) of section 5;

(b) the form in, and the time at, which the annual report shall be prepared under section 11;

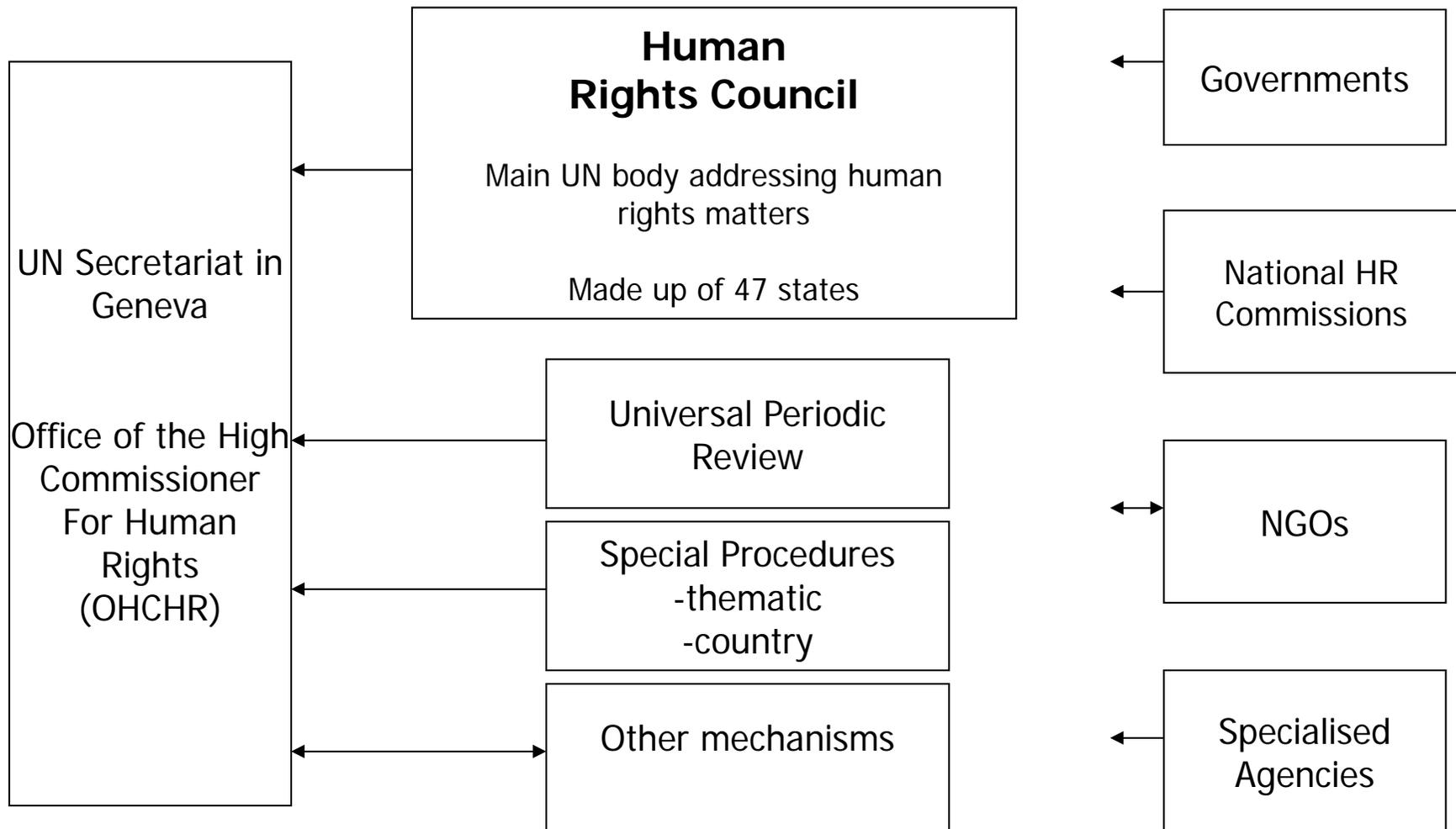
(c) any other matter which is required to be, or may be, prescribed.

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

Charter-based bodies and procedures



Human Rights Council



INTRODUCTION TO THE OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

A. The United Nations human rights programme

The United Nations human rights programme works to promote and protect the human rights of everyone, everywhere. It is carried out through different United Nations human rights institutions and agencies, and includes the various human rights bodies and mechanisms addressed in this *Handbook*, all of which have the common aim of promoting and protecting internationally agreed human rights—civil, cultural, economic, political and social—rights that were proclaimed in the Universal Declaration of Human Rights over 60 years ago.

As the global authority on human rights, the **Office of the United Nations High Commissioner for Human Rights** (OHCHR) is responsible for leading the United Nations human rights programme and for promoting and protecting all human rights established under the **Charter of the United Nations** and international human rights law.

Its vision is of a world in which the human rights of all are fully respected and enjoyed. OHCHR strives to achieve the protection of *all* human rights for *all* people, to empower people to realize their rights and to assist those responsible for upholding such rights in ensuring that they are implemented.

B. The Office of the United Nations High Commissioner for Human Rights

OHCHR is part of the Secretariat of the United Nations and is led by the High Commissioner for Human Rights, a position created in 1993.¹ It collaborates with an ever wider range of actors, including Governments, national human rights institutions (NHRIs), non-governmental organizations (NGOs) and other civil society actors, to instil as broad a commitment to human rights as possible.

As the United Nations principal human rights official, the High Commissioner acts as a moral authority and a voice for victims. The High Commissioner guides the Office's mission and values, identifies its priorities, and drives its activities. The High Commissioner makes public statements and appeals on human rights situations and crises; engages in dialogue with Governments to strengthen national human rights protection; and travels widely to ensure that human rights messages are heard in all parts of the world, to listen to those whose rights have been denied and to engage with duty bearers.

The High Commissioner works to mainstream human rights standards throughout all United Nations programmes to ensure that peace and security, development, and human rights—the three essential pillars of the United Nations system—are interlinked and mutually reinforcing, and that human rights form the bedrock of all United Nations activities.

¹ See General Assembly resolution 48/141 of 20 December 1993. The work of OHCHR is also guided by the Charter of the United Nations, the Universal Declaration of Human Rights and subsequent human rights instruments, including the 1993 Vienna Declaration and Programme of Action and the 2005 World Summit Outcome Document (General Assembly resolution 60/1 of 16 September 2005).

As the High Commissioner speaks openly and publicly about the global situation of human rights and combats impunity by holding States accountable for their actions and inaction, it is to be expected that the High Commissioner and the Office will at times attract criticism from different quarters. It is all the more important then, when injecting human rights perspectives and approaches into debates which are frequently politicized, that objectivity, accuracy and the universality of human rights underpin the Office's work.

The current High Commissioner, **Ms. Navanethem Pillay**, assumed office in September 2008. Ms. Pillay was preceded by Ms. Louise Arbour (2004-2008), Mr. Sergio Vieira de Mello (2002-2003),² Ms. Mary Robinson (1997-2002) and Mr. José Ayala Lasso (1994-1997). Mr. Bertrand G. Ramcharan was Acting High Commissioner from 2003 to 2004.

OHCHR is headquartered at Palais Wilson in Geneva, Switzerland, and has an office at United Nations headquarters in New York. Comprising more than 900 staff members, over half of whom work in the field, its presences include country teams and offices, regional offices, human rights advisers, and human rights components in United Nations peace missions.

Mandate of the High Commissioner for Human Rights

The High Commissioner is mandated by General Assembly resolution 48/141 to:

- Promote and protect all human rights for all;
- Make recommendations to the competent bodies of the United Nations system for improving the promotion and protection of all human rights;
- Promote and protect the right to development;
- Provide technical assistance for human rights activities;
- Coordinate United Nations human rights education and public information programmes;
- Play an active role in removing obstacles to the realization of human rights;
- Play an active role in preventing the continuation of human rights violations;
- Engage in dialogue with Governments with the aim of securing respect for all human rights;
- Enhance international cooperation;
- Coordinate human rights promotion and protection activities throughout the United Nations system; and
- Rationalize, adapt, strengthen and streamline the United Nations human rights machinery.

C. OHCHR work and activities

OHCHR seeks the implementation of human rights standards in the daily lives of all people everywhere. Working towards this goal, it collaborates with Governments, parliaments, judicial authorities, police and prison officials, NHRIs, NGOs and a broad range of other civil society actors, in addition to United Nations partners, to build awareness of and respect for human rights. OHCHR empowers individuals to claim their rights and assists States in upholding their human rights obligations.

² On 19 August 2003, Sergio Vieira de Mello was killed along with 21 other United Nations staff in Baghdad, where he was serving the United Nations as the Secretary-General's Special Representative in Iraq.

Local, national and international human rights NGOs are a vital part of the international human rights movement and an essential partner for OHCHR. They alert the world to human rights violations. They defend victims, promote rights through education, and campaign for improvements and advancements. The relationship between OHCHR and civil society is a dynamic and collaborative one, which infuses all parts of OHCHR.

OHCHR areas of work span the full spectrum of human rights. Each activity is interrelated and complementary, and forms an integral part of its mission.

Its **thematic work** identifies and targets gaps in the existing human rights system, leading protection and research and addressing contemporary issues, such as climate change and gender-based violence, from within a human rights framework.

In its **standard-setting work**, OHCHR contributes to the development of new international norms to advance human rights protection and entitlement.

Its **monitoring work** aims to ensure that these standards are implemented in practice and thus contributes to making human rights a reality.

Through its work on **implementation** in the field, OHCHR looks for early warning signs of human rights crises and deteriorating situations, offering technical assistance to Governments and ready to deploy staff and resources when crises develop.

OHCHR also works to increase **human rights education** and awareness. It seeks to empower people to access their rights and, by using United Nations human rights bodies and mechanisms effectively, to become agents of change—an aim which inspired the creation of this *Handbook*.

OHCHR activities are funded from the United Nations regular budget and from voluntary contributions from Member States, intergovernmental organizations, foundations and individuals.

Thematic areas of work

OHCHR explores new areas of human rights protection and standard-setting across a broad collection of themes and issues. It provides legal and policy advice, undertakes substantive research, facilitates discussion and consultations on emerging issues and trends, and seeks out issue-based partnerships with a range of human rights stakeholders, promoting best practices.

Its thematic areas of work include:

- Anti-discrimination;
- Children;
- Climate change and the environment;
- Economic, social and cultural rights, including the rights to health, housing, food and water;
- HIV/AIDS;
- Human rights country assessment and planning;
- Human rights and business;
- Human rights and counter-terrorism;

- Human rights and disability;
- Human rights education and training
- Human rights mainstreaming;
- Human rights monitoring and investigations;
- Human rights in peace operations;
- Indigenous peoples and minorities;
- The Millennium Development Goals and the right to development, including poverty reduction;
- Racism;
- The rule of law and democracy, including the administration of justice, good governance, accountability, impunity and anti-corruption initiatives;
- Security policies;
- Trade and globalization;
- Trafficking; Transitional justice;
- Women's human rights and gender.

These programmes seek to inject expertise and fresh thinking into selected cross-cutting themes that are of particular importance to the United Nations human rights programme such as equality and non-discrimination. They address groups and issues deserving special attention, such as victims of racial discrimination, minorities and indigenous peoples, women's rights and gender, disability, trafficking and people affected by HIV/AIDS.

Standard-setting and monitoring

OHCHR seeks to offer the highest quality research, expertise, advice and administrative services to the main United Nations human rights bodies and mechanisms as they discharge their standard-setting and monitoring duties, contributing to the development of international human rights law and jurisprudence, and working to ensure the implementation of agreed human rights standards. These bodies and mechanisms include:

- The **Human Rights Council** and its mechanisms, e.g., the special procedures, the universal periodic review mechanism, the complaint procedure, the Advisory Committee, the Social Forum, the Forum on Minority Issues, and the Expert Mechanism on the Rights of Indigenous Peoples; and

OHCHR is committed to strengthening civil society's capacity to use the United Nations human rights programme effectively. The chapters that follow explore the various ways that civil society can engage with and contribute to United Nations human rights bodies and mechanisms through OHCHR:

- Chapter IV addresses the human rights treaty bodies;
- Chapter V addresses the Human Rights Council and its mechanisms, including the Advisory Committee, the Social Forum, the Forum on Minority Issues, the Expert Mechanism on the Rights of Indigenous Peoples, the open-ended Working Group on the Right to Development and a number of mechanisms related to the Durban Declaration and Programme of Action;
- Chapter VI addresses the special procedures;
- Chapter VII addresses the universal periodic review; and
- Chapter VIII explains how to submit a complaint on an alleged human rights violation.

Human rights implementation

Human rights standards have little value if they are not implemented. States recovering from conflict or lacking resources or expertise need assistance to meet their human rights obligations. OHCHR therefore devotes considerable resources to supporting national efforts to protect human rights. By engaging with countries, OHCHR strives to bridge a range of implementation gaps, including those related to knowledge, capacity, commitment and security.

Through its implementation work in the field, OHCHR aims to ensure that:

- National authorities are informed about international human rights standards and how to translate these into laws, regulations and policies;
- Government officials and civil society have greater capacity to address human rights concerns;
- Government authorities are aware of their human rights obligations and implement effective remedies to overcome obstacles to the realization of human rights;
- Rights-holders are better protected from policies that threaten their personal security; and
- OHCHR is in a better position to respond to human rights needs on the ground.

OHCHR field offices and presences develop appropriate and effective responses to human rights challenges in close collaboration with Governments, the United Nations system and NGOs and other members of civil society. For instance, OHCHR assists efforts to incorporate international human rights standards into national laws, and advises on the establishment and functioning of independent NHRIs. It also works with and provides human rights training to judiciaries, military police and parliaments on international standards related to their work, provides advice on treaty body and universal periodic review reporting, and develops programmes for human rights education.

Civil society is a vital partner in all OHCHR activities in the field. Here are some examples of civil society engagement and collaboration with OHCHR in the field:

- Alerting OHCHR to deteriorating human rights situations and emerging trends;
- Providing information to OHCHR on human rights situations, developments and alleged abuses, locally and nationally;
- Working in partnership with OHCHR on human rights seminars and workshops, human rights training programmes, and on national and regional projects to raise awareness of human rights; and
- Working with OHCHR to promote the ratification of human rights treaties and their implementation.

OHCHR field presences include country offices, regional offices, human rights components of United Nations peace missions, human rights advisers in United Nations country teams and rapid response to emerging human rights crises.

1. Country offices

OHCHR has established an increasing number of country offices. Their activities cover human rights monitoring, public reporting, providing technical assistance, and assisting Governments to develop long-term and sustainable human rights policies and targets.

Working with the OHCHR country office in Uganda to better protect and promote the rights of persons with disabilities

<p>The OHCHR country office in Uganda works with associations of persons with disabilities to promote an understanding of disability as a human rights issue, increase awareness of relevant human rights standards and promote full compliance with these standards in domestic legislation, policies and plans. The office in Uganda has engaged with NGOs in the following ways:</p> <ul style="list-style-type: none"> • It launched a consultation to provide technical advice on compliance of domestic legislation and policies on disabilities with human rights standards; 	<ul style="list-style-type: none"> • It conducted monitoring activities and focus group discussions on the situation of persons with disabilities, actively promoting, in various districts, the participation of NGOs of persons with disabilities in human rights coordination mechanisms; It supported the National Union of Disabled Persons in collecting signatures for a petition urging the Government to ratify the Convention on the Rights of Persons with Disabilities. Over 1,000 signatures were collected on the 	<p>occasion of International Human Rights Day 2007;</p> <ul style="list-style-type: none"> • It sponsored the construction of a ramp to the main administrative block in Soroti district to ensure the physical accessibility of public buildings. Continued advocacy by NGOs led to the construction of further ramps in town; and • It provided training for persons with disabilities on international human rights standards and relevant domestic legislation and policies, making relevant materials available in Braille.
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2. Regional offices

OHCHR seeks to identify human rights concerns that are important to countries within a region. It can then offer help, both to the region and to the countries, by promoting the sharing and dissemination of experiences and best practices. OHCHR regional offices are also a source of thematic expertise and work closely with regional and governmental bodies, United Nations country teams, international and regional organizations, NHRIs and civil society.

3. Human rights components of United Nations peace missions

OHCHR is involved in United Nations peacekeeping and peace building, and plays an important part in the human rights components of complex field operations run by the United Nations Departments of Peacekeeping Operations and Political Affairs. OHCHR also

contributes to the work of the United Nations Security Council, which is responsible for international peace and security. These roles illustrate the central place that human rights occupy in all aspects of United Nations work.

OHCHR has identified four priorities that it seeks to integrate into peace missions:

- Ensuring justice and accountability in peace processes;
- Preventing and redressing human rights violations;
- Building capacities and strengthening national institutions; and
- Mainstreaming human rights throughout all United Nations programmes.

Working with the United Nations Mission in the Sudan on women’s rights

<p>Since March 2008, the United Nations Mission in the Sudan’s (UNMIS) Human Rights Office has produced a radio programme, in cooperation with the Women Advocacy</p>	<p>Group in Malakal and Radio Malakal, to raise awareness about women’s rights, in particular their right to live a life free of gender-based violence. Members of the Upper Nile</p>	<p>State Legislative Assembly and civil society activists have been on the programme. The initiative has been coupled with workshops for local communities.</p>
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4.Human rights advisers in United Nations country teams

Human rights advisers are experts deployed by OHCHR to support United Nations country teams at the request of Resident Coordinators. They advise on strategies to build or strengthen a country’s capacities and institutions to promote and protect human rights. Human rights advisers also engage with national actors (Government and civil society) on how to promote and implement human rights standards effectively.

5.Rapid response to emerging human rights crises

In addition to engaging with countries through field presences, the OHCHR Rapid Response Unit deploys trained personnel to assist in preventing or responding to deteriorating human rights situations across the globe. OHCHR may conduct or support fact-finding missions and commissions of inquiry to investigate serious allegations of human rights violations.

The Unit also serves as the focal point for OHCHR engagement with the human rights components of peace missions, which OHCHR supports by providing assistance with recruitment, induction and training, as well as substantive policy and programme advice.

OHCHR fellowship and training programmes

OHCHR has established fellowship and training programmes to help increase the role and participation of civil society in human rights mechanisms. These programmes are: **The Indigenous Fellowship Programme;**

- **The Minorities Fellowship Programme;**
- **The Human Rights LDC Fellowship Programme;** and
- **The Fellowship for National Human Rights Institutions Staff.**

OHCHR publications and resource materials

OHCHR produces an extensive range of publications related to human rights which provide information of interest to Governments, NHRIs, civil society, the general public and the media. Many publications and resources are available for downloading on the OHCHR website or may be requested from the OHCHR **Publications and Information Desk**.

Funds and grants

United Nations funds and grants, some of which are managed by OHCHR, directly benefit NGOs, grass-roots organizations, professional associations and other civil society actors.

The OHCHR-administered funds and grants are:

- The **United Nations Voluntary Fund for Victims of Torture**; The **Voluntary Fund for Indigenous Populations**;
- The **United Nations Voluntary Trust Fund on Contemporary Forms of Slavery**; and
- The **“Assisting Communities Together” (ACT) Project**.

For more information on **funds and grants**, please refer to **chapter IX** of this *Handbook*.

D. The structure of the Office of the United Nations High Commissioner for Human Rights

OHCHR is led by the High Commissioner and the Deputy High Commissioner. Both are supported in their work by the **Executive Office**, which is part of the OHCHR **Executive Direction and Management Branch**.

The Executive Direction and Management Branch also includes:

- The **New York Office**, which works to ensure that human rights are fully integrated into the United Nations agenda for development and security, and provides substantive support on human rights issues to the General Assembly, the **Economic and Social Council**, the **Security Council** and other intergovernmental bodies;
- The **Policy, Planning, Monitoring and Evaluation Section**, which works with OHCHR staff to ensure that the Office’s strategic vision is translated into concrete priorities and operational plans, and that the impact is effectively monitored and evaluated;
- The **Communications Section**, which develops and implements strategies to improve general knowledge of human rights and inform the international community of human rights developments and OHCHR work;
- The **Donor and External Relations Section**, which works to ensure that Member States are kept fully informed of OHCHR plans, priorities and funding needs, and mobilizes resources to support the implementation of OHCHR programmes;
- The **Field Safety and Security Section**, which is responsible, in coordination with the United Nations Department of Safety and Security, for ensuring the security of all OHCHR staff and premises.

The newly established **Civil Society Unit** is also part of the Executive Direction and Management Branch. It is the main entry point for civil society actors wishing to contact OHCHR. The Civil Society Unit provides information and advice on a broad range of issues, advises on policies and strategies to enhance cooperation, and develops tools to assist civil society in engaging with the United Nations human rights bodies and mechanisms, of which this *Handbook* is the primary example.

OHCHR **Programme Support and Management Services** provide support in budgeting and financial management; recruitment and human resources; procurement, asset management and general logistical support for field activities; information technology; and staff development and training.

In addition to the Executive Direction and Management Branch and Programme Support and Management Services, OHCHR comprises four substantive divisions:

- The **Human Rights Council and Treaties Division**, which ensures the smooth functioning of the Human Rights Council and a number of its mechanisms, and the human rights treaty bodies. It also supports activities carried out through the Voluntary Fund for Victims of Torture and coordinates all official documentation prepared for use by intergovernmental bodies;
- The **Special Procedures Division**, which supports the work of the special procedures by providing thematic, fact-finding and legal expertise, research and analysis, and administrative and logistical assistance. The Division also facilitates collaboration and meetings between mandate-holders and stakeholders, including civil society; The **Field Operations and Technical Cooperation Division**, which coordinates the development and implementation of OHCHR country engagement strategies, manages its technical cooperation programme and serves as an entry point for OHCHR field offices; and
- The **Research and Right to Development Division**, which carries out OHCHR thematic research on human rights, including by providing technical support to the field. The Division also manages the OHCHR documentation centre and publications programme, producing a range of methodological tools and learning packages for use in countries and at headquarters to build the capacity of national institutions, civil society and other partners.

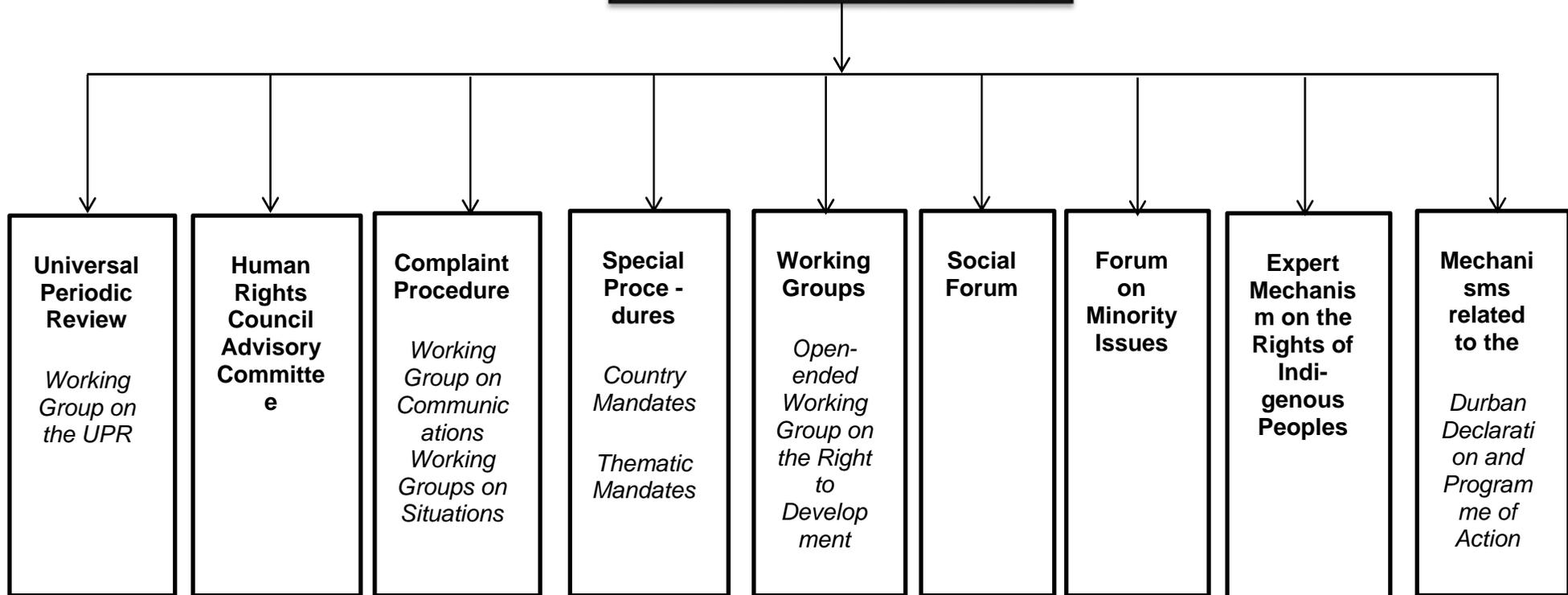
E. OHCHR resources

OHCHR website

Civil society actors are encouraged to consult the OHCHR website for updates and information on OHCHR work and activities, including information on the various human rights mechanisms. The OHCHR **Annual Reports on Activities and Results** and the **High Commissioner's Strategic Management Plan** are also available from the OHCHR website.

Visit OHCHR website: <http://www.ohchr.org>

HUMAN RIGHTS COUNCIL



Annex: Accessing and working with the Human Rights Council and its mandates and mechanisms

MEETING/MECHANISM	Which civil society actors (CSAs) can attend meetings of the mechanism?	How can these CSAs participate in meetings they attend?	Which CSAs can contribute to the work of the mechanism (other than by	What forms can these contributions take?
Human Rights Council's regular and special sessions	NGOs in consultative status with ECOSOC, once accredited	<ul style="list-style-type: none"> • Submission of written statements • Oral statements • Hosting of parallel events 	Only NGOs in consultative status with ECOSOC can submit written statements to regular/special sessions	NGOs in consultative status with ECOSOC should consult the guidelines for written statements
Universal periodic review	NGOs in consultative status with ECOSOC, once accredited	<ul style="list-style-type: none"> • Hosting of information sessions • Brief general comments can be made before the adoption of outcome documents at regular sessions of the Human Rights Council 	Relevant CSAs	<ul style="list-style-type: none"> • Working with Governments towards the preparation of national reports • Contributing stakeholders' submissions for potential inclusion in the OHCHR summary • Work on follow-up to • UPR outcomes (conclusions, recommendations, voluntary pledges/ commitments)
Human Rights Council Advisory Committee	NGOs in consultative status with ECOSOC, once accredited	<ul style="list-style-type: none"> • Submission of written statements • Oral statements 	Relevant CSAs	<ul style="list-style-type: none"> • Nominating candidates for appointment to the Advisory Committee

Complaint procedure	CSAs cannot participate in meetings of the complaint procedure or its working groups; these meetings are private	N/A	Relevant CSAs	<ul style="list-style-type: none"> Submission of complaints under the complaint procedure
Special procedures	NGOs and other CSAs may arrange to meet with mandate-holders during select segments of the annual meeting of special procedures	<ul style="list-style-type: none"> Interactive dialogue with mandate-holders during select segments of the annual meeting of special procedures NGOs in consultative status with ECOSOC can participate in interactive dialogues with mandate-holders at regular sessions of the Human Rights Council 	Relevant CSAs	<ul style="list-style-type: none"> Submission of urgent appeals/individual cases Providing support for country visits Working to advocate, disseminate, follow up and implement the work of the special procedures Meeting with mandate-holders Nominating candidates as mandate-holders
Open-ended Working Group on the Right to Development	<p>NGOs in consultative status with ECOSOC, once accredited, can attend public segments of the Working Group's meetings</p> <p>A wide range of CSAs can attend public sessions of the high-level task force</p>	<p>NGOs attending meetings of the high-level task force have the opportunity to make opening statements.</p> <p>This opportunity does not apply, however, to the Working Group's meetings.</p>	Relevant CSAs	<ul style="list-style-type: none"> Submission of statements to the Working Group Engagement with the task force Working to implement Working Group recommendations
Social Forum	A wide range of CSAs can attend meetings	<ul style="list-style-type: none"> Providing feedback on the human rights work of international mechanisms at meetings Exchanging best practices at meetings Grass-roots presentations at meetings 	Relevant CSAs	<ul style="list-style-type: none"> Submission of information to the Social Forum

Forum on Minority Issues	A wide range of CSAs, including NGOs, academics and experts on minority issues	<ul style="list-style-type: none"> • Oral presentations/statements • Written statements 	Relevant CSAs	<ul style="list-style-type: none"> • Submission of information to the Forum • NGOs in consultative status with ECOSOC can nominate candidates for appointment as chairperson of the Forum
Expert Mechanism on the Rights of Indigenous Peoples	A wide range of CSAs, including NGOs and indigenous peoples and organizations	<ul style="list-style-type: none"> • Oral presentations/statements • Written statements 	Relevant CSAs	<ul style="list-style-type: none"> • Submission of information to the Expert Mechanism • Nomination of candidates for appointment as independent experts
Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action	NGOs in consultative status with ECOSOC NGOs accredited to the Durban World Conference	<ul style="list-style-type: none"> • Oral presentations • Written statements 	Only CSAs falling into the categories provided at left may contribute information to the Intergovernmental Working Group	<ul style="list-style-type: none"> • Submission of information to the Working Group
Group of independent eminent experts	Meetings are, in principle, closed. However, the Group may invite CSAs to exchange views with it	<ul style="list-style-type: none"> • Exchange of views at the invitation of the Group 	Relevant CSAs	<ul style="list-style-type: none"> • Submission of information to the Group
Working Group of Experts on People of African Descent	NGOs in consultative status with ECOSOC NGOs accredited to the Durban World Conference	<ul style="list-style-type: none"> • Oral presentations • Submissions of written statements 	Relevant CSAs	<ul style="list-style-type: none"> • Submission of information to the Working Group • Providing information in situ during country missions of the Working Group • Meeting with its members during country visits

<p>Preparatory Committee for the Durban Review Conference</p> <p>Intersessional open-ended intergovernmental working group to follow up the work of the Preparatory Committee for the Durban Review Conference</p>	<ul style="list-style-type: none"> • NGOs in consultative status with ECOSOC • NGOs accredited to the Durban World Conference • NGOs (without consultative status and that did not attend the World Conference) can submit applications to participate • Indigenous peoples' Representatives 	<ul style="list-style-type: none"> • Oral statements • Submission of written statements 	<p>Only CSAs falling into the categories provided to the left may contribute information to the Preparatory Committee and the Intersessional open-ended working group</p>	<ul style="list-style-type: none"> • Submission of written statements to the Preparatory Committee and the Intersessional open-ended working group
<p>Ad Hoc Committee on the elaboration of complementary standards</p>	<p>NGOs in consultative status with ECOSOC</p> <p>NGOs accredited to the Durban World Conference</p>	<ul style="list-style-type: none"> • Oral presentations • Submission of written statements 	<p>Relevant CSAs</p>	<ul style="list-style-type: none"> • Submission of information and studies to the Ad Hoc Committee

HUMAN RIGHTS COUNCIL

The Human Rights Council at a glance

What is it?

The Human Rights Council is the principal United Nations intergovernmental body responsible for human rights. Established by General Assembly resolution 60/251, it replaced and assumed most mandates, mechanisms, functions and responsibilities previously entrusted to the Commission on Human Rights. The Office of the United Nations High Commissioner for Human Rights (OHCHR) is the secretariat for the Human Rights Council, as it was for the Commission on Human Rights.

How does it work?

The Human Rights Council is an intergovernmental body of 47 member States based in Geneva. It meets for at least 10 weeks a year spread over no fewer than three sessions, and can also hold special sessions. While the Commission was a subsidiary organ of the Economic and Social Council (ECOSOC), the Human Rights Council is a subsidiary organ of the General Assembly. Its role includes addressing violations of human rights, including gross and systematic violations, and the promotion of effective coordination and the mainstreaming of human rights within the United Nations system.

On 18 June 2007, one year after its first meeting, the Human Rights Council agreed on a package that established the procedures, mechanisms and structures to form the basis for its future work. This package, adopted as its resolution 5/1, included the Council's agenda, programme of work and rules of procedure and made modifications to the system of expert advice and the complaint procedure inherited from the Commission. Resolution 5/1 also set out the modalities for the operation of the Council's new universal periodic review mechanism and established a process for reviewing, rationalizing and improving all special procedures mandates.

How to access and work with the Human Rights Council and its mandates and mechanisms

In resolution 60/251 the General Assembly acknowledged the important role played by non-governmental organizations (NGOs) and other civil society actors nationally, regionally and internationally in the promotion and protection of human rights.

The participation of observers, including NGOs, in the sessions of the Council is based on arrangements and practices observed by the former Commission. These practices and arrangements continue to develop and evolve, with the Council required to ensure "the most effective contribution" of observers.¹

¹ See General Assembly resolution 60/251 and Human Rights Council resolution 5/1.

While **consultative status** with ECOSOC is required for NGOs to be accredited as observers to the Human Rights Council's sessions, NGOs without such status and other civil society actors can contribute to the overall work of the Human Rights Council and its mechanisms in a number of ways. Furthermore, its meetings are broadcast live on an OHCHR **webcast**, and a broad range of documentation and information is available on the Council's **homepage** and **Extranet**. Session-specific information is normally posted on the homepage two weeks before each regular session.

What is the Human Rights Council?

Transition from Commission on Human Rights to Human Rights Council

The Human Rights Council, established by General Assembly **resolution 60/251** of 15 March 2006, is the principal United Nations intergovernmental body responsible for human rights. It replaced the **Commission on Human Rights**, which, for over 60 years, was at the centre of the United Nations human rights system. The Commission met for the last time in March 2006, at its sixty-second session. Its normative and standard-setting achievements form the foundation of the work of the Council.

While the Commission was a subsidiary organ of the **Economic and Social Council** (ECOSOC), the Human Rights Council is a subsidiary organ of the **General Assembly**. This elevation emphasizes human rights as one of the three essential pillars of the United Nations, along with development, and peace and security. The Council's creation also affirms the General Assembly's commitment to strengthening the United Nations human rights machinery, with the aim of ensuring the effective enjoyment by all of all human rights—civil, political, economic, social and cultural rights, including the right to development.

In its resolution 60/251, the General Assembly tasked the Human Rights Council with reviewing and, where necessary, improving and rationalizing all mandates, mechanisms, functions and responsibilities that it assumed from the Commission. The Council was required to complete this task within one year of holding its first session. The Council's methods of work were also required to:

- Be transparent, fair and impartial;
- Be results-oriented;
- Enable genuine dialogue;
- Allow for follow-up discussions to its recommendations and their implementation; and
- Allow for substantive interaction with its mechanisms.

The General Assembly will review the Council's status within five years.²

² See resolution 60/251, in which the General Assembly also requires the Council to review its work and functioning five years after its establishment and report to it.

The Human Rights Council's institution-building package (resolution 5/1)

On 18 June 2007, one year after its first meeting and following an intensive period of "institution-building", the Council agreed on a package that set out its procedures, mechanisms and structures. Adopted as its **resolution 5/1** on institution-building of the United Nations Human Rights Council,³²⁹ the package included:

- A new agenda and a framework for the programme of work;
- New methods of work and new rules of procedure based on the rules established for committees of the General Assembly;
- The complaint procedure (which replaced the 1503 procedure);
- The Human Rights Council Advisory Committee (which replaced the Sub-Commission on the Promotion and Protection of Human Rights);
- Principles, processes and modalities to guide the operation of the new universal periodic review (UPR) mechanism; and
- Criteria for the continuing review, rationalization and improvement of special procedures mandates.

How do the Human Rights Council and its mechanisms and mandates work?

Membership

Membership of the Council consists of 47 States elected directly and individually by secret ballot by the majority of the members of the General Assembly. The human rights records and voluntary human rights pledges and commitments of candidate States are to be taken into account when electing member States. The Council's member States serve for three years and are not eligible for immediate re-election after two consecutive terms.

If a member State of the Council commits gross and systematic violations of human rights, the General Assembly, by a two-thirds majority of the members present and voting, may suspend its rights of membership in the Council.

Meetings

Whereas the former Commission met only once a year for a total of six weeks, the Council meets at the Palais des Nations in Geneva, Switzerland, for at least three regular sessions a year, for a total duration of no less than 10 weeks. The Council's main (four-week) session is normally held in March. The Council may also hold special sessions at the request of a member State, where such a request is supported by at least one third of its member States. By September 2008, the Council had held seven special sessions.

The Council also organizes panel discussions and special events to enhance dialogue and mutual understanding on specific issues. By September 2008 the Council had held six of these events, including annual discussions on the rights of persons with disabilities and the integration of a gender perspective into its work and the work of its mechanisms.

³ Resolution 5/1 was endorsed by the General Assembly in its resolution 62/219.

B. Human Rights Council Advisory Committee

The Advisory Committee is a subsidiary body of the Human Rights Council. It replaced the Sub-Commission on the Promotion and Protection of Human Rights of the Commission on Human Rights, and functions as a think tank for the Council, focusing mainly on studies and research-based advice in a manner and form requested by the Council.

While unable to adopt resolutions or decisions, or to establish subsidiary bodies without the Council's authorization, the Advisory Committee can make suggestions to the Council:

- To enhance its own procedural efficiency; and
- To further research proposals within the scope of its work.

The Advisory Committee consists of 18 experts drawn proportionally from the five United Nations regional groups (Africa, Asia, Eastern Europe, Latin America and the Caribbean, and Western Europe and others). Members serve in their personal capacity for three-year terms and are eligible for re-election only once.⁴ The Advisory Committee meets in two sessions each year for a total of up to 10 working days, and can hold additional ad hoc sessions with the Council's approval. For current information on the Advisory Committee visit OHCHR's website.

C. Complaint procedure

The complaint procedure addresses consistent patterns of gross and reliably attested violations of all human rights and fundamental freedoms occurring in any part of the world and under any circumstances. It is based on the former Commission's 1503 procedure, improved to ensure that the procedure is impartial, objective, efficient, victims-oriented and conducted in a timely manner.

The complaint procedure is based on communications received from individuals, groups or organizations that claim to be victims of human rights violations or that have direct, reliable knowledge of such violations. Two distinct working groups—the Working Group on Communications and the Working Group on Situations—are responsible, respectively, for examining communications and bringing consistent patterns of gross and reliably attested violations of human rights and fundamental freedoms to the Council's attention.

The Council examines reports of the Working Group on Situations in a confidential manner (unless it decides otherwise) and may:

- Discontinue its consideration of a situation when further consideration or action is not warranted;
- Keep a situation under review and request the State concerned to provide further information within a reasonable time;
- Keep a situation under review and appoint an independent and highly qualified expert to monitor the situation and to report back to the Council; or
- Recommend that OHCHR should provide technical cooperation, capacity-building assistance or advisory services to the State concerned.

D. Special procedures

“Special procedures” is the general name given to the mechanisms established by the former Commission and assumed by the Council to monitor, advise and publicly report on human rights situations in specific countries or territories (country mandates), or on major phenomena of human rights violations worldwide (thematic mandates).

Since June 2007 the Council has begun a process to review, rationalize and improve each of the special procedure mandates it inherited. It has discontinued and amended some mandates, created new ones, developed new selection and appointment processes for mandate-holders, and produced a Code of Conduct for Special Procedures Mandate-holders (resolution 5/2).

Mandate-holders (special rapporteurs, special representatives, representatives, independent experts and members of working group) serve in their personal capacity. Their activities may include:

- Receiving, sharing and analysing information on human rights situations;
- Responding to individual complaints;
- Conducting studies;
- Sending urgent appeals or letters of allegation to Governments;
- Undertaking country visits at the invitation of Governments and producing findings
- and recommendations based on these visits;
- Providing advice on technical cooperation at the country level; and
- Engaging in general promotion.

OHCHR provides special procedures mandate-holders with personnel, logistical and research assistance to support their mandates.

For more information on the special procedures, please refer to chapter VI (Special procedures) of this Handbook.

E. Working groups of the Human Rights Council

Open-ended Working Group on the Right to Development

The open-ended Working Group on the Right to Development was established by the Commission on Human Rights.⁵ In March 2007, the Human Rights Council renewed its mandate for two years (resolution 4/4).

The Working Group convenes in an annual session of five working days. Its mandate is to:

- Monitor and review progress made in the promotion and implementation of the right to development;

⁵ See its resolution 1998/72 and ECOSOC decision 1998/269.

- Review reports and other information submitted by States, United Nations agencies and other relevant international organizations and NGOs; and
- Present for the Council's consideration a sessional report on its deliberations, including advice to OHCHR with regard to the implementation of the right to development, and suggesting possible programmes of technical assistance at the request of interested countries.

In this same resolution, the Council also renewed for two years the mandate of the high-level task force on the implementation of the right to development, established within the framework of the Working Group on the Right to Development.

The objective of the task force is to provide the necessary expertise to the Working Group to enable it to make appropriate recommendations to the various actors on the issues identified for the implementation of the right to development. The task force comprises five experts nominated by the Chairperson of the Working Group on the Right to Development in consultation with each of the United Nations regional groups and other institutional members, including representatives from identified international trade, finance and development institutions. The task force convenes in annual sessions of seven working days and presents its reports to the Working Group.

F. Social Forum

In 2007 the Human Rights Council renewed the mandate of the Social Forum, preserving it as a “unique space for interactive dialogue between the United Nations human rights machinery and various stakeholders, including grass-roots organizations, and underlines the importance of coordinated efforts at national, regional and international levels for the promotion of social cohesion based on the principles of social justice, equity and solidarity as well as to address the social dimension and challenges of the ongoing globalization process” (resolution 6/13).

An initiative of the former Sub-Commission, the Social Forum⁶ originated as a two-day pre-sessional forum on economic, social and cultural rights held before annual sessions of the Sub-Commission. Whereas the Social Forum was previously a subset of the Sub-Commission, it is now an independent Human Rights Council mechanism.

The Social Forum meets each year for three working days to focus on specific thematic issues designated to it by the Council. It met for the first time as a mechanism of the Council in September 2008 and, as requested by the Council, some thematic procedures mandate-holders participated in it. The Social Forum was asked to formulate conclusions and recommendations to be presented to relevant bodies through the Council and focused on:

- Questions relating to the eradication of poverty in the context of human rights;
- Capturing best practices in the fight against poverty in the light of grass-roots presentations to the Social Forum; and the
- Social dimension of the globalization process.

⁶ Not to be confused with the World Social Forum.

The Social Forum is chaired by a chairperson-rapporteur appointed by the Council's President each year from among nominations presented by the regional groups.

For current information on the Social Forum visit OHCHR's website.

G. Forum on Minority Issues

The Forum on Minority Issues⁷ replaced the former Sub-Commission's Working Group on Minority Issues. It provides a platform for promoting dialogue and cooperation on issues pertaining to persons belonging to national or ethnic, religious and linguistic minorities by:

- Providing thematic contributions and expertise to the work of the independent expert on minority issues; and
- Identifying and analysing best practices, challenges, opportunities and initiatives for the further implementation of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities.

The Forum meets for two working days in Geneva each year for thematic discussions, and is expected to contribute to the High Commissioner's efforts to improve cooperation among United Nations mechanisms, bodies and specialized agencies, and funds and programmes on activities related to the promotion and protection of the rights of persons belonging to minorities, including at the regional level.⁸

Whereas the Chairperson of the Forum (appointed by the Council's President each year on the basis of regional rotation) is responsible for the preparation of a summary of the Forum's discussions, the independent expert on minority issues guides its work and prepares its annual meetings. The independent expert is also invited to include in her/his report the thematic recommendations of the Forum and recommendations for future thematic subjects, for consideration by the Council.

The Council is to review the Forum's work after four years, i.e., in 2012.

For current information on the Forum on Minority Issues, and on the independent expert on minority issues visit OHCHR's website.

H. Expert Mechanism on the Rights of Indigenous Peoples

The **Expert mechanism**⁹ on the rights of indigenous peoples⁴¹ is the successor to the former Sub-Commission's Working Group on Indigenous Populations. A subsidiary of the Human Rights Council, the Expert Mechanism provides it with thematic expertise on the rights of indigenous peoples in a manner and form requested by it. The Expert Mechanism reports annually to the Council, focuses mainly on studies and research-based advice, and may, within the scope of its work, suggest proposals to the Council for consideration and approval.

⁷ Created by Human Rights Council resolution 6/15 of 28 September 2007.

⁸ At its inaugural session, on 15 and 16 December 2008, the Forum is expected to consider minorities and access to education.

⁹ Created by Human Rights Council resolution 6/36 of 14 December 2007.

The Expert Mechanism consists of five independent experts, each serving for three years with the possibility of being re-elected for an additional term. It may meet for up to five days per year in a combination of private and public meetings and is free to decide on its own methods of work, though unable to adopt resolutions or decisions. The Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people and a member of the Permanent Forum on Indigenous Issues also attend and contribute to the Expert Mechanism's annual meetings. For current information Expert mechanism, and on the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people visit OHCHR's website.

I. Durban Declaration and Programme of Action

In 2001, the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance was held in Durban, South Africa. The Durban Declaration and Programme of Action, adopted at this Conference, records a commitment by States to work together to eradicate racism, racial discrimination, xenophobia and related intolerance. It is a comprehensive and action-oriented road map, offering a functional common approach to realizing the principles of equality and non-discrimination.

In 2006, the United Nations General Assembly decided to convene a review conference in 2009 on the implementation of the Durban Declaration and Programme of Action. It requested the Human Rights Council to prepare this event, making use of the three existing and ongoing follow-up mechanisms,¹⁰ to formulate a concrete plan, and to provide

How to access and work with the Human Rights Council and its mandates and mechanisms

Arrangements and practices for NGO participation in the Human Rights Council's sessions

"...the participation of and consultation with observers, including States that are not members of the Council, the specialized agencies, other intergovernmental organizations and national human rights institutions, as well as non-governmental organizations, shall be based on arrangements, including Economic and Social Council resolution 1996/31 of 25 July 1996, and practices observed by the Commission on Human Rights, while ensuring the most effective contribution of these entities."¹¹

In resolution 60/251, the General Assembly acknowledged the important role played by NGOs and other civil society actors nationally, regionally and internationally in the promotion and protection of human rights. It also provided that NGO participation in the

¹⁰ The Intergovernmental Working Group on the Effective Implementation of the Durban Declaration and Programme of Action, the group of independent eminent experts on the implementation of the Durban Declaration and Programme of Action, and the Working Group of Experts on People of African Descent.

¹¹ See General Assembly resolution 60/251 and Human Rights Council resolution 5/1, annex.

Human Rights Council would:

- Be based on arrangements and practices observed by the Commission (including ECOSOC **resolution 1996/31**); and
- Ensure the most effective contribution of NGOs and other observers.

The arrangements and practices of NGO participation observed by the Commission on Human Rights have been successfully transferred to the Human Rights Council. In line with the Human Rights Council's obligation to ensure "the most effective contribution" of observers, these practices and arrangements continue to develop and evolve.

NGOs in consultative status with ECOSOC participating as observers in Human Rights Council sessions

The role of NGOs is essential for the promotion and protection of all human rights at the national, regional and international levels. NGO participation in the Human Rights Council's first two years of existence has been a key element for enhancing the credibility of the United Nations. NGOs contributed significantly to the institutional building of the Human Rights Council, with valuable and essential inputs, as well as in its substantive debates while considering all agenda items of the Council.

Moreover, the complementary work of NGOs in the field of human rights is perceived to be increasingly moving from traditional "naming and shaming" policies towards a more cooperative engagement with Governments and other stakeholders. Such responsible engagement should be aimed at improving the human rights situation on the ground.

Therefore, the participation and inputs of local NGOs is essential, particularly now that Council meets more often and taking into account that the universal periodic review is operational. In sum, the main challenge that the Human Rights Council and the NGO community faces is to move beyond participation of civil society in the work of the Council, to a true partnership between Member States and civil society.

Ambassador Luis Alfonso de Alba of Mexico,

First President of the Human Rights Council (2006-2007).

NGOs enjoy a level of participation in the Human Rights Council, inherited from the Commission, that is unique in the United Nations system. In turn, as an intergovernmental body, the Human Rights Council is greatly enriched by the knowledge and expertise, the witness-bearing role, and the grass-roots relevance that NGOs bring to its work.

Since the first session in June 2006, NGOs have enjoyed a meaningful and inclusive level of participation in the Human Rights Council. At the seventh regular session in March 2008, 180 NGOs were represented by a total of 1116 individuals. At this same session, NGOs submitted 98 written statements, made 224 oral statements and hosted 69 parallel events.

The Human Rights Council's presidency and secretariat have sought to build upon practices and arrangements observed by the Commission, as well as best practices, while taking into account that the Human Rights Council and its mechanisms meet continually throughout the year in a number of forums.

Only **NGOs in consultative status with ECOSOC** can be accredited to participate in the Human Rights Council's sessions as observers. It is their prerogative to decide who their representatives will be.

Once accredited as observers, NGOs in consultative status with ECOSOC enjoy a number of privileges and arrangements at the Human Rights Council. They are able to:

- Submit written statements to the Human Rights Council ahead of a given session;
- Make oral interventions during all substantive items of the Human Rights Council's agenda;
- Participate in debates, interactive dialogues and panel discussions; and
- Organize "parallel events" on issues relevant to the work of the Human Rights Council.

NGOs in consultative status with ECOSOC also have a responsibility to conform at all times to the principles governing the establishment and nature of this consultative relationship.

In particular, ECOSOC resolution 1996/31 provides that an NGO may be suspended or excluded from participating in United Nations meetings, or have its consultative status withdrawn where, inter alia, it (including affiliates and representatives acting on its behalf) clearly abuses its status by engaging in a pattern of acts contrary to the purposes and principles of the **Charter of the United Nations**.

Accreditation

Representatives of NGOs in consultative status with ECOSOC should seek accreditation to the Human Rights Council sessions that they wish to attend.

Letters requesting accreditation should:

- Be submitted on the official letterhead of the organization;
- Clearly state the title and duration of the session that the organization wishes to attend;
- Be signed by the president or the main representative of the organization in Geneva; and
- Indicate the name(s) of the person(s) who will represent the organization at the Human Rights Council's session. Note that the names of persons must appear exactly as they appear in identification documents and family names should be capitalized.

To be accredited, NGOs in consultative status with ECOSOC should fax a letter, preferably ahead of a given session, requesting accreditation to: Fax: +41 (0)22 917 90 11.

Written statements

Ahead of a given Human Rights Council's session, NGOs in consultative status with ECOSOC may submit to the Human Rights Council, individually or jointly with other NGOs, written statements that are relevant to the Human Rights Council's work. These statements must also be on subjects for which the NGO has a special competence. Once received and processed by the Human Rights Council's secretariat, NGO written statements become part of the official documentation of Human Rights Council's sessions. Please note that:

- NGOs in **general consultative status with ECOSOC** may submit written statements of not more than 2000 words; and
- NGOs in **special consultative status with ECOSOC** or on the Roster may submit written statements of not more than 1500 words.

Oral statements

NGOs in consultative status with ECOSOC may make oral interventions during all substantive items, both in general debates and in interactive dialogues at Human Rights Council sessions. The modalities for NGO oral interventions, which continue to evolve taking into account that the Human Rights Council meets continually throughout the year, can be found on the Human Rights Council's **Extranet** under the NGO Liaison information page.

Representatives of NGOs wishing to make oral interventions should register in person at the "List of Speakers" desk in the meeting room (the plenary). Registration forms for individual and joint statements can be downloaded from the Human Rights Council's **homepage** and should be brought in person to that desk when registering.

Please note that NGOs are not permitted to distribute documents, pamphlets or any other material in the plenary room. However, copies of delivered NGO oral statements may be placed on the designated table at the back of the plenary room. All other NGO documentation may be placed on the designated NGO tables outside the plenary room.

Parallel events

NGOs in consultative status with ECOSOC, once accredited to attend a Human Rights Council's session, may organize public events that are of relevance to the work of the Human Rights Council. These events are known as "parallel events" and take place in the margins of the session, normally during lunch breaks.

Usually combining panel presentations with open discussion, parallel events provide NGOs with a space to share their experiences and to engage in dialogue with other NGOs, States and other stakeholders (including special procedures mandate-holders) on human rights issues and situations of relevance and importance to the Human Rights Council.

Rooms are provided free of charge for the hosting of parallel events and bookings are processed on a “first come, first served” basis. NGOs wishing to co-sponsor a parallel event should complete a “co-sponsorship form”.¹²

NGOs hosting a parallel event may invite persons that are not accredited to the Human Rights Council’s session to attend the parallel event. A complete list of the invitees must be provided to the Human Rights Council’s secretariat and to the Pregny security office 48 hours before the event in order for invitees to be accredited. Invitees will be issued with accreditation for the parallel event only.

NGOs hosting a parallel event are responsible for its content and for the conduct of participants at the event. Please also note that:

- The secretariat does not provide interpretation for NGO parallel events. NGOs may bring their own interpreters if they wish and should inform the secretariat accordingly ahead of time and
- The use of cameras/video recorders at parallel events is not encouraged, except by journalists and camerapersons duly accredited with the United Nations Office at Geneva (UNOG).

Room bookings for the hosting of parallel events should be faxed to: Fax:+41 (0) 22 917 90 11

For current information on accreditation, written statements, oral statements and parallel events visit the NGO Liaison information page on the Human Rights Council Extranet.

¹² Available on the Human Rights Council’s web page.

SPECIAL PROCEDURES

Special procedures at a glance

What are they?

“**Special procedures**” is the general name given to the mechanisms established by the **Commission on Human Rights** and assumed by the **Human Rights Council** to examine, monitor, advise and publicly report on human rights situations in specific countries or territories (**country mandates**), or on major phenomena of human rights violations worldwide (**thematic mandates**). By September 2008 there were 38 special procedures (30 thematic mandates and 8 country mandates) in operation. Persons appointed to the special procedures are independent experts (mandate-holders) and may be known as special rapporteurs, representatives, special representatives, independent experts or members of working groups.

The **Office of the United Nations High Commissioner for Human Rights** (OHCHR) provides them with personnel, logistical and research assistance to support them in their mandates.

How do they work?

The special procedures:

- Interact daily with actual and potential victims of human rights violations and advocate the protection of their rights;
- Act upon human rights concerns either in individual cases or on more general issues through direct communications with Governments
- Undertake fact-finding missions in countries and issue reports with recommendations;
- Prepare thematic studies that serve as a guide on norms and standards; and
- Raise public awareness through the media on issues within their mandates.
- Unlike United Nations treaty bodies, special procedures can be activated even where a State has not ratified the relevant instrument or treaty, and it is not necessary to have exhausted domestic remedies to access the special procedures.

How to access and work with the special procedures

Civil society actors, individually or collectively, may access and work with the special procedures. They can do this by:

- Submitting individual cases to special procedures;
- Providing information and analysis on specific human rights concerns;
- Providing support for special procedures’ country visits;
- Working locally or nationally to advocate, disseminate, follow up and implement the work of special procedures;

- Inviting special procedures mandate-holders to participate in their own initiatives; and
- Meeting individual mandate-holders throughout the year and participating in the annual meeting of special procedures mandate-holders.

Civil society actors can also nominate candidates as special procedures mandate-holders.

What are the special procedures?

Introduction to the special procedures

“**Special procedures**” is the general name given to the mechanisms established by the **Commission on Human Rights** and assumed by the **Human Rights Council** to address either specific country situations or thematic issues in all parts of the world. A key feature of the special procedures is their ability to respond rapidly to allegations of human rights violations occurring anywhere in the world at any time.

Special procedures mandates usually require mandate-holders to monitor, advise and publicly report on human rights situations in specific countries or territories (**country mandates**), or on major phenomena of human rights violations worldwide (**thematic mandates**). Each special procedure’s mandate is defined in the resolution that created it. Thematic mandates are renewed every three years and country mandates annually, unless otherwise decided by the Human Rights Council.¹ By September 2008 there were 38 special procedures in operation—30 thematic mandates and 8 country mandates (see the annex to this chapter).

Special procedures mandate-holders are either an individual (special rapporteur, special representative of the Secretary-General, representative of the Secretary-General or independent expert) or a group of individuals (working group).² Mandate-holders serve in their personal capacity for a maximum of six years and do not receive salaries or any other financial compensation for their work. The independent status of mandate-holders is crucial to the impartial performance of their functions.

The **Office of the United Nations High Commissioner for Human Rights** (OHCHR) provides special procedures mandate-holders with personnel, logistical and research assistance to support them in their mandates.

Special procedures mandate-holders:

- Receive and analyse information on human rights situations provided by various sources on an ongoing basis;
- Network and share information with partners, both governmental and non-governmental, within and outside the United Nations;
- Seek—often urgently—clarification from Governments on alleged violations and, where required, request Governments to implement protection measures to guarantee or restore the enjoyment of human rights;

¹ See resolution 5/1, annex, para. 60, and “Terms of office of special procedure mandate-holders” (A/HRC/PRST/8/2).

² Working groups are commonly composed of five members, one drawn from each of the five United Nations regional groups: Africa; Asia; Latin America and the Caribbean; Eastern Europe; and Western Europe and others.

- Raise awareness about specific human rights situations and phenomena, and threats to and violations of human rights;
- When specific circumstances so warrant, communicate their concerns through the media and other public statements;
- Undertake country visits to assess human rights situations pertaining to their respective mandates, and make recommendations to Governments with a view to improving those situations;
- Report and make recommendations to the Human Rights Council and, where relevant to their mandates, to the General Assembly (and in some cases to the Security Council) on: regular activities under their mandate; field visits; and specific thematic trends and phenomena;
- Contribute thematic studies to the development of authoritative norms and standards for the subject area of the mandate, and may provide legal expertise on specific issues.

Review, rationalization and improvement of the special procedures system

The General Assembly, in its **resolution 60/251**, required the Human Rights Council to review and, where necessary, improve and rationalize the special procedures system. In **resolution 5/1** on institution-building of the United Nations Human Rights Council, the Council elaborated new selection and appointment procedures for special procedures mandate-holders, and established a process for the review, rationalization and improvement of special procedures mandates. The Council also adopted **resolution 5/2**, setting out the Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council.

Two country mandates (Belarus and Cuba) were discontinued upon the adoption of resolution 5/1. By the end of its ninth regular session, the Council had created two new thematic mandates (the **Special Rapporteur on contemporary forms of slavery, including its causes and consequences**, and the **independent expert on the issue of human rights obligations related to access to safe drinking water and sanitation**) and had discontinued two more country mandates (Democratic Republic of the Congo and Liberia).

Selection and appointment of mandate-holders

General criteria for appointment

In line with resolution 5/1, the following general criteria apply to the nomination, selection and appointment of mandate-holders:

- Expertise;
- Experience in the field of the mandate;
- Independence;
- Impartiality;
- Personal integrity; and
- Objectivity.

In the appointment of mandate-holders, due consideration is also given to gender balance and equitable geographic representation, as well as to an appropriate representation of different legal systems.

Who is eligible for appointment?

Highly qualified individuals with established competence, relevant expertise, extensive professional experience in the field of human rights and flexibility/availability of time are considered eligible candidates for appointment as mandate-holders.³

Individuals holding decision-making positions in Government or in any other organization or entity (including non-governmental organizations (NGOs)), national human rights institutions (NHRIs) and other human rights organizations) which may give rise to a conflict of interest with the responsibilities inherent in the mandate are excluded.

The principle of non-accumulation of human rights functions is also respected when appointing mandate-holders. This means that individuals should not occupy multiple United Nations human rights mandates at the same time.

Who can nominate candidates?

The following may nominate candidates as special procedures mandate-holders:

- Governments;
- Regional groups operating within the United Nations human rights system;
- International organizations or their offices (e.g., OHCHR);
- NGOs;
- Other human rights bodies; and
- Individuals.

Public list of candidates and list of vacancies

Based on the nominations received, OHCHR prepares, maintains and periodically updates a public list of eligible candidates. This includes candidates' personal data, areas of expertise and professional experience. OHCHR also publicizes all upcoming vacancies of mandates.

Consultative Group

The Consultative Group, with one member from each of the five regional groups, serving in their personal capacity, examines the OHCHR public list and proposes its own list of candidates for the consideration of the President of the Human Rights Council. The Group's recommendations must be public and substantiated.

When determining the necessary expertise, experience, skills and other relevant requirements for each vacant mandate, the Consultative Group takes into account, as appropriate, the views of stakeholders, including the current or outgoing mandate-holders. The Consultative Group is assisted by OHCHR.

³ See also Human Rights Council decision 6/102.

Appointment of mandate-holders

On the basis of the Consultative Group's recommendations and following broad consultations, the Council's President produces his/her own list, which identifies an appropriate candidate for each vacancy. This list is presented to the Council's member and observer States at least two weeks before the session and, if necessary, the President will conduct further consultations to ensure that her/his proposed candidates are endorsed. The appointment process is completed with the Council's approval of the President's list.

Annual meeting and Coordination Committee of the special procedures

Since 1994, annual meetings of special procedures mandate-holders, which take place in Geneva, have been organized as a follow-up to the **Vienna World Conference on Human Rights**. The **Vienna Declaration and Programme of Action**, adopted at the World Conference, underlined the importance of preserving and strengthening the system of special procedures and specified that special procedures should be enabled to harmonize and rationalize their work through periodic meetings.

The annual meeting is also an opportunity for mandate-holders to meet and exchange views with member States, the Bureau of the Human Rights Council, human rights treaty bodies, NGOs and other civil society actors, and representatives from the United Nations Secretariat and agencies and programmes on issues such as follow-up to their country visits and recommendations.

The **Coordination Committee of special procedures** was established at the twelfth annual meeting of special procedures mandate-holders in 2005. The Coordination Committee facilitates coordination between mandate-holders and acts as a bridge between the special procedures and OHCHR, the broader United Nations human rights system, and civil society actors.

The Coordination Committee is composed of six mandate-holders elected for a one-year term and is chaired by one of them.⁴ The election of its members takes place at the annual meeting and takes into account the need for regional and gender balance, and the need for a balanced representation of thematic and country special procedures mandate-holders on the Committee. The Coordination Committee is supported in its work by the Special Procedures Division of OHCHR.

How do the special procedures work?

Special procedures mandate-holders have a number of tools available to them to meet the terms of their mandates, including:

- Sending communications;
- Undertaking country visits;
- Publishing reports;
- Preparing thematic studies; and
- Issuing press releases.

⁴ *The previous Chairperson remains on the Committee for a further year ex officio.*

Mandate-holders are also guided in their work by the **Manual of the special procedures** and the **Code of Conduct for Special Procedures Mandate-holders**.

A. Code of Conduct and Manual of the special procedures

Code of Conduct for Special Procedures Mandate-holders

The **Code of Conduct for Special Procedures Mandate-holders** was adopted by the Human Rights Council in 2007. Its purpose is to make the system of special procedures more effective by defining the standards of ethical behaviour and professional conduct that special procedures mandate-holders must observe when discharging their mandates.

Manual of the special procedures

The **Manual of the special procedures**, produced by the mandate-holders, aims to provide guidance to mandate-holders in the performance of their roles. It also seeks to facilitate a better understanding of their work by all other stakeholders. The Manual tries to reflect good practices and to assist mandate-holders in their efforts to promote and protect human rights.

The Manual was originally adopted at the sixth annual meeting of special procedures mandate-holders in 1999. Since that time it has been revised to reflect the changing structure of the United Nations human rights machinery, new developments in relation to mandates and the evolving working methods of mandate-holders. For its latest revision, input was sought from Governments, NGOs and other stakeholders. The Manual is subject to periodic review and operates in consonance with the provisions of the Code of Conduct.

B. Communications

One of the main activities of special procedures mandate-holders is taking action on individual cases, based on information that they receive from relevant and credible sources (mainly civil society actors).

Interventions generally involve the sending of a letter to a Government (letter of allegation) requesting information on and responses to allegations and, where necessary, asking the Government to take preventive or investigatory action (urgent appeal). These interventions are known as “**communications**”.

Communications in 2007

A total of **1003** communications were sent in 2007
49 per cent of these were joint communications
2294 individual cases were covered; **13 per cent** of these concerned women
Governments responded to **52 per cent** of communications
A total of **128** countries received communications.

Urgent appeals are sent when the alleged violations are time-sensitive in terms of involving loss of life, life-threatening situations or either imminent or ongoing damage of a very grave nature to victims. **Letters of allegation** are sent when the urgent appeal procedure does not apply, to communicate information and request clarification about alleged human rights violations.

Mandate-holders may send joint communications when a case falls within the scope of more than one mandate. The decision of whether or not to intervene with a Government is left to

the discretion of special procedure mandate-holders and will depend on criteria established by them, as well as the criteria set out in the Code of Conduct. Mandate-holders are also required to take into account, in a comprehensive and timely manner, information provided by the State concerned on situations relevant to their mandate.

In their information-gathering activities, mandate-holders must:

- Be guided by the principles of discretion, transparency, impartiality and even-handedness;
- Preserve the confidentiality of sources of testimonies if divulging them could cause harm to the individuals involved;
- Rely on objective and dependable facts based on evidentiary standards that are appropriate to the non-judicial character of the reports and conclusions they are required to write; and
- Give representatives of the concerned State the opportunity to comment on their assessments and to respond to the allegations made against the State. The State's written summary responses are also to be annexed to the mandate-holder's report(s).

C. Country visits

Country or field visits (or fact-finding missions) are an important tool available to special procedures mandate-holders. Mandate-holders typically send a letter to a Government requesting to visit the country, and, if the Government agrees, an invitation to visit is extended. Some countries have issued “**standing invitations**”, which means that they are, in principle, prepared to receive a visit from any special procedures mandate-holder. Country visits are guided by the provisions contained in the Code of Conduct and the **terms of reference for fact-finding missions by special procedures**.⁵

Country visits allow mandate-holders to assess the general human rights situation and/or the specific institutional, legal, judicial and administrative situation in a given State, under their respective mandates. During these visits, they meet national authorities, representatives of civil society, victims of human rights violations, the United Nations country team, academics, the diplomatic community and the media.

On the basis of their findings, they make recommendations in public reports. These reports are submitted to the Human Rights Council. Some mandate-holders also hold press conferences and issue preliminary findings at the end of a country visit. The success of country visits is greatly enhanced by the commitment of the Government and the participation of civil society actors, before, during and after the visit, to support the work of the mandate-holder.

D. Reporting and contributing to the Human Rights Council

Special procedures mandate-holders are requested by the Human Rights Council to present annual reports in which they describe the activities undertaken during the previous year. In some circumstances, the Council may also request a mandate-holder to report on a specific

⁵ *The terms of reference for country visits were adopted at the fourth annual meeting (1997) of special procedures (E/CN.4/1998/45) and are intended to guide Governments in the conduct of country visits.*

theme or topic of interest to it. Reports are public and represent an authoritative tool for follow-up or advocacy in the mandate's area.

Annual reports contain information on working methods, theoretical analysis, general trends and developments with regard to the mandate and may contain general recommendations. Reports may also contain summaries of communications transmitted to Governments and the replies received. Reports on country visits are usually presented as addenda to the annual reports. Some mechanisms are requested to report to the United Nations General Assembly, which meets in New York from September to December each year.

Special procedures mandate-holders also contribute expertise to other aspects of the Human Rights Council's work.

Special session on the world food crisis

<p>In May 2008 the Special Rapporteur on the right to food, Mr. Olivier De Schutter, called on the Human Rights Council to hold a special session on the world food crisis. In response, the Council held</p>	<p>a special session on "the negative impact on the realization of the right to food of the worsening of the world food crisis, caused inter alia by the soaring food prices" on 22 May 2008.</p>	<p>The Special Rapporteur on the right to food attended and was actively involved in the special session, which was the first to be held on a thematic issue.</p>
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E. Thematic studies

Special procedures mandate-holders can also prepare thematic studies, which are useful tools to guide Governments, as well as civil society, on the normative content and implementation of human rights norms and standards. Mandate-holders also host and attend expert meetings on thematic human rights issues.

Thematic mandates

01 May 2015

<http://www.ohchr.org/EN/HRBodies/SP/Pages/Themes.aspx>

Title / Mandate	Mandate established		Mandate extended		Name & country of origin of the mandate-holder(s)	Contact
	in	by	in	by		
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	2000	Commission on Human Rights resolution 2000/9	2007	Human Rights Council resolution 6/27	Ms. Leilani FARHA <i>(Canada)</i>	srhousing@ohchr.org
			2010	Human Rights Council resolution 15/8		
			2013	Human Rights Council resolution 24/115 <i>(postponement of the renewal of the mandate)</i>		
			2014	Human Rights Council resolution 25/17		
Working Group of Experts on People of African Descent	2002	Commission on Human Rights resolution 2002/68	2003	Commission on Human Rights resolution 2003/30	Ms. Mireille Fanon Mendes-France <i>(France)</i> Chair-Rapporteur Mr. Ricardo III SUNGA <i>(the Philippines)</i> Ms. Verene SHEPHERD <i>(Jamaica)</i> Mr. Sabelo GUMEDZE <i>(South Africa)</i> Mr. Michal BALCERZAK <i>(Poland)</i>	africandescent@ohchr.org

			2008	Human Rights Council resolution 9/14		
			2011	Human Rights Council resolution 18/28		
			2014	Human Rights Council resolution 27/25		
Independent Expert on the enjoyment of human rights of persons with albinism	2015	Human Rights Council resolution 28/6			<i>Mandate-holder to be appointed at the 29th Human Rights Council session in June 2015</i>	
Working Group on Arbitrary Detention	1991	Commission on Human Rights resolution 1991/42	1997	Commission on Human Rights resolution 1997/50	Mr. Seong-Phil HONG <i>(Republic of Korea)</i> Chair-Rapporteur Mr. José GUEVARA <i>(Mexico)</i> First Vice-Chair Mr. Sètondji Roland Jean-Baptiste ADJOVI <i>(Benin)</i> Second Vice-Chair Mr. Mads ANDENAS <i>(Norway)</i> Mr. Vladimir TOCHILOVSKY <i>(Ukraine)</i>	wgad@ohchr.org
			2010	Human Rights Council resolution 15/18		
			2013	Human Rights Council resolution 24/7		

Special Rapporteur on the <u>sale of children</u>, child prostitution and child pornography	1990	Commission on Human Rights resolution 1990/68	2008	Human Rights Council resolution 7/13	Ms. Maud De BOER-BUQUICCHIO (the Netherlands)	srsaleofchildren@ohchr.org
			2011	Human Rights Council resolution 16/12		
			2014	Human Rights Council resolution 25/6		
Special Rapporteur in the field of <u>cultural rights</u>	2009	Human Rights Council resolution 10/23	2012	Human Rights Council resolution 19/6	Ms. Farida SHAHEED (Pakistan)	srculturalrights@ohchr.org
			2015	Human Rights Council resolution 28/9		
Independent expert on the promotion of a <u>democratic and equitable international order</u>	2011	Human Rights Council resolution 18/6	2014	Human Rights Council resolution 27/9	Mr. Alfred de ZAYAS (USA)	ie-internationalorder@ohchr.org
Special Rapporteur on the rights of <u>persons with disabilities</u>	2014	Human Rights Council resolution 26/20			Ms. Catalina DEVANDAS AGUILAR (Costa Rica)	sr.disability@ohchr.org
Special Rapporteur on the right to <u>education</u>	1998	Commission on Human Rights resolution 1998/33	2008	Human Rights Council resolution 8/4	Mr. Kishore SINGH (India)	sreducation@ohchr.org
			2011	Human Rights Council resolution 17/3		
			2014	Human Rights Council resolution 26/17		
Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable <u>environment</u>	2012	Human Rights Council resolution 19/10	2015	Human Rights Council resolution 28/11	Mr. John KNOX (USA)	srenvironment@ohchr.org

Working Group on <u>Enforced or Involuntary Disappearances</u>	1980	Commission on Human Rights resolution 20 (XXXVI)	2007	Human Rights Council resolution 7/12	Mr. Ariel DULITZKY <i>(Argentina/United States of America)</i> Chair-Rapporteur Mr. Bernard DUHAIME <i>(Canada)</i> Ms. Jasminka DZUMHUR <i>(Bosnia and Herzegovina)</i> Ms. Houria ES SLAMI <i>(Morocco)</i> Mr. Osman EL-HAJJE <i>(Lebanon)</i>	wgeid@ohchr.org
			2011	Human Rights Council resolution 16/16		
			2014	Human Rights Council decision 25/116 Human Rights Council resolution 27/1		
Special Rapporteur on <u>extrajudicial, summary or arbitrary executions</u>	1982	Commission on Human Rights resolution 1982/35	2011	Human Rights Council resolution 17/5	Mr. Christof HEYNS <i>(South Africa)</i>	eje@ohchr.org
			2014	Human Rights Council resolution 26/12		
Special Rapporteur on <u>extreme poverty and human rights</u>	1998	Commission on Human Rights resolution 1998/25	2011	Human Rights Council resolution 17/13	Mr. Philip ALSTON <i>(Australia)</i>	srextremepoverty@ohchr.org
			2014	Human Rights Council resolution 26/3		

Special Rapporteur on the right to <u>food</u>	2000	Commission on Human Rights resolution 2000/10	2010	Human Rights Council resolution 13/4	Ms. Hilal ELVER (Turkey)	srfood@ohchr.org
			2013	Human Rights Council resolution 22/9		
Independent Expert on the effects of <u>foreign debt</u> and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights	2000	Commission on Human Rights resolution 2000/82	2008	Human Rights Council resolution 7/4	Mr. Juan BOHOSLAVSKY (Argentina)	ieforeigndebt@ohchr.org
			2011	Human Rights Council resolution 16/14		
			2014	Human Rights Council resolution 25/16		
Special Rapporteur on the rights to <u>freedom of peaceful assembly and of association</u>	2010	Human Rights Council resolution 15/21	2013	Human Rights Council resolution 24/5	Mr. Maina KIAI (Kenya)	freeassembly@ohchr.org
Special Rapporteur on the promotion and protection of the right to <u>freedom of opinion and expression</u>	1993	Commission on Human Rights resolution 1993/45	2008	Human Rights Council resolution 7/36	Mr. David KAYE (USA)	freedex@ohchr.org
			2011	Human Rights Council resolution 16/4		
			2014	Human Rights Council resolution 25/2		
Special Rapporteur on <u>freedom of religion or belief</u>	1986	Commission on Human Rights resolution 1986/20	2007	Human Rights Council resolution 6/37	Mr. Heiner BIELEFELDT (Germany)	freedomofreligion@ohchr.org
			2010	Human Rights Council resolution 14/11		
			2013	Human Rights Council resolution 22/20		

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental <u>health</u>	2002	Commission on Human Rights resolution 2002/31	2010	Human Rights Council resolution 15/22	Mr. Dainius Pūras <i>(Lithuania)</i>	srhealth@ohchr.org
			2013	Human Rights Council resolution 24/6		
Special Rapporteur on the situation of <u>human rights defenders</u>	2000	Commission on Human Rights resolution 2000/61	2008	Human Rights Council resolution 7/8	Mr. Michel FORST <i>(France)</i>	defenders@ohchr.org
			2011	Human Rights Council resolution 16/5		
			2014	Human Rights Council resolution 25/18		
Special Rapporteur on the <u>independence of judges and lawyers</u>	1994	Commission on Human Rights resolution 1994/41	2008	Human Rights Council resolution 8/6	Ms. Gabriela KNAUL <i>(Brazil)</i>	srindependencejl@ohchr.org
			2011	Human Rights Council resolution 17/2		
			2014	Human Rights Council resolution 26/7		
Special Rapporteur on the rights of <u>indigenous peoples</u>	2001	Commission on Human Rights resolution 2001/57	2010	Human Rights Council resolution 15/14	Ms. Victoria Lucia TAULI-CORPUZ <i>(the Philippines)</i>	indigenous@ohchr.org
			2013	Human Rights Council resolution 24/9		
Special Rapporteur on the human rights of <u>internally displaced persons</u>	2004	Commission on Human Rights resolution 2004/55	2010	Human Rights Council resolution 14/6	Mr. Chaloka BEYANI <i>(Zambia)</i>	idp@ohchr.org
			2013	Human Rights Council resolution 23/8		
Working Group on the use of <u>mercenaries</u> as a means of violating	2005	Commission on Human Rights resolution 2005/2	2010	Human Rights Council resolution 15/12	Ms. Elzbieta KARSKA <i>(Poland)</i> Chair-Rapporteur	mercenaries@ohchr.org

human rights and impeding the exercise of the right of peoples to self-determination			2013	Human Rights Council resolution 24/13	Ms. Patricia ARIAS <i>(Chile)</i> Mr. Anton KATZ <i>(South Africa)</i> Mr. Gabor RONA <i>(USA/Hungary)</i> Mr. Saeed MOKBIL <i>(Yemen)</i>	
Special Rapporteur on the human rights of migrants	1999	Commission on Human Rights resolution 1999/44	2008	Human Rights Council resolution 8/10	Mr. François CRÉPEAU <i>(Canada)</i>	migrant@ohchr.org
			2011	Human Rights Council resolution 17/12		
			2014	Human Rights Council resolution 26/19		
Special Rapporteur on minority issues	2005	Commission on Human Rights resolution 2005/79	2008	Human Rights Council resolution 7/6	Ms. Rita IZSÁK <i>(Hungary)</i>	minorityissues@ohchr.org
			2011	Human Rights Council resolution 16/6		
			2014	Human Rights Council resolution 25/5		
Independent Expert on the enjoyment of all human rights by older persons	2013	Human Rights Council resolution 24/20			Ms. Rosa KORNFELD-MATTE <i>(Chile)</i>	olderpersons@ohchr.org
Special Rapporteur on the right to privacy	2015	Human Rights Council resolution 28/16			<i>Mandate-holder to be appointed at the 29th Human Rights Council session in June 2015</i>	

Special Rapporteur on the <u>promotion of truth, justice, reparation and guarantees of non-recurrence</u>	2011	Human Rights Council resolution 18/7	2014	Human Rights Council resolution 27/3	Mr. Pablo De GREIFF <i>(Colombia)</i>	srtruth@ohchr.org
Special Rapporteur on contemporary forms of <u>racism</u>, racial discrimination, xenophobia and related intolerance	1993	Commission on Human Rights resolution 1993/20	2008	Human Rights Council resolution 7/34	Mr. Mutuma RUTEERE <i>(Kenya)</i>	racism@ohchr.org
			2011	Human Rights Council resolution 16/33		
			2014	Human Rights Council resolution 25/32		
Special Rapporteur on contemporary forms of <u>slavery</u>, including its causes and its consequences	2007	Human Rights Council resolution 6/14	2010	Human Rights Council resolution 15/2	Ms. Urmila BHOOLA <i>(South Africa)</i>	srslavery@ohchr.org
			2013	Human Rights Council resolution 24/3		
Independent Expert on human rights and international <u>solidarity</u>	2005	Commission on Human Rights resolution 2005/55	2008	Human Rights Council resolution 7/5	Ms. Virginia DANDAN <i>(Philippines)</i>	iesolidarity@ohchr.org
			2011	Human Rights Council resolution 17/6		
			2014	Human Rights Council resolution 26/6		
Special Rapporteur on the promotion and protection of human rights while countering <u>terrorism</u>	2005	Commission on Human Rights resolution 2005/80	2010	Human Rights Council resolution 15/15	Mr. Ben EMMERSON <i>(United Kingdom of Great Britain and Northern Ireland)</i>	srct@ohchr.org
			2013	Human Rights Council resolution 22/8		

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	1985	Commission on Human Rights resolution 1985/33	2008	Human Rights Council resolution 8/8	Mr. Juan Ernesto MENDEZ <i>(Argentina)</i>	sr-torture@ohchr.org
			2011	Human Rights Council resolution 16/23		
			2014	Human Rights Council resolution 25/13		
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	1995	Commission on Human Rights resolution 1995/81	2011	Human Rights Council resolution 18/11	Mr. Baskut TUNCAK <i>(Turkey)</i>	srtoxicwaste@ohchr.org
			2012	Human Rights Council resolution 21/17		
			2014	Human Rights Council resolution 27/23		
Special Rapporteur on trafficking in persons, especially women and children	2004	Commission on Human Rights resolution 2004/110	2008	HRC resolution 8/12	Ms. Maria Grazia GIAMMARINARO <i>(Italy)</i>	srtrafficking@ohchr.org
			2011	HRC resolution 17/1		
			2014	HRC resolution 26/8		
Working Group on the issue of human rights and transnational corporations and other business enterprises	2011	Human Rights Council resolution 17/4	2014	HRC resolution 26/22	Mr. Michael K. ADDO <i>(Ghana)</i> Chair-Rapporteur Mr. Puvan J. SELVANATHAN <i>(Malaysia)</i> Mr. Pavel SULTYANDZIGA <i>(Russian Federation)</i> Ms. Margaret JUNGK <i>(USA)</i> Mr. Dante PESCE <i>(Chile)</i>	wg-business@ohchr.org

Special Rapporteur on the negative impact of <u>unilateral coercive measures</u> on the enjoyment of human rights	2014	Human Rights Council resolution 27/21		HRC resolution 27/21 Corr.1	Mr. Idriss JAZAIRY <i>(Algeria)</i>	ucm@ohchr.org
Special Rapporteur on the human right to safe drinking <u>water</u> and sanitation	2008	Human Rights Council resolution 7/22	2011	HRC resolution 16/2	Mr. Léo HELLER <i>(Brazil)</i>	swatsan@ohchr.org
			2013	HRC resolution 24/18		
Working Group on the issue of discrimination against <u>women in law and in practice</u>	2010	Human Rights Council resolution 15/23	2013	HRC resolution 23/7	Ms. Emna AOUIJ <i>(Tunisia)</i> Chair-Rapporteur Ms. Frances RADAY <i>(Israel/United Kingdom)</i> Ms. Eleonora ZIELINSKA <i>(Poland)</i> Ms. Kamala CHANDRAKIRANA <i>(Indonesia)</i> Ms. Alda FACIO <i>(Costa Rica)</i>	wgdiscriminationwomen@ohchr.org
Special Rapporteur on violence against <u>women</u>, its causes and consequences	1994	Commission on Human Rights resolution 1994/45	2008	HRC resolution 7/24	Ms. Rashida MANJOO <i>(South Africa)</i>	vaw@ohchr.org

HUMAN RIGHTS TREATY BODIES

The human rights treaty bodies are committees of independent experts that monitor implementation of the core international human rights treaties. They are created in accordance with the provisions of the treaty that they monitor. There are nine human rights treaty bodies and the Subcommittee on Prevention of Torture (SPT). Following is the list of the main treaty bodies:

1. **The Human Rights Committee** : Monitors implementation of the *International Covenant on Civil and Political Rights* (1966) and its optional protocols
2. **The Committee on Economic, Social and Cultural Rights (CESCR)**: Monitors implementation of the *International Covenant on Economic, Social and Cultural Rights* (1966)
3. **The Committee on the Elimination of Racial Discrimination (CERD)**: Monitors implementation of the *International Convention on the Elimination of All Forms of Racial Discrimination* (1965)
4. **The Committee on the Elimination of Discrimination Against Women (CEDAW)**: Monitors implementation of the *Convention on the Elimination of All Forms of Discrimination against Women* (1979) and its optional protocol (1999)
5. **The Committee Against Torture (CAT)**: Monitors implementation of the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment* (1984)
6. **The Committee on the Rights of the Child (CRC)**: Monitors implementation of the *Convention on the Rights of the Child* (1989) and its optional protocols (2000)
7. **The Committee on Migrant Workers (CMW)**: Monitors implementation of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families* (1990).
8. **The Committee on the Right of Persons with Disabilities (CRPD)**: Monitors implementation of the *International Convention on the Rights of Persons with Disabilities* (2006).
9. **The Committee on Enforced Disappearance (CED)**: Monitors implementation of the *International Convention for the Protection of All Persons from Enforced Disappearance* (2006)

WORKING OF TREATY BODIES

The treaty bodies perform a number of functions in accordance with the provisions of the treaties that created them. These include the following:

Consideration of State parties' reports

When a country ratifies one of these treaties, it assumes a legal obligation to implement the rights recognized in that treaty. It also incurs an additional obligation to submit regular reports to the monitoring committee set up under that treaty on how the rights under the treaty are being implemented. This system of human rights monitoring is common to most of the UN human rights treaties. To meet their reporting obligation, States must report submit an initial report usually one year after joining (two years in the case of the CRC) and then periodically in accordance with the provisions of the treaty (usually every four or five years). In addition to the government report, the treaty bodies may receive information on a country's human rights situation from other sources, including non-governmental organizations, UN agencies, other intergovernmental organizations, academic institutions and the press. In the light of all the information available, the Committee examines the report together with government representatives. Based on this dialogue, the Committee publishes its concerns and recommendations, referred to as "*concluding observations*".

Consideration of individual complaints or communications

In addition to the reporting procedure, some of the treaty bodies may perform additional monitoring functions through three other mechanisms: the inquiry procedure, the examination of inter-state complaints and the examination of individual complaints. Four of the Committees (CCPR, CERD, CAT and CEDAW) can, under certain conditions, receive petitions from individuals who claim that their rights under the treaties have been violated.

General Comments

The Committees also publish their interpretation of the content of human rights provisions, known as 'general comments' on thematic issues or methods of work.

HUMAN RIGHTS EDUCATION: WHAT? FOR WHOM? AND WHY?

Nancy Flowers

The mandate for human rights education is unequivocal. The Preamble to the Universal Declaration of Human Rights (UDHR) exhorts “every individual and every organ of society” to “strive by teaching and education to promote respect for these rights and freedoms.” The International Covenant on Civil and Political Rights (ICCPR) declares that a government “may not stand in the way of people learning about [their rights].” The UN has declared 1995-2004 the Decade for Human Rights Education. Even states that oppress their citizens don’t dispute that knowledge about human rights is itself a human right. Controversy begins, however, when one moves to specifics like what to teach, to whom, and why.

What do people need to know about human rights? The way a society answers that questions has far-reaching effects on how its people live.

In my own country, the USA, most people would say, “Know the US Constitution and Bill of Rights.” No one can graduate from a US high school without passing a course on the Constitution, but this document omits all social and economic rights, even education. Consequently most Americans believe human rights are only civil and political. A recent survey by Human Rights USA, an NGO dedicated to educating about human rights, showed that 93% of people in the USA have never even heard of the UDHR, much less Article 25 that guarantees them “a standard of living adequate for the health of himself [sic] and of his family, including food, clothing, housing and medical care and necessary social services.” With this limited perspective, not only does the average US citizen not recognize hunger and housing as human rights issues, but neither do most advocates for the hungry and the homeless.

By contrast, in some countries human rights are equated with so-called “fundamental rights”: the rights to survival and the necessities of life.

As a former African dictator said as he suspended civil and political rights, “‘One man, one vote,’ is meaningless until accompanied by the principle of ‘One man, one bread.’” According to these “Fundamental Rightists,” until such basic requirements are met, knowing about other rights is irrelevant. The danger is, of course, that only those in power can determine when the country is “ready” to learn about civil rights or women’s rights or environmental rights. The wait is always a long one!

The “Romantic Rightists” also consider formal human rights education superfluous because in their view, “People know their human rights intuitively.” According to them, human nature and human need define human rights, and we know these “in our hearts.” The pitfalls of this position are all too evident, relying as they do on the same kind of vague “natural law” or “God-given rights” that might equally persuade people of their racial superiority or justify invading another country. Furthermore, those who claim their human rights on such subjective grounds are easily dismissed, especially by the “Legalists.”

These “Legalists” say, “Know international human rights law.” Not surprisingly, most of them are lawyers! In their view, if you can’t tell an optional protocol from a claw-back

clause, you can't know about human rights. Certainly the evolving body of law is essential to the establishment of universal human rights. However, the strictly legal approach devalues the real-life stories and struggles of ordinary people, nor does it help them to frame personal experience in human rights terms. Instead it cultivates a small elite of experts and disempowers potential activists.

My own response to this question is the equivocal "a little of everything": people need to be able to grasp human rights on the emotional as well as the intellectual level, and to bring their own life experience to bear on questions of priorities and principles.

For me, the Universal Declaration of Human Rights (UDHR) is at the core of all human rights education. Unlike subsequent and increasingly technical documents, everyone can understand and cherish the UDHR. It has symbolic and practical significance as the constitution of the whole human rights movement, and its grand simplicity of language and inspiring vision are accessible to people of all ages and conditions. It has not only legal authority but also poetic power.

Once grounded in the UDHR, most people will recognize what else they need to learn. Usually people want to know what local, national, and regional law reinforces their human rights and how to use it to call violators to account. They often want information about persons and agencies responsible for promoting and protecting human rights. The job of the educator becomes less to teach than to help locate the resources people needed to inform themselves.

Who needs to know about human rights?

The simple answer, of course, is everyone. However, for some groups human rights education is especially critical.

- ❖ Young children: Educational research shows conclusively that attitudes about equality and human dignity are largely set before the age of ten. Human rights education cannot start too young. Indeed, some of the most inspired and effective human rights educators are found in primary school classes.
- ❖ Teachers: A few enlightened countries require all licensed teachers to pass an examination on human rights, but these are very rare indeed. Most teachers receive no training in human rights, not even the rights of children, to whom they devote their careers. Human rights should be part of every teacher's professional training!
- ❖ Doctors and nurses, lawyers and judges, social workers, journalists, police, and military officials: Some people urgently need to understand human rights because of the power they wield or the positions of responsibility they hold, but even the elite of society seldom receive human rights education, formally or informally. Most human rights advocates acquire their knowledge and skills only by self-teaching and direct experience. Human rights courses should be fundamental to the curriculum of medical schools and law schools, universities, as well as police and military academies.

- ❖ Especially vulnerable populations: Human rights education must not be limited to formal schooling. Many people live far from any administrative centres, and many more never attend school. Yet they, as well as refugees, minorities, migrant workers, indigenous peoples, the disabled, and the poor, are among the most powerless and vulnerable to abuse. Such people have no less a right to know their rights and a far greater need. Only by working in collaboration with these vulnerable groups can human rights educators develop programs that accommodate their needs and situations. The techniques of popular education -music, street theatre, comic books, alternative media, and itinerant story tellers -can help to connect human rights to people's lived experience.
- ❖ Public office holders, whether elected or appointed: In a democracy no one can serve the interests of the people who does not understand and support human rights. People should require all candidates for election, from the head of state to the local council member, to make a public commitment to human rights. And human rights should be included in the orientation of all new office holders.

What is the goal of learning about human rights?

Human rights education means much more than learning about human rights, i.e. information about its history, documents, and implementation. It also means education for human rights: understanding and embracing the principles of human equality and dignity and the commitment to respect and protect the rights of all people.

Education for human rights also includes the skills for advocacy and action, such as analyzing situations in human rights terms and strategizing appropriate responses to injustice. Only a few may become activists, but everyone needs to know that human rights can be promoted and defended on an individual, collective, and institutional level.

The ultimate measure of human rights education is how people live their daily lives. What Eleanor Roosevelt observed on the tenth anniversary of the UDHR is no less true in this fiftieth anniversary year:

“Where, after all, do universal rights begin? In small places, close to home [...] Unless these rights have meaning there, they have little meaning anywhere. Without concerned citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

But to uphold their rights, concerned citizens need first to know them. “Progress in the larger world,” must start with human rights education in just those “small places, close to home.”

Source: Flowers, Nancy “Human Rights Education: What? For Whom? And Why?” in Speaking about Rights, Vol. XIII No. 3, 1998.

http://www.chrf.ca/english/publications_eng/files/newsletter/vol13_no3_article.htm

HUMAN RIGHTS EDUCATION AND TEACHER TRAINING

Guidelines for a human rights education methodology¹

When a human rights program is added to the curriculum, it should clearly identify what will be taught, who will teach it and what teaching tools will be used. In other words, a cross-cutting program names certain teachers to serve as pivots, while a discipline-based program assigns teachers to the newly created slots in the curriculum. The next step is to decide what background training they need and whether they have received such training. In view of the cross-cutting nature of human rights material, all teachers should understand why human rights instruction is necessary and important. They will need to agree on certain central concepts and basic information that will provide a common standard for evaluating daily institutional practices. Certain teachers should develop more in-depth knowledge and be in a position to serve as resources or coordinators within the institution.

Faculty members specialized in teaching social sciences (such as history, philosophy, law) are already knowledgeable about human-rights related subjects and tend to have a natural inclination for this subject. Nevertheless, their training is generally geared to imparting knowledge of their specific discipline, and they may find it difficult to adopt the pluralistic perspective demanded by the multidisciplinary nature of human rights.

Those who have chosen other areas of knowledge (especially mathematics or natural sciences) may be very willing, but their knowledge of human rights has been acquired informally, through their own concerns and experiences.

If new curricular content is to be introduced in a meaningful way, cutting across other disciplines, teachers need to be equipped with information, conceptualization and working approaches they can use to re-signify the material in their particular subjects and lend them a human rights perspective.

Schools that create a specific curricular slot for human rights (separately or as part of another subject) will also need to provide specialized instruction on human rights to teachers who come from a variety of disciplinary backgrounds.

In short, human rights education can be incorporated truly and effectively into the school curriculum only in the presence of *training programs for practicing teachers* and the *inclusion of human rights in basic education for future teachers*.

Training programs should approach human rights precepts from a multidisciplinary perspective. They should impart teaching methods appropriate to each level of learning and offer instruments for analyzing the overall social setting and the environment in educational institutions where curriculum enhancement will take place.

Klainer, Rosa y Farina, Mabel (2006)

This section is based on the vast experience the IIHR has acquired in the field of HRE as collected in texts, manuals, articles and reports. It also contains contributions from the document *Propuesta Marco para el Mejoramiento de la Educacion en Derechos Humanos en America Latina* that the IIHR commissioned from Rosa Maria Mujica. Finally, it draws on references from a number of articles by Abraham Magendzo and Ana Maria Rodino. The text was compiled by Randall Brenes, Program Officer in the IIHR Education Unit.

Guidelines for a Human Rights Education Methodology²

Any school that decides to implement a curriculum for human rights education needs to break away from certain pedagogical paradigms. Most of these paradigms, reflecting a legacy of authoritarian and vertical patterns that persist in the formal educational systems of Latin America, are built on models and practices incompatible with human rights. Unless schools make such a break, their efforts will not pass even the most basic test of effectiveness. This poses complex challenges. Teachers may need to rethink their work from the perspective of human rights while still keeping sight of the ultimate purpose of their educational endeavors, that is, to help their students develop the skills and abilities they will need to become citizens in democracy.

Human rights education lacks a monolithic, immutable, finished methodology, "but it does have an array of well-founded and tested pedagogical principles derived from the very nature of this knowledge -- simultaneously a way to be, live and coexist."³ Some of these principles are discussed below. While this list does not claim to be the last word, it can be considered a sufficient basis for re-creating and adapting an appropriate methodological model for HRE. Because many of these principles interact and dovetail, the model tends to be systemic. It would be unwise to pick and choose certain items while discarding others, without first considering their degree of interaction and interdependence.

These principles were implicit throughout the earlier chapters of this proposal, including the conceptual framework and the curricular tables. However, because they should be stated explicitly, this section will discuss their deeper meaning.

Human Rights Education is comprehensive

This has several implications. First, from the subjective standpoint, the participants in education (students, teachers and any other member of the educational process) need to be understood as comprehensive beings, each one "a biological, psychological and social unit, and thus the bearer of intellectual, psycho-affective, socio-affective, organic and motor possibilities that must be addressed with equal intensity and attention."⁴ It is important to acknowledge each person's individuality and appreciate the intrinsic value this implies.

The comprehensiveness of human rights, by definition, is also objective. This means that human rights education needs to be conceptualized as a normative system and practiced as a set of ethical principles, free from the artificial divisions that make certain norms more important than others. Instead, the infringement of any of these rights affects the system as a whole. Human rights doctrine does establish certain divisions based on the diverse degrees of development and the particular characteristics of certain rights, as well as differences in the respect for and protection of these rights. However, a methodology for

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human rights education needs to address them all equally and seek closer interaction and interdependence between civil and political rights and economic, social and cultural rights.

This is accomplished not only through intellectual effort, but also and especially, through practical activities by which students can truly internalize this notion of human rights.⁵

Human Rights Education is interdisciplinary

Human rights comprise a highly complex body that cannot be appropriated or conceptualized under any single discipline. Legal analysis is a good start; but it needs to be developed alongside many other perspectives, including anthropological, sociological, historical, psychological, economic and any other type of analysis that will produce a better understanding of these rights. At the same time, this principle correctly encourages a conception of human rights education as a cornerstone of modern education, because it penetrates all fields of knowledge and it can (and should) be addressed in all subject areas, each one through its own specific lens. Human rights education thus becomes a hub that brings together many different fields of knowledge in the educational arena by offering a common ethical platform.

Human Rights Education is democratic

Both doctrine and the analysis of real-world conditions point to a consubstantial relationship between democracy, rule of law and human rights. A methodological proposal for human rights education must offer resources by which to understand the practical consequences of this inter-relationship and find ways to express it in the daily life of every individual. Neither in content nor in practice can human rights education ignore issues of democracy. This means that teaching should focus on the political, social and legal facets of the democratic system and rule of law, and must also adopt practices inspired in these elements. The methodology should therefore include activities that will foster the internalization of democratic principles of coexistence and help students develop skills for political participation, dialogue and peaceful settlement of conflicts.

Human Rights Education is holistic

Human rights education, contrary to common perception, suggests no discord between intellect and feelings. To the contrary, it is a careful combination of the two resulting from a consciously designed strategy to develop skills for solving ethical dilemmas and implementing behaviors, always consistent with principles that inspire human rights. Human rights education instigates an intellectual effort to understand many fields of knowledge, including laws and institutions. It also addresses the emotional side through a process of sensitizing individuals to daily transgressions of human rights, how they affect us all, and what role each person can play. Thus, human rights are more than mere knowledge; they are also the feelings that nurture action to strengthen the exercise of rights in daily life. In the

The IHHR, which upholds the comprehensive nature of human rights as one of its defining principles, recommends that any educational proposal based on classifications contrary to this precept should be handled with great care. For example, classifying rights into separate "generations" may lead to error by implying a hierarchy of rights. Such a classification, often built on pedagogical arguments, has no convincing basis in history, law or philosophy.

words of Magendzo, "knowledge is much more than mere information, also incorporating relationship and behavior, feelings and actions, values and experiences developed in connection with human rights."⁶

Human Rights Education is deliberate

The human rights education methodology is neither fortuitous nor spontaneous (even though spontaneity is a valid resource in concrete daily practice). It starts with strategic planning, both conscious and intentional, and pursues concrete objectives through a true educational process. In human rights education, nothing is left to chance or improvisation. It requires careful identification of needs, resources, objectives, practices and activities, along with the possibility of continuous improvement.

Human Rights Education is meaningful

"If we truly understand human rights, we recognize that they are present in the here and now, from the most nearby events to the most far-flung; in situations of personal life and in the local community; in the problems of our own country and of the region and the world. If we understand human rights, we know that the life and happiness of real people are at stake in defending and promoting these rights. If our teaching fails to convey the personal meaning of human rights for each and every student, learning will never move beyond mechanical repetition."⁷ From this perspective, human rights education begins with some real life-situation, whether nearby or distant, that is relevant to the learners. With time, students will come to understand the ways in which this real-life situation affects them. This is why the educational process is constantly on the lookout for new resources that will enlighten students about the human rights implications of current facts and circumstances. Innovative activities can then be introduced to develop skills for argumentation, analysis and problem solving.

Human Rights Education is inspired in values and built on a body of norms

Human rights education focuses primarily on developing skills for peaceful coexistence based on certain values. These same values are the bedrock that sustains human rights standards set forth in international instruments and national legislation. The methodology for human rights education cannot be limited to developing strictly technical and legal skills or to a model based on rote memory without translating these skills into real behaviors and permeating the daily life of students. Nor can it engender abstract analysis of values without developing skills for interpreting reality or laying a firm foundation for the daily exercise of these values. Students need to understand the importance and usefulness of substantive and procedural laws by which rights can be defended and protected; they also need to translate these laws into ethical principles for day-to-day living in the family, school and community. The legal and axiological dimensions of human rights need to be woven through the entire educational strategy.

Inter-American Institute of Human Rights and Amnesty International, *Carpeta Latinoamericana de Materiales Didacticos para Educacion en Derechos Humanos*, (5th reprint) 2001, pg. 8.
Rodino, Ana Maria. Ibid.

Human Rights Education is problem-oriented and challenges reality

"It is important to introduce human rights in the context of the students' own tensions and conflicts. They need to see the contradictions and inter-working of values, interests and power play." ⁸ Human rights education can be neither neutral nor aseptic; inevitably, it challenges reality. It forces us to accept the contradictions and dilemmas that are always present when we speak of human rights. It should shed light on both the achievements and the unfinished business in democracy and human rights. The idea is to develop skills for understanding, interpreting and reinterpreting reality. Students learn to identify causal chains, effects and possible solutions to problems that in today's world take shape as violence, poverty, inequality, exclusion, and more. This is why human rights education can help overcome what Paulo Freire correctly called "bank-style education" that breaks down and dismembers knowledge; instead, it seeks a comprehensive form of education that equips students to identify processes and relationships among facts.

Human Rights Education is action-oriented

Human rights education -- like human rights work in general -- cannot and must not circumscribe itself to a mere critical description of reality. It must trigger problem-solving proposals for real issues, taking into account the true potential of the target group. If we focus only on sensitizing our students to the ways in which breaches of human rights affect us all, we could create a very counterproductive sense of despair. We must never forget that human rights education is primarily a transformer of attitudes that, in turn, transform realities. Our work needs to point always in this direction through activities for social outreach inside and outside the confines of the school.

Human Rights Education promotes solidarity

Human rights education takes place by, with and through other people. It is not and can never be a solitary endeavor. It requires group commitment, in the understanding that all individuals are necessary and their personal contributions enrich everyone else. It should also foster an awareness of others' problems, leading to a clear perception of our own responsibilities and a commitment to undertake concrete actions that will lead to solutions. This methodology encourages groups to work out their own solutions to problems affecting themselves or others, always on a footing of equality, respect and recognition of the dignity of persons. All this takes place on the premise that we are all affected by human rights problems, and therefore, we all stand to gain if they are solved.

Human Rights Education is consistent

More than any other school subject, human rights education needs a methodology that is absolutely consistent with the principles it teaches. Inconsistencies between substance and method will work at cross purposes and undermine all our efforts. Rights cannot be taught in ways that violate them. Teaching activities must constitute a continuous, daily reaffirmation of the purpose and object of human rights. Again in the words of Paulo

Magendzo K., Abraham, "Hacia una pedagogía de los derechos humanos desde la comprensión del conocimiento de los derechos humanos", IPEDEPH, Lima, Peru, 2001, pg. 4.

Freire, it is a question of "consistency between the words we use to discuss and present this option, and our practice that should confirm what we say." ⁹

Human Rights Education is tolerant and pluralistic

Tolerance presupposes that we accept and defend differences. It is not enough merely to put up with one another; instead we create conditions whereby diversity can be expressed and preserved under the assumption that it enriches the educational process. From this perspective, human rights education must avoid any attempt to homogenize, which destroys or masks true identity. Even so, life in a pluralistic community calls for certain areas of compromise by which all members of a group or community accept at least certain minimum standards of coexistence; their common ground is a commitment to defend and improve this model. The group cannot be tolerant of anyone who undermines the consensus-based system of social interaction or who practices intolerance of others, as tolerance is a value associated in practice with reciprocity. Educational solutions to conflicts of this kind need to be consistent with human rights. Activities and other educational tactics based on dialogue and consensus can be used to transform discordant attitudes into opportunities for these students to assume a constructive role as active members of the group, without losing their own individuality and personal characteristics.

Human Rights Education is liberating

As students learn to identify the ways in which human rights have been limited or breached, they need to engage in a process of dialogue and personal reflection. They must face their own particular situations and consider not only how their own rights are being infringed, but also how they themselves tend to infringe the rights of others. This process is not a matter of simple acceptance, but of rectifying situations and attitudes; it is eminently liberating. It teaches people to identify arbitrary constraints on freedom, refrain from impinging on the freedom of others, and actively defend their own freedom and that of others.

Human Rights Education engenders responsibility

Human rights education does not seek wanton freedom for all individuals, as that kind of *freedom* would contradict human rights themselves. One of the fundamental challenges of human rights education is to help people identify and mark out the arena of their own freedom, whose boundaries are set by the arenas of others. The idea is to educate them in the use of their freedom, showing them the consequences of their actions and the obligation to assume those consequences, instead of simply punishing transgressions and prohibiting without explanation. It is not an education that promotes chaos and disorder or flouts legitimate authority. Quite the contrary, it "promotes collective development of rules (...) and the use of more effective instruments for guaranteeing that rules are respected." ¹⁰ The idea is to use the classroom as a place for emulating the kind of political, social and

Inter-American Institute. ...Ibid., pg. 13.
Mujica, Rosa Maria, op.cit.

legal interaction on which social coexistence is built, so that students are prepared to live and coexist peacefully in the wider world.

Human Rights Education promotes socialization

By definition, the school is a place where people learn the rules for coexistence in society. However, this social structure may assume a variety of shapes and pursue different purposes. The idea of human rights education is to build societies that are more peaceful, just and cohesive as the outcome of a rational, carefully considered educational process. To do this, schools can undertake concrete actions to facilitate respectful, constructive, democratic interactions among individuals. If this is done, human rights education will point the way toward a specific type of society.

Human Rights Education is reality-based

The human rights education methodology is not a straitjacket that discourages schools from exploring other possibilities or disallows their attempts to address different realities. In line with its underlying principles, including recognition of diversity, human rights education must always be ready to adapt and readapt when faced with unexpected situations, places and times. Reality is ever-changing and constantly poses new challenges for the defense of human rights. Education must be open to these fast-moving changes, at risk of becoming irrelevant.

Incidentally, adaptation to reality is not limited to external circumstances that affect the object of study, but also involves the teaching resources being used. Human rights education, to the extent it is able, must avail itself of modern technological tools that hold unprecedented potential to facilitate learning. These include the Internet, multimedia resources and audiovisual aids, together with such traditional resources as music or television. It is not a matter of simply exploring new teaching resources; the world of children and young people (their music, their favorite programs, their games) need to be brought into the classroom, given meaning, and placed under analysis from the perspective of human rights.

Human rights education, as we have been saying, is a complex process that transcends mere theoretical conceptual content. If we understand it as an ongoing process aimed at changing attitudes and developing skills, we cannot disassociate it from each individual's daily life in all its manifestations. This is why it is so critical for teachers, school principals, curriculum specialists and other employees and partners in the educational system to understand that the way we teach is just as important as the content we impart. The one can never be removed from the other; they must work together jointly and consistently. This is the main reason why these principles need to be articulated and explained.

In short, while human rights education can certainly revolve around a single specific subject, it is in fact a constant, uninterrupted learning process. Human rights must be poured into the school as a daily practice, washing through academic affairs and flooding informal relationships. This means that the practice of human rights needs to be absolutely consistent

as it permeates the entire school, not just as an academic subject, but as principles for life in society.

The resounding implication is that the principles described herein are valid for application in all educational endeavors, and as much as possible, should be adopted as such. Some teachers may find it difficult to pinpoint any clear relationship, for example, between their mathematical theorems and the concepts of human rights. But they can all understand that the way they treat their students, the way they treat themselves and the way they promote relationships in the group constitute an eminently educational domain associated with human rights education. This methodology is the outcome of a comprehensive educational vision seeking to create and strengthen a school environment that is democratic, tolerant, respectful of human dignity and serious about developing a democratic citizenry.

Again, there is no one way or universal recipe that can be applied mechanically for teaching human rights. However, many principles can be drawn from the teaching practices of countless anonymous educators who have devoted their greatest effort to promoting and practicing human rights education at the most widely diverse levels, places and circumstances. Here we have collected many, although probably not all, of these lessons learned.

Human Rights Education in Indian Schools: An Overview

At the outset...

The Institute of Human Rights Education is a program of People's Watch — Tamil Nadu, a human rights organization involved in human rights monitoring, intervention and campaign. We in People's Watch began our journey on 10th December 1995 in the historic city of Madurai, Tamil Nadu with the aim of inculcating human rights culture as a value in our society; for this ambitious task, People's Watch has organized various training programmes across the state to various stake holders. However, never was human rights education a prime focus of its initial efforts. But very soon, human rights education became an inextricable part of People's Watch.

The beginning of this glorious journey was more of a poetic one than a conventional kick off. It was in 1996, in an upcoming industrial town - Dindigul of southern Tamil Nadu, we had our training programme at the ICM centre. This training was for women activists who were working among toiling women across the state. The purpose was to spread awareness and equip them while women face blatant violations of their basic rights. In other words, imparting the fundamental message that intervention is indeed an integral part of human rights knowledge was the prime focus of the programme. At the end of the five day programme some of our participants who were teachers from various schools, had thrown up most intriguing and thought provoking questions that we had never anticipated. "We do agree that we must intervene when violations take place; but by virtue of our position as government employees, we are deterred from legally intervening by taking up the issue as we need to get official permission to pursue these matters. Is it possible to have alternate ways to show our commitment to this issue?" Those teachers not only posed questions, in fact offered a few options too. The suggestion from those teachers was to introduce human rights to our young school children. This option was indeed the beginning of this noble journey. What we have today as a grand national programme came up in a small meeting at an unassuming town. By then, the UN had declared the Decade for Human Rights Education (1995-2004) and the Government of India also ratified it. Hence we did not find any obstacle to embark upon this most illustrious journey.

The objective of promoting human rights culture is achieved mainly through human rights education activities and awareness programs. Efforts are made to reach out to as many segments of the civil society as possible through various training programs. The pilot program on HR education in schools held in Chennai in the year 1997 has paved the way for the expansion of this program in a variety of schools with different backgrounds. In the past six years, more than 0.1 million children from 1958 schools have been reached and about 2000 teachers have been trained for this purpose. We have been taking efforts to expand this program to all Government schools and colleges in Tamil Nadu before the completion of the UN Decade for HR Education in 2005. Besides this, we have been providing training programs to human rights defenders, activists, NGOs, Movements, Political parties, police

officers, lawyers, law college students, medical professionals, media professionals and others. We have also completed a South Asian level training program on human rights intervention in December 2002.

Understanding Human Rights Education...

The UN Decade for Human Rights Education is based upon the provisions of the International Human Rights Instruments with particular reference to those provisions addressing Human Rights Education, including Article 26 of the Universal Declaration on Human Rights, Article 13 of the International Convention on Economic, Social and Cultural Rights, Article 29 of the Convention on the Rights of the Child, Article 10 of the Convention on Elimination of all Forms of Discrimination against Women, Art. 7 of the Convention on Elimination of all Forms of Racial Discrimination, Paragraphs 33 and 34 of the Vienna Declaration and Paragraphs 78 to 82 of the Vienna Program of Action. All these international instruments have highlighted the need for the promotion of human rights education to spread the ideals of human rights to the society at large. The UN Decade of Human Rights Education 1995-2004 is an opportunity for concerted and collective action to promote the concept of human rights through education interventions. We have grabbed this opportunity to push the agenda of human rights education in educational institutions especially in schools so that we could reach out to many children and make policy interventions at the government level so that these interventions can be institutionalized through the state intervention.

India is a signatory to the United Nations Decade for Human Rights Education. The UN Action Plan for Human Rights Education places the primary responsibility on the state. However in the decade as well subsequent World Program for Human Rights Education (2005-2007) declared by United Nations, it was again the Civil Society, which has taken the lead role rather than the state. National Human Rights Commission, which can definitely systematically operate to influence the present scenario of human rights education, has constituted a **National Task Force for Human Rights Education in which the Chairperson of Institute of Human Rights Education is a member.**

Present education system claims that the curriculum includes all human rights values and everything is internalized. However the text book audits suggest that this is a farce. Textbooks are taking different colors now. Politicization of education has led to lot of discrepancies, which has led to utter denial of existence of violations or power structures within the society. When a child realizes that the reality is different than what he/she reads in the textbook, she is unable to question the oppressive structures or even their existence. The education system makes them mere spectators and silent participants.

Human Right Education by itself is a human right. It is the duty of the State to take all necessary measures to ensure the realization of this right. However this is a far cry when right to education itself is denied. Ultimately and ideally, Human Rights Education should be integrated into the curriculum of all forms of education: formal, informal, non- formal, university education.

National Programme for Human Rights Education in Indian Schools

The World Programme for Human Rights Education mandated by the United Nations makes it obligatory on the state and civil society organizations to introduce Human Rights Education in the school system. In pursuance of the objectives of the World Programme for Human Rights Education, the IHRE has initiated a National Programme of Human Rights Education in Schools in India from 2005.

The objectives of the National Programme for Human Rights Education in schools:

1. To promote the inclusion of human rights education and practice of human rights in the school system;
2. To support the development, adoption and implementation of comprehensive, effective and sustainable national human rights education strategies in school systems, and also beyond the campus;
3. To build effective and appropriate models of human rights education for school system, demonstrate their value and sustainability offering them as pilot programs in as many states of India as possible with the hope that the school system across the country will own it up sooner than later;
4. To provide guidelines on key components of human rights in the school system;
5. To support networking and cooperation among local, national, regional and international institutions;
6. To contribute to the improvement of quality of education in schools in terms of rights based teaching and learning processes and tools; learning environment; child-centred and participatory teaching and learning practices and processes; inclusive curriculum that sensitizes teachers and students and empowers them with knowledge and skill.

At the end of the UN Decade for HRE, the World Programme for Human Rights Education was introduced by the United Nations making it obligatory for the state and civil society organizations to introduce Human Rights Education in the school system. In pursuance of the objectives of the UN World Programme for Human Rights Education (2005-2009), the IHRE has initiated a National Programme for Human Rights Education in Schools in India from 2005 at the national level.

The National Programme of Human Rights Education was formally launched on November 26, 2005 in Madurai by Ms. Elena Ippolitti, a representative of the United Nations High Commissioner for Human Rights.

Geographical coverage:

The states where we are already working are: Orissa, West Bengal, Rajasthan, Tripura, Bihar, Gujarat, Chhattisgarh, Andhra Pradesh, Karnataka, Kerala, Maharashtra, Madhya Pradesh, Tamil Nadu, North Eastern States of Assam, Arunachal Pradesh, Manipur and Meghalaya.

The following table shows the state partners, number of schools covered, number of teachers trained and number of children who are studying human rights education in schools in each State:

National Program for Human Rights Education in Indian Schools

S.No.	State	State Partners	Schools	Students	Teachers
1	Orissa	IHRE (People's Cultural Centre, Bhubaneswar till July 4, 2008)	624	34966	689
2	West Bengal	Loreto Day School, Sealdah, Kolkata	70	15000	71
3	Tripura	Government Law College, Agartala	50	6500	50
4	Chhattisgarh	IHRE (Hidayatullah National Law University, Raipur till March 14, 2008)	49	5776	57
5	Rajasthan	Sophia Girls College, Ajmer	29	3200	40
6	Andhra Pradesh	People's Action for Rural Awakening (PARA), Ravulapalem	106	8500	106
7	Kerala	SICHREM, Trivandrum	55	10000	74
8	Karnataka	SICHREM, Bangalore	153	10300	218
9	Bihar	Asian Development Research Institute, Patna	60	7000	70
10	Gujarat	Centre for Social Justice, Ahmedabad	53	6000	90
11	Tamil Nadu	IHREI	2268	150000	2734
12	Maharashtra	SABRANG, Mumbai	50	6000	60
13	Madhya Pradesh	National Law Institute University, Bhopal	50	7000	65
14	North Eastern States (Assam, Meghalaya, Tripura, Arunachal)	Salesians of don Bosco-Dimapur & Guwahati Provinces of North East	52	15118	82

	Pradesh) Nagaland & Manipur yet to start				
Total			3669	285,360	4406

In every State, various stages were followed prior to teaching human rights. After the identification of the collaborating partners and state coordinators, various actions such as State Level Consultation, constitution of State Advisory Committee, State Implementing Committee and State Resource Team, identification of schools, training of the State Resource Team, HMs Meeting, Training of Teachers, State Launch of HRE, translation and printing of Modules, and so on were undertaken. Simultaneously, efforts were pursued to get the approval of the government for introducing HRE in schools. Advocacy at the national and state levels is an ongoing activity so that HRE becomes integral part of the regular school curriculum. While HRE is being taught, regular school visits, Teachers Review Meetings, Summer Training for Teachers, Celebrations of important days, interactions with HMs, teachers and pupils are carried out to facilitate and strengthen the process.

We have had varying experiences in our interactions with governments in states. In Karnataka and Orissa the state governments have been enthusiastic partners from the beginning. At the other end, in Gujarat and Rajasthan, ruled by the Bharatiya Janata Party, we were wary of directly seeking the support of the respective governments. In these two states, the programme is implemented by a civil society organization and a reputed women's college respectively, bringing in interested private schools. Even in these states government support is gradually being won.

A Glimpse of Human Rights Education in Tamil Nadu

As we all know by now that our humble journey to reaching out to school children and teachers across the country began from Tamil Nadu. Our efforts in this state have yielded so far very positive and constructive dividends. Our itinerary has had various stages and each has had its own success stories. We would like to highlight a few points of our monumental moments.

Phase I

As the first step only nine schools in Chennai were selected on an experimental basis. In this first attempt which included only ninth standard girls, 1700 girls and 50 teachers participated. The welcome that we received from the managements, teachers and the students of those schools where the human rights education was introduced, the impact it had on the teachers and students, the changes it made in their relationships.

Phase II

In this phase, this program is introduced in 136 Schools in 10 districts of Tamil Nadu. In Chennai only girl students participated. Now it is given to students of both sexes and it

includes not only aided schools but also government and municipal schools also. In Chennai it was introduced as an experiment only for one year. Now it is extended for two years, which is for 8th and 9th standards.

The enthusiasm shown by the managements, teachers and students is very encouraging. The first year program is over and the second year is about to begin. At this juncture we introduce the third phase of Human Rights Education.

Phase-III

After having completed the first phase successfully and with the second phase about to be completed we asked ourselves: why can't we introduce this program to the whole of Tamil Nadu through the educational institutions? But when we thought about the ways and means of putting this desire into practice we were disheartened. It was then that the organization called Catholic Religious India (C R I) - Tamil Nadu asked People's Watch if it could conduct seminars for its members in Tamil Nadu. In the C R I meeting for women religious held in Chennai in October 1998. At the end of the seminar, Mr. Henri Tiphagne's demands for introducing human rights education in their schools and to give free medical assistance in their hospitals to the victims of Human Rights violations were theoretically accepted by the Religious superiors and agreed to put them into practice., During the third phase, a number of campaigns were conducted involving the human rights education students of schools. Some of the campaigns in which they were involved were Campaign Against Death penalty, Campaign for free, compulsory and quality education, District level conferences for free, compulsory and quality education, State conference on free, compulsory and quality education, Memorandum to CM, PM, UN Bodies, NCERT, SCERT etc., Post card campaign, etc. the campaign for free, compulsory and quality education and years of consistent advocacy & lobbying with Government officials has resulted in the introduction of human rights education in Government schools for the first time in the whole of South Asia.

Phase IV

Phase IV is the initiation of a human rights education program in the 258 Adi Dravidar Welfare & Government Tribal Residential (ADW-GTR) schools run by the Department of Adi Dravidar Welfare of the Government of Tamil Nadu. We were aware that with the experience we had gained in the past few years in the implementation of Phase II and III of the program, we definitely required a period of 3 years for the completion of the project. It is thus a program for 3 years, commencing from VI standard and proceeding up to the VIII standard, covering the age group between 11 years and going up to 14 years.

Phase V

Phase V is the initiation of a human rights education program in the RC Diocesan schools run by the Roman Catholic Dioceses of Trichy, Madurai, Palayamkottai and Kottar.

Again, this phase is for 3 years, commencing from VI standard and proceeding up to the VIII standard covering the age group between 11 years and going up to 14 years. About 134

schools, 15,000 students and 250 teachers have been participating in this program. This phase is also meant for 3 years from 2002 — 2005.

Phase VI

Phase VI is the initiation of a human rights education program in the CSI Diocesan schools run by the Dioceses of Trichy-Thanjavur, Madurai-Ramnad and Tirunelveli. Again, this phase is for 3 years, commencing from VI standard and proceeding up to the VIII standard covering the age group between 11 years and going up to 14 years. About 155 schools, 13,000 students and 330 teachers have been participating in this program. This phase is also meant for 3 years from 2002 — 2005.

Human Rights Education in Tamilnadu Schools

Phase	Year	Districts	Type of Schools	No. of Schools	Std	No. of Students	No. of Teachers
1	1997-1998	1	Private Schools	9	9	1756	90
2	1998-2000	10	Corporation & Private Schools	122	8, 9	21320	315
3	1999-2002	29	Private Schools - CRI	238	7, 8, 9	33785	730
4	2002-2005	29	Govt. Adidiravidar / Tribal Welfare Schools	258	6, 7, 8	25819	492
5	2002-2005	10	Private Schools - Diocese	134	6, 7, 8	14330	251
6	2002-2005	15	Private Schools - CSI	155	6, 7, 8	12650	333
	2005-2008	30	Govt. Adidiravidar / Tribal Welfare Schools	355	6, 7, 8	21057	725
	2005-2008	10	Private Schools	154	6, 7, 8	11000	200
Total				1425	-	141717	3136

Since 2007							
Phase	Year	Districts	Type of Schools	No. of Schools	Std	No. of Students	No. of Teachers
1	2007-2010	1	Chennai Corporation Schools	180	6, 7, 8	15000	242
	2007-2010	3	All Schools in Erode (750, 45000, 851), Sivagangai (450, 30000,500) and Dindigul (488, 35000, 641) Districts	1688	6, 7, 8	110000	1992
	2008-2010	30	Govt. Adi-diravidar / Tribal Welfare Schools	400	6, 7, 8	25000	500
Total				2268	-	150000	2734

Training: General Orientation Course

The faculties were drawn from People's Watch-Tamil Nadu. The three day program aims to provide the teachers with a general understanding of the political forces at work in society, the history of human rights and an introduction to actual violations of human rights in the country and the different mechanisms that exist, both within and outside the country, for the protection of human rights. The teachers are given a wide array of reading materials and a copy of the curriculum materials to help them prepare for the next curriculum-training program. This is meant to be a general introduction to human rights and nothing more.

Human Rights Education—Curriculum Training

The faculty members for this program were drawn from People's Watch-Tamil Nadu, Madurai. The program aims to train teachers to handle the two modules assigned to them. The session was a participatory one where the faculty confined itself to the content and the teachers critically evaluated the methodology of the presentations. The teachers were requested to start teaching their human rights classes immediately.

Contents of Teachers' Training Programs

- Understanding of Human Rights — Victims' Perspective
- Introduction to Human Rights
- Definition and Types of Human Rights

- Indian Constitution and Human Rights (Fundamental Rights & Directive Principles of State Policy)
 - National Human Rights Institutions
 - National Human Rights Commission
 - National Commission for Women
 - National SC/ST Commission
 - National Minorities Commission
- Sectoral Rights
 - Child Rights & Violations of Child rights
 - Women's Rights & Violations of their rights
 - Discrimination
 - Environmental rights
- Indian Education System today — An analysis
- Role of Teachers in our Education System
- United Nations Decade for Human .Rights Education
- Syllabus Training
 - Introduction to Human Rights (I Year)
 - Child Rights (II Year)
 - Discrimination (III Year)

Human Rights Education Modules:

The book on Human Rights: An Introduction is Module I. This includes 16 lessons that are subdivided into 4 sections; namely,

- In search of Humanism
- Destruction of Humanism
- Growth of Humanism
- Safeguards of Humanism

In Search of Humanism

This contains 4 lessons. The basic urge in man is to live. From this urge arise many other urges, the most important of them, being the urge to live in a community. The underlying idea of all these lessons is that the purpose of all these urges is that man should live with human dignity.

Destruction of Humanism

This section contains four lessons. These lessons stress that society is disintegrated by our prejudices against others, by wounding words and by hurting deeds. Whenever one group oppresses another, society is adversely affected.

Growth of Humanism

This Section has five lessons. These lessons are framed in such a way as to show that if humanism is to grow, the virtues that are natural to man should be encouraged. The fundamental values in man like justice, equality, liberty, truth should be cultivated.

Safeguards of Humanism

This section contains three lessons. These lessons tell us that there are human rights to safeguard men from being destroyed; that the fundamental needs of man are his human rights; that the duty and responsibility to realize these rights rest with the democratic government.

MODULE I - Human Rights: An Introduction

CHAPTER — I: In Quest of Humaneness

- Lesson 1: Longing for Life
- Lesson 2: Human Yearnings
- Lesson 3: Community Life
- Lesson 4: Human Dignity

CHAPTER —II Destruction of Humaneness

- Lesson 5: Prejudices
- Lesson 6: Words that hurt
- Lesson 7: Destructive Deeds
- Lesson 8: Fragmented community

CHAPTER — III Growth in Humaneness

- Lesson 9 : Human feelings & Human Qualities
- Lesson 10: Justice
- Lesson 11: Equality
- Lesson 12: Difference but...
- Lesson 13: Freedom

Chapter IV: Promotion and Protection of Humaneness

- Lesson 14: Needs and wants
- Lesson 15: Human Rights
- Lesson 16: Governance & Democracy

The second module is on Child Rights.

MODULE II- CHILD RIGHTS

CHAPTER — I: Aspiration — Budding Shoots

- Lesson 1: An introduction to Children
- Lesson 2: Happy child -
- Lesson 3: Kids world
- Lesson 4: Fullness of childhood

CHAPTER — II: Actuality — Burnt of Buds

- Lesson 5: Girl child and Right to livelihood
- Lesson 6: Child Labourer
- Lesson 7: Child Bonded Labourer
- Lesson 8: The Street Children
- Lesson 9: Handicapped children
- Lesson 10: Child Trafficking

CHAPTER — III: Actions: Blossoming Childhood

- Lesson 11: The Right of a child to Education
- Lesson 12: A child's right to health
- Lesson 13: Child security
- Lesson 14: Children who have achieved

The third module is on all forms of discrimination.

MODULE III - Discrimination

- Discrimination
- Discrimination against women
- Discrimination based on religion
- Racial discrimination
- Caste discrimination

- Discrimination against tribes
- Refugees & Discrimination
- Discrimination based on place of birth
- Poverty & Discrimination
- Students' declaration for Egalitarian Society

Structure of the lessons

The title of each lesson is introduced and explained through stories, dialogues, anecdotes, interviews or incidents or through soliloquies. At the end of each lesson the structure of the Indian constitution, the human rights declaration of the U.N.O etc are given in boxes. To make the students assimilate the ideas in the lesson two kinds of exercises are given class exercises and home exercises. The exercises contain the following:

1. Questions
2. Group discussions
3. Sharing in the class
4. Map drawing
5. Writing of essays or poems
6. Letter Writing
7. Asking others and sharing
8. Sharing with the help of symbolic articles
9. Interviews
10. Marking right or wrong
11. Games
12. Visiting places
13. Writing Complaints

These exercises create awareness among students about themselves and the society. They induce the pupils to scrutinize the redundant and superstitious values that have enslaved humans for ages, to help foster human right values and to act according to them.

ARCHITECTURE OF EXCLUSION: ENGINEERING EXCLUSION THROUGH EDUCATION

Dennis the Menace (age 5) to his playmate Joey (age 4), "Remember Joey, You can win any game if you are the one to make the rules".

India has constructed an education system that is among the most exclusionary in the world. We are, of course, the largest democracy in the world and we have people's mandate to exclude themselves from all its goodies. Someone said "...in India, the masses decide who will form the govt. And the classes decide what those governments will do." The classes do not need to vote; they have many other channels to express their unassailable will, including the very finely tuned stock market; it never fails to instantaneously punish the slightest tilt in favour of masses; it plunges steep, triggering panic in the whole system. One would have expected such a plummeting when the Right to Free and Compulsory Education Act, 2009 was recently passed in the parliament. Surprisingly nothing like that happened. Stock market knows better; nothing of great significance in favour of the masses was expected to follow the much - lauded measure. It would have been condescension if the mighty Sensex and Nifty took note of it.

How does the exclusion work anyway? In hundred different ways; exclusion is woven into each strand of the education fabric, making a many-hued ikkat. We have perfected the art of exclusion like the master weavers of Orissa have of ikkat. The world has a lesson or more to learn from us. It is only a society that, for ages, passed on the most unjust social order as Dharmic, knows how to invoke the rhetoric of Democracy to justify Exclusion and denial. We are firm believers in freedom, next only to our mentors, who police the whole world to protect and promote freedom. And so we permit precious freedom to rich and powerful parents to choose the schools for their children. Imposing the concept of Neighbourhood Schools on them would be a denial of their democratic right. It is a different story, of course, if poor parents also demand the right to choose, to put their children in elite schools. Who is denying them the right? All that they are required to do is to pay the fees, which for a month is more than their annual earnings. Who, on earth, is denying them the freedom of choice? Is it the freedom of democracy or of the market? Are they not the same? The latter may have primacy over the former, but that is because we are not only a democracy, but a modern democracy. And being modern is invoking the mantra of the market. And so th,s market takes over the schools.

We have as many levels in our educational hierarchy as in our caste hierarchy, one type of school for each mini-class, making sure that children of no two levels ever meet. There are no classrooms, playgrounds, parks, where the children of the poor and rich meet. In the entire world, especially in the most advanced capitalist countries, children of all classes go to public neighbourhood schools. School space is the equalizing, barrier-breaking space. Not so in this country.

The Right to Free and Compulsory Education Act, 2009 legitimizes and perpetuates the fragmentation of children, and so of the nation. The Act classifies schools into four categories. Of these, the first, fully state funded, state run schools alone have the full constitutional obligation to admit all children in the age group and of implementing the rights of all children to education. The second category of government. aided and privately managed schools are required to provide free

education to children in the proportion of aid received by them. The third category, Special / Specified schools, funded by the govt. of India, like Kendriya Vidyalayas, Navodaya Vidyalayas, Sainik schools and so on and the fourth category of unaided schools are to admit children of disadvantaged and weaker sections from their neighbourhood to a minimum of 25% of strength in class I and give them free education.

A curious case here is of the category of Special / Specified schools. They are funded and run by the Govt. of India. But unlike their poor cousins the state govt run schools, they are obligated to admit only 25% poor and weaker sections in their neighbourhood, that too in class I. Why this special treatment? Because these schools are sought after by the middle and better off children and have acquired a name for quality education. In schools of the masses, the masses, definitely, cannot be allowed to rub their dirty shoulders with the classes. And so the govt. of India has no qualms about breaking Art.14 or any other. Constitution can be broken; privilege cannot be broken.- That is the solemn, if unstated undertaking. Incidentally, in Kendriya Vidyalayas the annual average government expenditure per child is Rs.15,000, while in state run schools it is Rs.1,100 to Rs.1,500. Benefits of the ten times higher expenditure cannot be permitted to all and sundry, after all!

The public school system, substantially funded by the state, was able to serve the needs of the early decades of independence. The ideals of the freedom struggle were still in the air, inspiring dreams and plans of nation building. The elite did not feel ashamed of the language of social equity and 'Socialism' got inscribed in the constitution as the guiding philosophy. Schools all over the country largely functioned as neighbourhood schools, with children of the affluent and the ordinary learning together. No doubt, large proportion of children was left out of the world of education, hovering beyond the margins. But those who were inside the system enjoyed the benefits of equitable schooling and there was a level playing field where the poor could compete with the better off with confidence and a fair chance of success. Language of learning was mother tongue or regional language, in continuation of late-colonial education. English was taught as a second language, imparting a fair degree of proficiency to students. The products of that generation of public Schools rose to heights and occupied pinnacles of position and power in all fields, civic, political, economic, scientific, and administrative. Indian Administrative Service and other equivalent services, medicine, law and scientific research attracted the best minds. These were, no doubt, the preserve of upper castes, but a gradual democratization was taking place in states like Tamil Nadu. The trend suffered a rude setback starting in the last two decades of the last century.

The decline of the public school system coincided with, rather was consequential to the growth of the multi-track school system. Fee-charging private schools started coming up from the late 70s, doubled their pace of growth in the 80s and increased many folds in the 90s. They were carefully attuned to different needs, rather to different purses and today in states like Tamil Nadu they dot the entire state, covering even small towns and big-sized villages. The upper classes and castes started deserting public schools and flocking to private schools. Soon it turned into an exodus. Public schools became the preserve of the poor and perceived as of inferior quality, as anything associated with the poor is perceived. In the short span of two decades public schools had come down tumbling in public estimation. The elite classes saw no merit in investing in schools that were not for their children. The state reneged callously on its basic responsibility to provide good quality education to

the vast majority of children and started starving the public schools system of funds. Infrastructure was allowed to crumble, teachers not appointed with the cumulative consequence of collapse of standards in them. The voiceless poor were unable to arrest the ruinous trend and had to watch helplessly as their children were condemned to poor quality education.

With neo-liberalism taking over the country, today it is an unabashed, unapologetic class education. Social Darwinism as the ruling ideology has spawned competition as the sole engine of growth. The education scene is taken over by fierce forces of competition. Children are the site of a dog-eat-dog world of competition. They are pushed into a merciless and mercenary world. They are programmed from birth to compete, to excel and to win. They are robbed of their childhood, being pawns in the power games of parents. What Amartya Sen calls "the country's obsession with first boys" has taken over.

The children of India, of all classes, are growing up in a bizarre world, an adult world thrust on children. The middle and upper classes programme their children for world conquest. Sky is the limit for these children. The children of these classes are the pride of the nation, the standard bearers of India Risen, the Super Power of the new century. No price is too big to be paid for making the world safe for these Chosen Children. A World Exclusive must be built for them and the ramparts safeguarding the world must be made inviolable, bullet-proofed against encroachments by all and sundry.

A hierarchy of schools has been elaborately constructed, the more the fee charged, the greater its reputation for quality education, quality being defined exclusively in terms of marks and ranks obtained in board examinations and the capability of students to make their entry into the most prestigious engineering / medical colleges. The process, however, starts much earlier, at the time of admissions to pre-kindergarten class. Six to eight months before the beginning of a school year, these much sought after schools start selling admission forms. Desperate parents keep all night vigil at the closed gates of these institutions, the ladders to heaven. Mothers pray to all the gods in the Hindu pantheon and in this secular India, sometimes also to alien gods. All for being favoured with an application form. Once the first success has been scored and well advertised among envious friends and relatives, entrance tests to three year olds and interviews to parents begin. Fathers and mothers prepare for the ordeal as they never did in their student days.

"Are you capable of teaching your kid, Math, Biology, English (with American accent), no need to bother about Tamil, of course (we couldn't care less, whether the child does well in that native language) and not of any level, but to be worthy of the high standards our school has set."

The panic stricken parents dare not ask, "if we are to do all this teaching, what is the school's job?" They hasten to assure the school authorities that even if they do not measure up to the expectations of the school, in that precise moment, the mother would resign her job (not too big a price for the child's entire future and the prestige of the family) and take special tuitions to equip herself. If there is a trace of remorse in her demeanor, one stern look from the loving husband brings her to senses. By the way, can someone recommend very special programmes to coach mothers of three year olds? "I hope I am not starting too late. You think I should have started when he was one year old?"

Competition in education market, among schools is as fierce and cut throat, if not more than in commodities and service markets. After all it is at the altar of the latter that education is dedicated. Late blooming capitalism beats earlier, classical ones hollow, at least in school competition. We are in a hurry and cannot afford to waste time. Isn't competition itself waste? Who says so? Do you want to go back to state monopoly? No way; it is dead as dodo, dead and gone with the collapse of the Soviet Union and buried with the debris of the Berlin Wall. Schools sell their wares, I mean, their programmes, with all the ingenuity of entrepreneurs. Newspapers, magazines, TV programmes hawk schools with glitz. They vie with each other to claim that they teach computers to 4 year olds and algorithms to 5 year olds, and start them on space science by 6. Nothing like catching them young, you know. It is also the patriotic duty of every Indian. India calls upon each citizen to do his duty to the motherland. Never mind if it is done from American soil.

Competition, no doubt, is the engine of advancement. So children are advanced to higher and higher learning, which means more and more burdensome curricula. Schoolbags grow heavier, backs are bent, homework is punishing, days are tense, mothers are edgy. There is no way to complete teaching the syllabi within class hours. Private tuitions become the-essential extension of school hours. Children rush from schools to tuition centres, evenings and as they: grow older, early mornings too, are spent in relearning class lessons; that is how you win, become the first boy and beat others. The point is to beat others. 'But then, dad, when do I have time to play?' Play! Don't be silly. We have spent so much money to put you in this school. How can you think of playing?

You see some bizarre phenomena. In Tamil Nadu, there are residential schools with only XI and XII classes. With only XI and XII classes! How can such schools be permitted? That is the uniqueness of India. Tamil Nadu is, perhaps, more unique than the rest of India. That is what puts Tamil Nadu at the top. Parents at the top of the social hierarchy alone can gain entry into their sacred precincts, for fees they alone can afford. They are 24 x 7 x 52 schools, where students learn their lessons, sleep their lessons, live their lessons for two full years, no week-ends, no holidays, except for one day for Deepavali and one for Pongal (harvest festival), when they are graciously allowed to go home. For those who fail to score 100% in any daily test, there are dungeons as penitentiaries. Then, of course, at the end of two years, the rewards are assured, as undoubtedly as facial creams are assured to turn gleaming black skin to milky white. The students sure make their way to top ranks in board exams and then to prestigious colleges. And then they forget the horrors of the two years and bow"down to parental wisdom.

Part of the bizarreness is in the readiness of affluent parents, who pamper their only offspring with anything he wants or does not want, to consign him to the merciless regimen of these schools. Therein lies the uniqueness of Indian parents, who are the envy of the developed world today. How do you manage to produce and bring up such children? They are the brightest, sharpest, who can solve the most complex problems and grab the most coveted corporate positions. And yet, they are so law abiding, rule abiding, never break any corporate rule in the land of their dream or of an age old family rule back home. And obediently let horoscopes and parental choice to pick their life partners, very often not setting their eyes on the would-be partner till the wedding knot is tied. What a beautiful amalgam of corporate modern and Vedic antiquity!

We have strayed far from where we started. In the vortex of all this power play, where do the 80% - 90% of India's children, the 77% who earn Rs.20 per day stand? They neither stand nor sit in this world; they do not belong in this world; they hover beyond the charmed circle and gaze at the splendid spectacle with awe. They study in free, govt. schools that do not enter the fray of competition. 'But it is for them we have passed the Right of Children to Free and Compulsory Education Act. You cannot blame us now.' But will it stop the 10% of children going to all those wondrous schools? Can we be in the same schools as them? No; but how does that matter to you? You will have your free schools. Can't you be happy with it? Gosh! People are never satisfied.

Why do children of the two Indias have to be in the same schools? Because all the world over, in all the developed countries and many developing ones, particularly the leading among them, the only school system known is a common school system with neighbourhood schools, in which children of all classes study together. Such a school system, where the state provides full resources, is the bedrock of development in these countries. India cannot be an exception to the irrefutable historical experience of countries. Four decades ago, when exclusion in education had still not reached today's grotesque proportions, the Kothari Commission recommended the transformation of the Indian public education system as a Common School System with a view to "bring the different social classes and groups together and thus promote the emergence of an egalitarian and integrated society". The Commission asserted that if "the education system is to become a powerful instrument of national development in general, and social and national integration in particular, we must move towards the goal of a common school system of public education." It argued, besides, that the Common School System makes for best education, sharing life with the common people is an essential ingredient of good education". The Commission warned that the school education system in India, instead of bringing the different classes and groups together, is "tending to increase social segregation and to perpetuate and widen class distinction". And said "this is bad not only for the children of the poor but also for the children of the rich and the privileged groups", since "by segregating their children, such privileged parents prevent them from sharing the life and experience of the children of the poor and co rn lg into contact with the realities of life", and "also render the education of their own children anemic and incoiiiplete" (emphasis added). It also argued that " in the first place, a neighbourhood school will provide good education to children because sharing life with common people is .. an essential ingredient of good educatiOn. Secondly, the establishment of such schools will compel rich, privileged and powerful classes to take interest in the system of public education and thereby bring al;out its early improvement". The case for putting an end to the present multitrack school system and for establishing a Common School System cannot be more powerfully stated.

Exclusion works in ways more than streaming children into different categories of schools. Curriculum, pedagogical and evaluation methods also are engines of exclusion. What is the national impulse behind crafting of curriculum in neo-liberal India? We have already seen how the dynamics of curriculum designing works to continuously increase the burden of learning. Curriculum is designed to provide competitive edge to the elite youth in global competition and for world conquest. It is far beyond the reach of the mass of children. The first generation learners from poverty-stricken homes desperately struggle to cope with its exorbitant demands. Teachers in public schools find it a hopeless

task to transact such a curriculum, with no home support available to their students. Students are driven to seek out-of-school tuitions to come to terms with the incomprehensive curriculum. Parents with barely adequate survival resources further tighten the belts to pay for the extra tuitions. Free education turns into a mockery. After a few years of desperation, children drop out of school. And these children, inevitably are from the Scheduled Castes and Scheduled Tribes, for ages consigned to the bottom or margins of the caste society. The dropout rates at primary school level is 34.2% for SCs and 42.3% for STs, while the national average is 29%; the social gap in dropout is acute in respect of girls of these communities. Two thirds of tribal students do not go beyond class VIII. The hidden agenda behind designing a curriculum of an unbearable weight is exclusion of large sections of students and is carried out to perfection.

The curriculum excludes not by weight alone, but by content. It is totally unrelated to the lived reality and cultural cosmos of large mass of rural and working class students. It is rooted in middle class world and privileges its culture, mind set, social mores, beliefs. The strengths, skills and cultural and cognitive capital of the working class children find no place in the curriculum and class room. It denigrates the beauty, creative strength, collective social life of the working class child in hundred ways. This rejection of the working class child's universe, the humiliation that she is subjected to, the denial of her self are at the root of the tragedy of today's Indian education.

The very language of the classroom is alienating and mercilessly so. The lingo of the working class child is considered lacking in refinement and is laughed at. Teachers largely hail from upper castes and classes or if they came from the same lowly roots, have discarded them long ago through their sanitizing, sanskritising education and training. The little child of the rural colony or urban slum that steps into the classroom for the first time is bewildered, frightened, loses her mores, her very voice and slowly sinks into a culture of silence, a culture that gives sanction to an oppressive system.

Talking about language, the dominant form of exclusion and demarcation is the language of learning. The elite do not learn in any language of this country. If they did, what could be their distinguishing distinction? So the language of the erstwhile masters, the language of today's globalizing, unipolar world is their chosen language of learning. A whole universe of exclusion has grown around English language. English is the sole language of privilege, power, of opportunity, aggrandizement. In today's India those who can handle English with felicity and aplomb and those who can function only in their mother tongue / regional language belong to two different worlds. English is not the White Man's Curse, but the Brown Indian's chosen weapon of domination. Millions of our youth today are eaten up with a sense of inferiority because of their inability to master English. No corporate door will open to them. Reasoned demand or popular anger would not be allowed to dent the citadel of English as medium of learning.

It is not only the culture and language of the working classes that are forbidden in the class room, work itself is banished from its refined precincts. Psycho-motor skills have no place in learning. Cognitive development is the sole objective of the child's education. Gandhiji talked about work-centred education that integrates the head, heart and hand. The tridimensional learning project was central to Gandhian education. Kothari Commission attempted to look at the issue of integration of the 'world of work' with the 'world of knowledge' as part of its perspective of viewing education as an instrument of social, economic and cultural transformation. Its Report

contended that an important dimension of the endeavour "to relate it [education] to the life, needs and aspirations of the people" is, among others, the relationship between education and productivity. It was in this context that the Commission recommended that "work-experience should be introduced as an integral part of all education" and defined it as "participation in productive work in the school, in the home, in a workshop, on a farm, in a factory or in any other productive situation". It is evident if work is made an integral part of education, children, who have inherited and shared life of manual work will have an edge over middle and upper class children. Such a holistic education has been ruled out by our elite policy makers.

The ultimate corruption is the marketisation, commodification of knowledge itself. A total convergence has taken place, between goals of education, pursuit of knowledge, and needs of market. Global corporate interests define knowledge, set its price, buy their managerial staff fresh from prestigious institutions, 22 year olds offered Rs.2 + lakhs per month. This is the defining of knowledge, whatever demands highest price in corporate market is the sought after knowledge. Institutions of higher learning and not so high learning, hurriedly bend their constitutions, redraw their templates and channel all their resources to those glitzy disciplines. It is a tectonic shift in the meaning of knowledge. This shift is passed down to school education, to elementary levels.

The Agenda for Institute of Human Rights Education:

The preceding lengthy lament has led to re-visioning of priorities in IHRE. Of the two dimensions of human rights education, human rights through education and human rights in education, the former had monopolized our concern and attention. The right to education, to quality, equitable, critical education figured as one small chapter in one module. This was a contradiction of deep import that did not fail to strike us as central to our dynamics. The students of human rights education in our programmes are drawn almost exclusively from disadvantaged, marginalized sections of society. They and their families bear the brunt of human rights violations in our society. While all the violated rights are of equal significance, the stark reality of the classroom, the school, the hostel stares in our face. The first right of children to free, equitable, quality, empowering, liberating education ought to be our first concern.

The schools our HRE students study in, the quality of education they get, the denial of basic needs in hostels, the indignities they suffer... these ought to be focused upon, debated and challenged. From thousands of such HRE schools and from others to which the impulse radiates, would emerge the radical power that would force-forge a social-political will to bring down structures of privilege and exploitation.

So, we have turned our attention to bringing right to education to the centre stage of our work. We work at two levels, the macro and micro levels. IHRE has initiated a movement for right to education in Tamil Nadu. We have brought together civil society organizations, political parties, trade unions, teachers', students', women movements and formed a People's Movement for Right to Equal Education. Going beyond the boundaries of the state, we are joining nationwide movements. Our solidarity is extended to all those fighting for similar objectives. Children in our schools across the country recently joined a nation-wide movement for children's right to education and health, 'Nine is Mine'.

(6% of GDP for education and 3% for health) and called upon the powers to 'Keep your Promise', ('Wada Na Todo') A long agenda is in front of us. Of greater significance is the work at the micro-level, with our teachers and students. Our teacher training programmes, of late, are built around their responsibilities in constructing a rights-based classroom. Teachers are among the foremost violators of students' rights. Any change in education has to begin with the educators. Transforming the age-old mindset, authoritarian pedagogical methods, casteist values in their blood, all these pose great challenges. Our task is building a participatory classroom that respects the student, treats her not as an empty vessel into which information is poured, but as an active constructor of knowledge. Human rights education improves the quality of education.

None of this is easy. Teachers are themselves victims of the system. Very often, our teacher training programmes, though they start from children's rights soon shift to teacher rights, their helplessness, voicelessness, powerlessness and so on, all of which is equally true. A constant refrain is the recent ban on corporal punishment. 'How do we make these children coming from first generation learner families learn all that we are expected to teach, without wielding the stick? We are taken to task if children do not learn.' We lead on to broaden the understanding that teacher rights and student rights are not antithetical to each other, but are two sides of the same coin; empowered students are the champions of teacher empowerment, that there is an urgency of democratization of the public school and so on. "Teaching is a creative act, a critical act and not a mechanical one." Teaching can become a radical act, only with equal participation of students. The discussion moves on to why teachers are powerless, who sets the curriculum, in whose interests is it set, who gets included and who gets excluded and finally how to understand, analyse, challenge, transcend and transform the anti-human reality. The task is Freireian. The teachers have to be helped to understand that the authoritarian ways they practiced in classroom, was but a reproduction of the authoritarian ideology that ruled the world, in Paulo Freire's words, "an expression of the assimilation and interiorization of the dominant ideology by the dominated themselves."

It is not teachers alone we need to work with; we need to work with students, too, directly with them, not mediated by teachers. Teachers and students need to go through simultaneous self-analysis, as part of and preceding social-analysis. How do we work with students, to make them understand the inequity, the oppressiveness of the education they are subjected to? In a way it is easier to work with those young, fresh minds, because the quantum of unlearning they have to go through is less. It is easier to make children dream, because dreams are the stuff childhood is made of. But even children's dreams are circumscribed, by the cruelties of reality. Children have lost the courage and confidence to dream. They have been beaten down by the oppressive order, by the forced internalization of the language of the oppressor, by the pervasive culture of what Paulo Freire calls "collusion between oppressor and oppressed." But the connection is made easier by children from oppressed sections, the connection between what is and what ought to be and the diverse ways of breaking the bind between them, the bind of inevitability of the future that is bound to rise from the present. Historical determinism has no meaning in a child's mind. There is a world of magical realism, a world of fairies, genie, devas and rakshasas, where nothing is impossible, but the good and just have to ultimately win. It is in that believing, trusting, hope filled mind that seeds of a radical transcending have to be sown.

And then what about the other kind of children, the children of privilege, the beneficiaries of the unequal, heartless world, the beloved of the gods, the chosen few for whom the bell tolls? Are they partners or adversaries? Can they be won over to our side? Here IHRE has to work on conjecture as we still have no experience working in elite schools, except in a handful in the early years of our experiment. But our project cannot leave them out. While the children of the oppressed sections need to be empowered, children of the oppressing classes need to be sensitized the blinkers on their eyes need to be removed, they need to be de-programmed. They must be made aware that another world exists, a world that feeds them and sustains them, but is hidden from their sight, a world away from their air-conditioned homes and schools and cars, a world away from Facebook, Twitter with which a dialogue is possible.

We plan to start on this part of our work too, very soon. We would, perhaps, need new skills, new strategies and tactics. But then, human rights education is part of the struggle for human rights, "an eternal struggle, in which a final victory can never be won. But to tire in that struggle would mean the ruin society."(Einstein)

Dr. V. Vasanthi Devi

Chairperson,

Institute of Human Rights Education

HUMAN RIGHTS FRIENDLY SCHOOLS PROJECT

Amnesty International supports schools and their wider communities in all regions of the world to build a global culture of human rights. Our Human Rights Friendly Schools project aims to empower young people and promote the active participation of all members of the school community to integrate human rights values and principles into all areas of school life.

WHAT IS A HUMAN RIGHTS FRIENDLY SCHOOL?

A Human Rights Friendly School places human rights at the heart of the learning experience and makes human rights an integral part of everyday school life. From the way decisions are made in schools, to the way people treat each other, to the curriculum and extra-curricular activities on offer, right down to the very surroundings in which students are taught, the school becomes an exemplary model for human rights education.

A Human Rights Friendly School is founded on principles of equality, dignity, respect, non-discrimination and participation. It is a school community where **human rights are learned, taught, practised, respected, protected and promoted**. Human Rights Friendly Schools are inclusive environments where all are encouraged to take active part in school life, regardless of status or role, and where cultural diversity is celebrated. **Young people and the school community learn about human rights by putting them into practice every day**. Through an approach which goes beyond the classroom and into all aspects of school life, commonly called a 'whole-school approach,' a 'holistic approach' or 'rights-based approach', both schools and young people become powerful catalysts for change in their wider communities.

GHANA: A HUMAN RIGHTS FRIENDLY SCHOOL IN PRACTICE

Students attending Accra High School in the Ghanaian capital may not see themselves as trend-setters in global education. But after a visit to their school late last year, Ghana's late President John Atta Mills spoke of his great admiration for their success at making human rights an integral part of everyday school life. The school aims to build the capacity of the whole school community by promoting a democratic environment, innovative teaching methods and responsible citizenship. Students feel empowered through a representative student council that moots new ideas and voices the student body's concerns. And the school has embraced human rights not only inside the classroom, but also as an integral part of its clubs and extra-curricular activities – a human rights garden maintained by students and staff is just one space where openness, tolerance and debate are promoted. Accra High School is one of a growing number of schools around the world that are supported by Amnesty International's Human Rights Friendly Schools project.

HUMAN RIGHTS FRIENDLY SCHOOLS SPAN THE GLOBE

Amnesty International's Human Rights Friendly Schools project started in 2009 in 14 countries: Benin, Cote d'Ivoire, Denmark, Ghana, Ireland, Israel, Italy, Moldova, Mongolia, Morocco, Paraguay, Poland, Senegal and the United Kingdom. Today, the network of

secondary schools aspiring to become human rights friendly continues to expand, and currently covers 21 countries around the world.

WHAT IS THE HUMAN RIGHTS FRIENDLY SCHOOLS PROJECT ABOUT?

The Human Rights Friendly Schools project encourages and supports the development of a global culture of human rights by empowering young people, teachers and the wider school community to create human rights friendly school communities across the world. Participating secondary schools work towards developing a whole-school approach to human rights education, integrating human rights values and principles into key areas of school life. The project reaches beyond the classroom and out into the community to change the way people think about, and actively participate to address, human rights issues. It is founded on the belief that by increasing knowledge and changing behaviours and attitudes in entire communities, a global culture of human rights becomes possible.

The Human Rights Friendly Schools project aims to:

- Empower young people and promote the active participation of all members of the school community in integrating human rights values and principles into all areas of school life.
- Enable young people to know their human rights and responsibilities and to become inspired to protect and defend their rights and the rights of others, based on values such as equality, dignity, respect, non-discrimination and participation.

The Human Rights Friendly Schools project is founded on the 10 Global Principles for Human Rights Friendly Schools. These principles are based on international human rights standards, norms and instruments such as the Universal Declaration on Human Rights. In order to become a Human Rights Friendly School, schools are encouraged to integrate the Global Principles into four key areas of school life: Governance; Relationships; Curriculum and extra-curricular activities; and School environment.

BECOMING A HUMAN RIGHTS FRIENDLY SCHOOL

The Human Rights Friendly Schools project is implemented by schools, with the involvement of the whole community and with support from Amnesty International.

The school has full creative control over how to integrate human rights, taking into account the framework of the national educational system and the social and cultural context in which it is situated. **Creativity and innovation are encouraged!** Support, guidance and examples of inspirational activities are available at each step of the way.

'Becoming a Human Rights Friendly School: A guide for schools around the world.'

This guide provides information to schools on how to implement the project. It offers practical suggestions for schools around the world to make human rights a viable part of their curricula, teaching methodology and broader learning environment that has a lasting impact not just on students, but also on their wider communities.

Assessing the impact of the project over time is an important aspect of the project. Results of monitoring and evaluation activities are used both to improve the project and to make interim amendments to a school's action plan if needed, and to assess how the project is meeting its overall goals and objectives.

WHY ARE HUMAN RIGHTS IMPORTANT IN SCHOOLS?

Schools have a critical role to play in our lives and in the life of the community. As a reflection of wider society, schools are key to socializing younger generations, preparing learners to become active and engaged members of society. In an interconnected and globalized 21st century, young people are being exposed to a diverse and changing world around them, a world in which poverty, inequality and other injustices are still very much a part of the lives of millions.

Human rights can give schools around the world a shared language of equality, non-discrimination, inclusion, respect, dignity and participation that is crucial to the goal of achieving a more peaceful and just global society.

Human rights education is a critical means of instilling the knowledge, skills, attitudes and values that can foster a culture of human rights. Amnesty International defines a culture of human rights as an atmosphere in which all members of a given community understand, value and protect human rights, where the values of equality, dignity, respect, non-discrimination and participation anchor policies and are the basis for decision making processes within the community.

For more information on the Human Rights Friendly Schools project, please contact your national Amnesty International office or email HumanRightsFriendlySchools@amnesty.org.

THE 10 GLOBAL PRINCIPLES

The 10 Global Principles for Human Rights Friendly Schools were developed to support school communities throughout the world to integrate human rights into the life of the school. Foundational to the Human Rights Friendly Schools project, the principles are based on international human rights standards, norms and instruments, including:

- The Universal Declaration of Human Rights
- The Convention on the Rights of the Child
- The International Covenant on Economic, Social and Cultural Rights
- The International Covenant on Civil and Political Rights
- The Convention on the Elimination of All Forms of Discrimination Against Women
- The UN Declaration on Human Rights Education and Training

These international instruments share a common purpose: to advance human rights throughout the world to all people. They all also clearly detail education as a right, as well as a key method for realizing other rights. The 10 Global Principles outline how schools can take the values and rights enshrined in these instruments and apply them to a school setting.

WHAT DO THE 10 GLOBAL PRINCIPLES MEAN FOR SCHOOLS?

The 10 Global Principles for Human Rights Friendly Schools are set out in the table on page 8 of the guide. Each principle is explored more fully below.

NON-DISCRIMINATION AND INCLUSION

PRINCIPLE 1: A Human Rights Friendly School is a community where equality, non-discrimination, dignity and respect underpin all aspects of school life.

In order for a school to become human rights friendly, it must acknowledge and support the values that underpin human rights, which guarantee equality and dignity to each and every person in the school community. A Human Rights Friendly School that promotes equality, non-discrimination dignity and respect, actively demonstrates human rights values, creating a foundation for improving the rights respecting ethos of the school.

PRINCIPLE 2: A Human Rights Friendly School provides a learning environment in which all human rights are respected, protected and promoted A Human Rights Friendly School will create a learning environment in which the human rights of all people are respected, where learning and teaching practices foster respect among community members and promote the human rights of students, teachers, staff and school leaders. A Human Rights Friendly School will endeavour to promote all human rights of students, teachers and other school community members, whether civil or political, economic, social or cultural. While it is ultimately the responsibility of governments to ensure realization of people's human rights, a Human Rights Friendly School can play an important role in supporting the provision of human rights, and thereby foster safety, security, and a collective sense of dignity and justice.

PRINCIPLE 3: A Human Rights Friendly School embraces inclusion in all aspects of school life.

Schools can bring together people from diverse backgrounds, cultures, religions, generations and experiences. In the absence of robust efforts and vigilance on the part of all members of the school community, it can be easy for differences to be negatively highlighted or those from more vulnerable or under-resourced groups to be marginalized and/or stigmatized within a school. A Human Rights Friendly School is committed to equality, non-discrimination, respect and dignity and to empowering students and other members of the school community. It must not only prioritize inclusion in its policies and practices but embrace it as central to the school culture. A Human Rights Friendly School must ensure that all members of the school community are involved and are empowered to participate equally, regardless of gender, status or difference.

PARTICIPATION

PRINCIPLE 4: A Human Rights Friendly School encourages all members of the school community to participate freely, actively and meaningfully in school life, including shaping school policies and practices.

Participation has significant implications for education, and a Human Rights Friendly School recognizes that children in particular should be involved in making decisions on issues that affect them. Participation of students in school life has been linked to improved academic outcomes. Increased parental participation in academic settings has been demonstrated to have beneficial effects for both schools and communities. A Human Rights Friendly School will offer students and other members of the school community genuine opportunities to participate in decision-making processes. In doing so, a Human Rights Friendly School creates a framework for empowering students to become informed and active citizens.

PRINCIPLE 5: A Human Rights Friendly School ensures that everyone in the school community has the information and resources they need to participate fully in school life.

Providing opportunities for participation of students, teachers and other school community members may not on its own guarantee active and meaningful participation. A Human Rights Friendly School will need to make all necessary information available to all school community members so that they are aware of how, where and when they can participate meaningfully and effectively. A Human Rights Friendly School will ensure that information about school policies and procedures and other relevant information is freely available to all members of the school community. A Human Rights Friendly School will facilitate the participation of individuals, taking into account their particular needs and context.

ACCOUNTABILITY

PRINCIPLE 6: A Human Rights Friendly School is fair, accountable and transparent in all of its planning, processes, policies and practices.

Trust is established in schools with transparent, fair and inclusive policies and a culture that invites all members of the school community to understand and participate in decisions and

actions within the school. Schools that prioritize building a culture of trust and accountability in their planning, processes, policies and practices support all school community members to be active participants in their own lives. A Human Rights Friendly School will develop mechanisms for resolving differences and conflicts which uphold the principles of fairness and accountability, and ensure planning and policy making processes are transparent. School leaders, including students and community members, act to hold each other accountable, ensuring that all school practices are in line with human rights principles as reflected in international human rights instruments.

PRINCIPLE 7: A Human Rights Friendly School protects all members of the schools community by making safety and security a shared responsibility.

All of the work that goes into providing students with an education is compromised if students, teachers, or other school staff feel threatened in the school environment. Ensuring the safety and security of all members of the school community is a collective task to which all are accountable. The safety and security of marginalized or vulnerable groups should be given special consideration by schools. By fostering a safe learning environment, a Human Rights Friendly School will promote a sense of solidarity, dignity and shared responsibility that supports and facilitates teaching and learning.

EMPOWERMENT THROUGH LEARNING AND TEACHING

PRINCIPLE 8: A Human Rights Friendly School integrates human rights into all aspects of teaching and the curriculum

Human rights are derived from a complex set of internationally agreed-upon values and principles. As such, they are often viewed in abstraction and without a full appreciation of their scope and potential application. For human rights to be understood and promoted across the school community, they should be introduced to students in classrooms and to teachers, school administrators and other staff in professional development settings, not just through curriculum content or extra-curricular activities, but also through the teaching methodology. Human rights must be present in how learning experiences are shaped, through pedagogical approaches that respect human rights and encourage participation.

PRINCIPLE 9: A Human Rights Friendly School works to empower all students to reach their full potential through education, in particular those students who are marginalized due to their gender, status or difference.

Human rights education seeks to empower learners to understand and claim their rights and embrace their responsibilities. The Universal Declaration of Human Rights states that education should both “develop the full human being” and “increase respect for human rights”. A Human Rights Friendly School will create opportunities for all students, especially those who are marginalized due to their gender, status or difference. Equal access to education, and equality within the school community, opportunities for meaningful participation and an ethos that teaches students how to balance rights and responsibility empowers students to participate actively beyond the school community. This provides them with the tools to develop to their full potential.

PRINCIPLE 10: A Human Rights Friendly School empowers students and staff to become active members of a global community, sharing knowledge, understanding and learning with others and taking action to create a world where human rights are respected, protected and promoted.

Young people are growing up as members of an increasingly connected global community. A Human Rights Friendly School will support young people to use a human rights perspective to make sense of this world, to connect with their peers across the globe, to develop an understanding of respect for different cultures and ways of life, and to develop the knowledge and skills needed to take action on pressing global issues. Encouraging pupils to become active and informed global citizens will form a central part of a school that is human rights friendly, enabling pupils to realize that they have the power and responsibility to affect positive human rights change in the world.

THINKING POINT: Using the 10 Global Principles for Human Rights Friendly Schools Encourage pupils, teachers and others to review the 10 Global Principles for Human Rights Friendly Schools and consider what they mean in your school context:

- Do you agree with the 10 Global Principles? Is there anything that you would add or change to make the Global Principles work in your school?
- Consider each Global Principle in turn. How is this principle promoted or respected in your school now? What would you need to do to further develop this principle in your school?

ACTIVITY: What would your ideal Human Rights Friendly School look like?

After reviewing the 10 Global Principles for Human Rights Friendly Schools, ask pupils, teachers and parents to work together to create a visual image of what your Human Rights Friendly School would look and feel like. Be creative!



Sixty-sixth session

Agenda item 64

Resolution adopted by the General Assembly on 19 December 2011

(on the report of the Third Committee (A/66/457))

66/137. United Nations Declaration on Human Rights Education and Training

United Nations Declaration on Human Rights Education and Training (2011)

(Adopted by the General Assembly, Resolution 66/137, A/RES/66/137, 19 December 2011)

The General Assembly,

Welcoming the adoption by the Human Rights Council, in its resolution 16/1 of 23 March 2011, [1] of the United Nations Declaration on Human Rights Education and Training,

1. *Adopts* the United Nations Declaration on Human Rights Education and Training annexed to the present resolution;
2. *Invites* Governments, agencies and organizations of the United Nations system, and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

Annex

United Nations Declaration on Human Rights Education and Training

The General Assembly,

Reaffirming the purposes and principles of the Charter of the United Nations with regard to the promotion and encouragement of respect for all human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Reaffirming also that every individual and every organ of society shall strive by teaching and education to promote respect for human rights and fundamental freedoms,

Reaffirming further that everyone has the right to education, and that education shall be directed to the full development of the human personality and the sense of its dignity, enable

all persons to participate effectively in a free society and promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace, security and the promotion of development and human rights,

Reaffirming that States are duty-bound, as stipulated in the Universal Declaration of Human Rights, [2] the International Covenant on Economic, Social and Cultural Rights [3] and in other human rights instruments, to ensure that education is aimed at strengthening respect for human rights and fundamental freedoms,

Acknowledging the fundamental importance of human rights education and training in contributing to the promotion, protection and effective realization of all human rights,

Reaffirming the call of the World Conference on Human Rights, held in Vienna in 1993, on all States and institutions to include human rights, humanitarian law, democracy and rule of law in the curricula of all learning institutions, and its statement that human rights education should include peace, democracy, development and social justice, as set forth in international and regional human rights instruments, in order to achieve common understanding and awareness with a view to strengthening universal commitment to human rights, [4]

Recalling the 2005 World Summit Outcome, in which Heads of State and Government supported the promotion of human rights education and learning at all levels, including through the implementation of the World Programme for Human Rights Education, and encouraged all States to develop initiatives in that regard, [5]

Motivated by the desire to send a strong signal to the international community to strengthen all efforts in human rights education and training through a collective commitment by all stakeholders,

Declares the following:

Article 1

1. Everyone has the right to know, seek and receive information about all human rights and fundamental freedoms and should have access to human rights education and training.
2. Human rights education and training is essential for the promotion of universal respect for and observance of all human rights and fundamental freedoms for all, in accordance with the principles of the universality, indivisibility and interdependence of human rights.
3. The effective enjoyment of all human rights, in particular the right to education and access to information, enables access to human rights education and training.

Article 2

1. Human rights education and training comprises all educational, training, information, awareness-raising and learning activities aimed at promoting universal respect for and observance of all human rights and fundamental freedoms and thus contributing, inter alia, to the prevention of human rights violations and abuses by providing persons with knowledge, skills and understanding and developing their attitudes and behaviours, to empower them to contribute to the building and promotion of a universal culture of human rights.
2. Human rights education and training encompasses:
 - (a) Education about human rights, which includes providing knowledge and understanding of human rights norms and principles, the values that underpin them and the mechanisms for their protection;
 - (b) Education through human rights, which includes learning and teaching in a way that respects the rights of both educators and learners;
 - (c) Education for human rights, which includes empowering persons to enjoy and exercise their rights and to respect and uphold the rights of others.

Article 3

1. Human rights education and training is a lifelong process that concerns all ages.
2. Human rights education and training concerns all parts of society, at all levels, including preschool, primary, secondary and higher education, taking into account academic freedom where applicable, and all forms of education, training and learning, whether in a public or private, formal, informal or non-formal setting. It includes, inter alia, vocational training, particularly the training of trainers, teachers and State officials, continuing education, popular education, and public information and awareness activities.
3. Human rights education and training should use languages and methods suited to target groups, taking into account their specific needs and conditions.

Article 4

Human rights education and training should be based on the principles of the Universal Declaration of Human Rights and relevant treaties and instruments, with a view to:

1. Raising awareness, understanding and acceptance of universal human rights standards and principles, as well as guarantees at the international, regional and national levels for the protection of human rights and fundamental freedoms;
2. Developing a universal culture of human rights, in which everyone is aware of their own rights and responsibilities in respect of the rights of others, and promoting the

development of the individual as a responsible member of a free, peaceful, pluralist and inclusive society;

3. Pursuing the effective realization of all human rights and promoting tolerance, non-discrimination and equality;
4. Ensuring equal opportunities for all through access to quality human rights education and training, without any discrimination;
5. Contributing to the prevention of human rights violations and abuses and to the combating and eradication of all forms of discrimination, racism, stereotyping and incitement to hatred, and the harmful attitudes and prejudices that underlie them.

Article 5

1. Human rights education and training, whether provided by public or private actors, should be based on the principles of equality, particularly between girls and boys and between women and men, human dignity, inclusion and non-discrimination.
2. Human rights education and training should be accessible and available to all persons and should take into account the particular challenges and barriers faced by, and the needs and expectations of, persons in vulnerable and disadvantaged situations and groups, including persons with disabilities, in order to promote empowerment and human development and to contribute to the elimination of the causes of exclusion or marginalization, as well as enable everyone to exercise all their rights.
3. Human rights education and training should embrace and enrich, as well as draw inspiration from, the diversity of civilizations, religions, cultures and traditions of different countries, as it is reflected in the universality of human rights.
4. Human rights education and training should take into account different economic, social and cultural circumstances, while promoting local initiatives in order to encourage ownership of the common goal of the fulfilment of all human rights for all.

Article 6

1. Human rights education and training should capitalize on and make use of new information and communication technologies, as well as the media, to promote all human rights and fundamental freedoms.
2. The arts should be encouraged as a means of training and raising awareness in the field of human rights.

Article 7

1. States, and where applicable relevant governmental authorities, have the primary responsibility to promote and ensure human rights education and training, developed and implemented in a spirit of participation, inclusion and responsibility.

2. States should create a safe and enabling environment for the engagement of civil society, the private sector and other relevant stakeholders in human rights education and training, in which the human rights and fundamental freedoms of all, including of those engaged in the process, are fully protected.
3. States should take steps, individually and through international assistance and cooperation, to ensure, to the maximum of their available resources, the progressive implementation of human rights education and training by appropriate means, including the adoption of legislative and administrative measures and policies.
4. States, and where applicable relevant governmental authorities, should ensure adequate training in human rights and, where appropriate, international humanitarian law and international criminal law, of State officials, civil servants, judges, law enforcement officials and military personnel, as well as promote adequate training in human rights for teachers, trainers and other educators and private personnel acting on behalf of the State.

Article 8

1. States should develop, or promote the development of, at the appropriate level, strategies and policies and, where appropriate, action plans and programmes to implement human rights education and training, such as through its integration into school and training curricula. In so doing, they should take into account the World Programme for Human Rights Education and specific national and local needs and priorities.
2. The conception, implementation and evaluation of and follow-up to such strategies, action plans, policies and programmes should involve all relevant stakeholders, including the private sector, civil society and national human rights institutions, by promoting, where appropriate, multi-stakeholder initiatives.

Article 9

States should promote the establishment, development and strengthening of effective and independent national human rights institutions, in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (“the Paris Principles”), [6] recognizing that national human rights institutions can play an important role, including, where necessary, a coordinating role, in promoting human rights education and training by, inter alia, raising awareness and mobilizing relevant public and private actors.

Article 10

1. Various actors within society, including, inter alia, educational institutions, the media, families, local communities, civil society institutions, including non-governmental

organizations, human rights defenders and the private sector, have an important role to play in promoting and providing human rights education and training.

2. Civil society institutions, the private sector and other relevant stakeholders are encouraged to ensure adequate human rights education and training for their staff and personnel.

Article 11

The United Nations and international and regional organizations should provide human rights education and training for their civilian personnel and for military and police personnel serving under their mandates.

Article 12

1. International cooperation at all levels should support and reinforce national efforts, including, where applicable, at the local level, to implement human rights education and training.
2. Complementary and coordinated efforts at the international, regional, national and local levels can contribute to more effective implementation of human rights education and training.
3. Voluntary funding for projects and initiatives in the field of human rights education and training should be encouraged.

Article 13

1. International and regional human rights mechanisms should, within their respective mandates, take into account human rights education and training in their work.
2. States are encouraged to include, where appropriate, information on the measures that they have adopted in the field of human rights education and training in their reports to relevant human rights mechanisms.

Article 14

States should take appropriate measures to ensure the effective implementation of and follow-up to the present Declaration and make the necessary resources available in this regard.

[1] See *Official Records of the General Assembly, Sixty-sixth Session, Supplement No. 53 (A/66/53)*, chap. I.

[2] Resolution 217 A (III).

[3] See resolution 2200 A (XXI), annex.

[4] See A/CONF.157/24 (Part I), chap. III, sect. II.D, paras. 79 and 80.

[5] See resolution 60/1, para. 131.

[6] Resolution 48/134, annex.

WORLD PROGRAMME FOR HUMAN RIGHTS EDUCATION

On 10 December 2004, the General Assembly of the United Nations proclaimed the World Programme for Human Rights Education (2005-ongoing) to advance the implementation of human rights education programmes in all sectors. The World Programme was established by the General Assembly's resolution 59/113 (10 December 2004). OHCHR provides global coordination of the World Programme.

Building on the achievements of the United Nations Decade for Human Rights Education (1995-2004), the World Programme seeks to promote a common understanding of basic principles and methodologies of human rights education, to provide a concrete framework for action and to strengthen partnerships and cooperation from the international level down to the grass roots.

Unlike the specific time frame of the Decade, the World Programme is structured in consecutive phases, in order to further focus national human rights education efforts on specific sectors/issues. The first phase (2005-2009) focused on human rights education in the primary and secondary school systems. The second phase (2010-2014) focused on human rights education for higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel. The third phase (2015-2019) focuses on strengthening the implementation of the first two phases and promoting human rights training for media professionals and journalists.



First phase (2005-2009)

National initiatives

In the first phase (2005-2009) of the World Programme for Human Rights Education (WPHRE), Governments and other actors are encouraged to implement the WPHRE's Plan of Action in 4 steps:

Stage 1: Analyze the current situation of human rights education in the primary and secondary school systems;

Stage 2: Set priorities and develop a national implementation strategy;

Stage 3: Implement and monitor activities;

Stage 4: Evaluate.

Each Ministry of Education or equivalent institution should assign or strengthen a relevant Department/Unit responsible for coordination with all relevant actors and for serving as national focal point for human rights education in the school system.

COORDINATING MECHANISM

At the national level, ministries of education are invited to create or designate a unit within their structure responsible for coordinating the development and monitoring of the national implementation strategy for human rights education in the school system. This unit will also be responsible for liaising with the United Nations. Every country is also encouraged to identify and support a resource centre for collecting and disseminating related initiatives and information (good practices from diverse contexts and countries, educational materials, events).

At the international level, the Plan of Action proposes the creation of a United Nations inter-agency coordinating committee, composed of the Office of the United Nations High Commissioner for Human Rights (OHCHR), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP) and other relevant international agencies. With the Office of the High Commissioner providing its secretariat, this committee will meet regularly to follow up on the implementation of the Plan of Action, mobilize resources and support actions at country level, as well as ensure United Nations system-wide support to the national implementation strategy. United Nations entities that monitor a country's compliance with its treaty obligations and other relevant United Nations mechanisms will be called upon to emphasize and report on progress in human rights education in the school system.

OBJECTIVES

The objectives of the World Programme for Human Rights Education are:

(a) To promote the development of a culture of human rights;

- (b) To promote a common understanding, based on international instruments, of basic principles and methodologies for human rights education;
- (c) To ensure a focus on human rights education at the national, regional and international levels;
- (d) To provide a common collective framework for action by all relevant actors;
- (e) To enhance partnership and cooperation at all levels;
- (f) To take stock of and support existing human rights education programmes, to highlight successful practices, and to provide an incentive to continue and/or expand them and to develop new ones.

Second phase (2010-2014)

The Human Rights Council decided to focus the World Programme's second phase (2010-2014) on human rights education for higher education and on human rights training programmes for teachers and educators, civil servants, law enforcement officials and military personnel.

Specific Objectives

- a) To promote the inclusion of human rights education in higher education and in training programmes for civil servants, law enforcement officials and the military;
- b) To support the development, adoption and implementation of relevant sustainable national strategies;
- c) To provide guidelines on key components of human rights education in higher education and in training programmes for civil servants, law enforcement officials and the military;
- d) To facilitate the provision of support to higher education institutions and Member States by international, regional, national and local organizations;
- e) To support networking and cooperation among local, national, regional and international governmental and non-governmental institutions and organizations.

Action promoting human rights training for civil servants, law enforcement officials and the military

The present plan of action focuses on human rights training for a broad range of adult professionals who have specific responsibility, as state actors, to respect, protect and fulfil the human rights of those under their jurisdiction. They include:

- (a) Civil servants who, depending on national laws and governmental structures, may include officials and policymakers from government ministries and departments, diplomats, employees of local government and municipalities, as well as fiscal and economic agencies, teachers, public health professionals and social workers;

- (b) Law enforcement officials, i.e. police, prison personnel and border patrols, as well as security forces and the military, when they are given police powers;
- (c) The military.

The above-mentioned professional groups have very different roles and responsibilities, institutional and organizational cultures and specific international human rights standards applicable to them. Given its broad scope, this section will only present some general strategies for addressing these professions, while occasionally providing specific examples.

Actors

Main responsibility for the implementation of this section of the plan of action rests with the ministries responsible for the civil service, law enforcement officials and the military (for instance, depending on arrangements in specific countries, these may be the ministry of public administration, ministry of interior, ministry of justice or ministry of defence), working in cooperation with other relevant departments of the government (for instance, finance ministries) as well as local government.

The above-mentioned actors will need to work closely with numerous national institutions and organizations including:

- (a) Civil service training colleges, schools of government, and police and military training colleges, where they exist;
- (b) Unions of civil servants and law enforcement officials;
- (c) Relevant legislative bodies, including for instance interior, defence and human rights parliamentary committees and advisory groups;
- (d) Municipalities, in particular those belonging to national and regional networks and associations, such as the UNESCO Coalition of Cities against Racism and Discrimination;
- (e) National human rights institutions, such as ombudsmen and human rights commissions;
- (f) National and local human rights training and resource centres;
- (g) Non-governmental organizations.

Other stakeholders to be involved would include:

- (a) The media;
- (b) Religious institutions;
- (c) Community leaders and local community institutions;
- (d) Indigenous peoples and minorities;
- (e) The corporate sector.

Third phase (2015-2019)

The Human Rights Council decided to focus the World Programme's third phase (2015-2019) on strengthening the implementation of the first two phases and promoting human rights training for media professionals and journalists.

Specific objectives

13. In view of the overall objectives of the World Programme (see sect. I.B above), the present Plan of Action is aimed at achieving the following specific objectives:

- a) To strengthen implementation of human rights education in the primary and secondary school systems and in higher education, and human rights training for teachers and educators, civil servants, law enforcement officials and the military;
- b) With regard to media professionals and journalists:
 - i. To highlight their role in the promotion and the protection of human rights;
 - ii. To provide guidance on effective human rights training programming for media professionals and journalists;
 - iii. To support the development, adoption and implementation of relevant sustainable training strategies;
 - iv. To highlight the importance of enabling environments guaranteeing the protection and safety of media professionals and journalists;
 - v. To facilitate support for human rights training for media professionals and journalists by local, national, regional and international organizations;
 - vi. To support networking and cooperation among local, national, regional and international governmental and non-governmental institutions and organizations.

Actors

The main responsibility for advancing the implementation of human rights education during the third phase rests with:

- a. For primary and secondary education, ministries of education or equivalent institutions;
- b. For higher education, ministries of education or higher education or equivalent institutions, as well as higher education institutions and relevant training colleges, with varying levels of responsibility depending upon the degree of institutional autonomy;
- c. For the training of civil servants, law enforcement officials and the military, the ministries responsible for the civil service, law enforcement officials and the

military; depending on arrangements in specific countries, they may be the ministry of public administration, the ministry of the interior, the ministry of justice or the ministry of defense.

Responsibility for the design and delivery of appropriate human rights education strategies and activities for media professionals and journalists is shared among multiple actors, owing to the complex training systems and to the different contexts, including:

- a. Undergraduate or graduate institutes or universities, as well as human rights institutes and UNESCO Chairs for human rights education;
- b. Unions and professional and accrediting organizations of media professionals and journalists;
- c. Public and private media enterprises and their leadership, in particular company board members and editors-in-chief;
- d. Relevant legislative bodies, including human rights and other parliamentary committees and advisory groups;
- e. National human rights institutions, such as ombudspersons and human rights commissions;
- f. National, regional and international media networks;
- g. Research institutions addressing journalism;
- h. National and local human rights resource and training centres;
- i. Non-governmental organizations and other civil society actors;
- j. International and regional intergovernmental organizations.

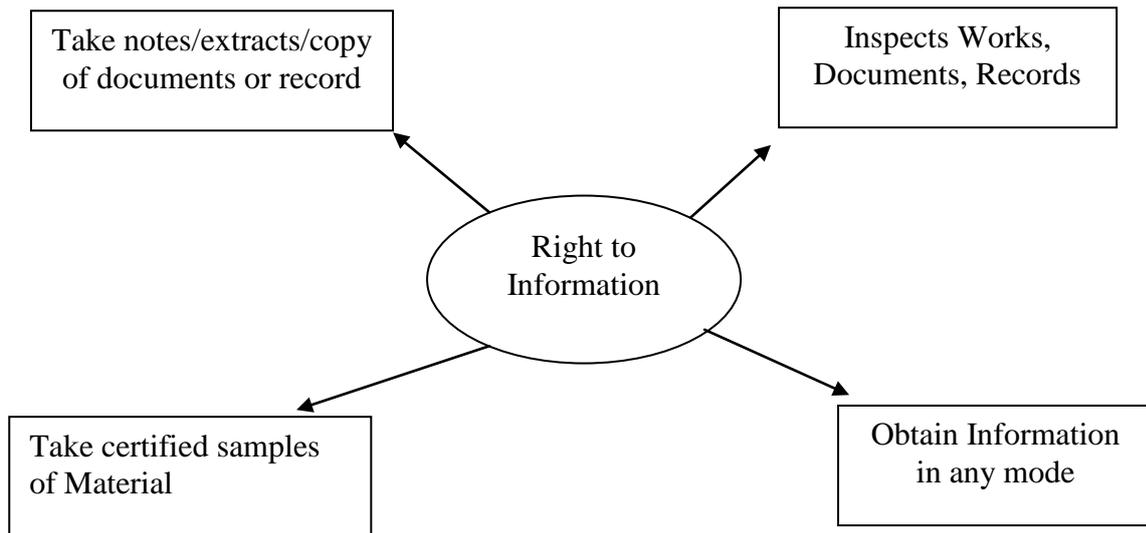
AN INTRODUCTION

A) Right to Information Act 2005

1) Objectives of the Act:

- To promote transparency and accountability in the working of every public authority.
- To set up a practical regime of right to information for citizens to secure access to information that is under the control of public authorities.

2) What is information?



Material in **any form** including

- records,
- documents,
- memos,
- emails,
- opinions,
- advices,
- press releases,
- circulars,
- orders,
- logbooks,
- contracts,
- reports,
- papers,
- samples,
- models,
- data material held in any electronic form.

3) Information relating to any private body which can be accessed by a public authority under any other law for the time being in force.

- Any document, manuscript or file;
- Any microfilm, microfiche and facsimile copy of a document;
- Any reproduction of image or images embodied in such micro-film (whether enlarged or not); and
- Any other material produced by a computer or any other device.

4) How Information can be obtained?

- By Inspection of work, documents, records;
- By Taking notes, extracts or certified copies of documents or records;
- By Taking certified samples of material;
- By obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device.

5) From whom information can be obtained?

- “ public authority” means any authority or body or institution of self-government established or constituted-
 - a. by or under the Constitution;
 - b. by any other law made by State Legislature;
 - c. by any other law made by State Legislature
 - d. by notification issued or order made by the appropriate Government, and includes any-
 - I. body owned, controlled or substantially financed;
 - II. non-Government organization substantially financed, directly or indirectly by funds provided by the appropriate Government;

6) Important Features of the Act

- I. Information which cannot be denied to parliament or a State Legislature shall not be denied to any person. Sec 8(1)(J)
- II. Information to be furnished within 30 days of receipt of the application.
- III. Refusal to accept application without reason cause is an offence.
- IV. Fine of Rs.250/- per day till the application is received up to maximum of Rs.25,000/- and also recommend disciplinary action. Sec 20(1).

- V. To provide information within 30 days.
- VI. In case of information concerning life or liberty of person information to be provided within 48 hours.
- VII. Assist the citizens making oral request for information to write applications.
- VIII. Application may be submitted by post.
- IX. Applications may be in Hindi, English or in any language
- X. Reason for requesting information need not be given
- XI. Application fees of Rs.50/-. BPL Category exempted.
- XII. Receipt for receiving the application to be issued.
- XIII. The application can be rejected only with written reasons.
- XIV. Disabled persons have to be assisted to access information.
- XV. Appeals to be disposed of within 30 days – 15 days extendable with reasons.
- XVI. Burden of proof lies on the Public Information Officer to justify his / her decision.
- XVII. The Jurisdiction of courts are barred. Only the High Court and the Supreme Court have power to look into the matter. Since the same relates to fundamental rights of citizens

7) Exemptions (Sec. 8)

- I. information, disclosure of which prejudicially affect the sovereignty and integrity of india, the security, strategic, scientific or economic interests of the State, relation with foreign State or lead to incitement of an offence;
- II. forbidden by court
- III. breach of privilege of Parliament or the State Legislature;
- IV. Commercial confidence, trade secrets or intellectual property, etc.,
- V. Fiduciary relationship
- VI. Information received from foreign Government
- VII. Endanger the life or physical safety of any person
- VIII. Impede the process of investigations
- IX. Cabinet papers untill the decision is taken
- X. Personal information

8) Authorities under the Act

a) Central Public Information Officer (CPIO)

- Every Central Public Authority has to designate officer for receiving applications for information from the citizens in all administrative units.

b) Central Assistant Public Information Officer (CACPIO)

- Every Central Public Authority has to designate officer for receiving applications for information from the citizens and to forward appeal at sub-divisional or sub-district level.

c) State Public Information Officer (SPIO)

- Every State Public Authority has to designate officer for receiving applications for information from the citizens in all administrative units.

d) State Assistant Public Information Officer (SAPIO)

- Every State Public Authority has to designate officer for receiving applications for information from the citizens and to forward appeals at sub-divisional or sub-district level .

e) Designated Senior Officer (DSO)

- To look into cases of refusal on appeal to the Departmental Appellant Authority (DAA)

f) Central Information Commission (CIC)

- To look into cases where the citizens are unsatisfied with the decision of the DAA. The CIC has powers and responsibilities to monitor complaints under the act and submit annual report to the Parliament. Consist of Central Chief Information Commissioner and Information Commissioners not exceeding 10.

g) State Information Commission (SIC)

- To look into cases where the citizens are unsatisfied with the decision of the DAA. The SIC has powers and responsibilities to monitor complaints under the act and submit annual report to this State Legislature. Consist of State Chief Information Commissioner and Information Commissioners not exceeding 10.

9) Obligations of Public Authorities

1. Every public authority shall

- a. maintain all its records duly catalogued and indexed in a manner and the form which facilitates the right to information under this Act and ensure that all records that are appropriate to be computerised are, within a reasonable time and subject to availability of resources, computerised and connected through a network all over the country on different systems so that access to such records is facilitated;
- b. Publish within one hundred and twenty days from the enactment of this Act,
 - I. the particulars of its organization, functions and duties;
 - II. the powers and duties of its officers and employees,

- III. the procedure followed in the decision making process, including channels of supervision and accountability;
 - IV. the norms set by it for the discharge of its functions;
 - V. the rules, regulations, instructions, manuals and records, held by it or under its control or used by its employees for discharging its functions;
 - VI. a statement of the categories of documents that are held by it or under its control;
 - VII. the particulars of any arrangement that exists for consultation with, or representation by, the members of the public in relation to the formulation of its policy or implementation thereof;
 - VIII. a statement of the boards, councils, committees and other bodies consisting of two or more persons constituted as its part or for the purpose of its advice, and as to whether meetings of those boards councils, committees and other bodies are open to the public, or the minutes of such meetings are accessible for public;
 - IX. a directory of its officers and employees;
 - X. the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;
 - XI. the budget allocated to each of its agency, indicating the particulars of all plans, proposed expenditures and reports on disbursements made;
 - XII. the manner of execution of subsidy programmes, including the amounts allocated and the details of beneficiaries of such programmes;
 - XIII. particulars of recipients of concessions, permits or authorisations granted by it;
 - XIV. details in respect of the information, available to or held by it, reduced in an electronic form;
 - XV. the particulars of facilities available to citizens for obtaining information, including the working hours of a library or reading room, if maintained for public use;
 - XVI. the names, designations and other particulars of the Public Information Officers;
 - XVII. such other information as may be prescribed; and thereafter update these publications every year;
- c.** publish all relevant facts while formulation of important policies or announcing the decisions which affect public;
- d.** provide reasons for its administration or quasi-judicial decisions to affected persons.

2. It shall be a constant endeavour of every public authority to take steps in accordance with the requirements of clause.(b) of sub-section (1) to provide as much information suo motu to the public at regular intervals through various means of communications, including internet, so that the public have minimum resort to the use of this Act to obtain information.

3. For the purposes of sub-section (1), every information shall be disseminated widely and in such form and manner which is easily accessible to the public.

4. All materials shall be disseminated taking into consideration the cost effectiveness, local language and the most effective method of communication in that local area and the information should be easily accessible, to the extent possible in electronic format with the Central Public Information Officer or State Public Information Officer, as the case may be, available free or at such cost of the medium or the print cost price as may be prescribed.

- Explanation.- For the purposes of sub-sections (3) and (4),” disseminated” means making known or communicated the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority.

Declaration of Human Rights Defenders

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

General Assembly resolution 53/144

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Taking note of Commission on Human Rights resolution 1998/7 of 3 April 1998, See *Official Records of the Economic and Social Council, 1998, Supplement No. 3 (E/1998/23)*, chap. II, sect. A. in which the Commission approved the text of the draft declaration on the right and responsibility of individuals, groups and organs of society to promote and protect universally recognized human rights and fundamental freedoms,

Taking note also of Economic and Social Council resolution 1998/33 of 30 July 1998, in which the Council recommended the draft declaration to the General Assembly for adoption,

Conscious of the importance of the adoption of the draft declaration in the context of the fiftieth anniversary of the Universal Declaration of Human Rights, Resolution 217 A (III).

1. *Adopts* the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, annexed to the present resolution;

2. *Invites* Governments, agencies and organizations of the United Nations system and intergovernmental and non-governmental organizations to intensify their efforts to disseminate the Declaration and to promote universal respect and understanding thereof, and requests the Secretary-General to include the text of the Declaration in the next edition of *Human Rights: A Compilation of International Instruments*.

85th plenary meeting

9 December 1998

ANNEX

Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms

The General Assembly,

Reaffirming the importance of the observance of the purposes and principles of the Charter of the United Nations for the promotion and protection of all human rights and fundamental freedoms for all persons in all countries of the world,

Reaffirming also the importance of the Universal Declaration of Human Rights² and the International Covenants on Human Rights Resolution 2200 A (XXI), annex. as basic elements of international efforts to promote universal respect for and observance of human rights and fundamental freedoms and the importance of other human rights instruments adopted within the United Nations system, as well as those at the regional level,

Stressing that all members of the international community shall fulfil, jointly and separately, their solemn obligation to promote and encourage respect for human rights and fundamental freedoms for all without distinction of any kind, including distinctions based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and reaffirming the particular importance of achieving international cooperation to fulfil this obligation according to the Charter,

Acknowledging the important role of international cooperation for, and the valuable work of individuals, groups and associations in contributing to, the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals, including in relation to mass, flagrant or systematic violations such as those resulting from apartheid, all forms of racial discrimination, colonialism, foreign domination or occupation, aggression or threats to national sovereignty, national unity or territorial integrity and from the refusal to recognize the right of peoples to self-determination and the right of every people to exercise full sovereignty over its wealth and natural resources,

Recognizing the relationship between international peace and security and the enjoyment of human rights and fundamental freedoms, and mindful that the absence of international peace and security does not excuse non-compliance,

Reiterating that all human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated and should be promoted and implemented in a fair and equitable manner, without prejudice to the implementation of each of those rights and freedoms,

Stressing that the prime responsibility and duty to promote and protect human rights and fundamental freedoms lie with the State,

Recognizing the right and the responsibility of individuals, groups and associations to promote respect for and foster knowledge of human rights and fundamental freedoms at the national and international levels,

Declares:

Article 1

Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.

Article 2

1. Each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms, *inter alia*, by adopting such steps as may be necessary to create all conditions necessary in the social, economic, political and other fields, as well as the legal guarantees required to ensure that all persons under its jurisdiction, individually and in association with others, are able to enjoy all those rights and freedoms in practice.

2. Each State shall adopt such legislative, administrative and other steps as may be necessary to ensure that the rights and freedoms referred to in the present Declaration are effectively guaranteed.

Article 3

Domestic law consistent with the Charter of the United Nations and other international obligations of the State in the field of human rights and fundamental freedoms is the juridical framework within which human rights and fundamental freedoms should be implemented and enjoyed and within which all activities referred to in the present Declaration for the promotion, protection and effective realization of those rights and freedoms should be conducted.

Article 4

Nothing in the present Declaration shall be construed as impairing or contradicting the purposes and principles of the Charter of the United Nations or as restricting or derogating from the provisions of the Universal Declaration of Human Rights,² the International Covenants on Human Rights³ and other international instruments and commitments applicable in this field.

Article 5

For the purpose of promoting and protecting human rights and fundamental freedoms, everyone has the right, individually and in association with others, at the national and international levels:

- (a) To meet or assemble peacefully;
- (b) To form, join and participate in non-governmental organizations, associations or groups;
- (c) To communicate with non-governmental or intergovernmental organizations.

Article 6

Everyone has the right, individually and in association with others:

(a) To know, seek, obtain, receive and hold information about all human rights and fundamental freedoms, including having access to information as to how those rights and freedoms are given effect in domestic legislative, judicial or administrative systems;

(b) As provided for in human rights and other applicable international instruments, freely to publish, impart or disseminate to others views, information and knowledge on all human rights and fundamental freedoms;

(c) To study, discuss, form and hold opinions on the observance, both in law and in practice, of all human rights and fundamental freedoms and, through these and other appropriate means, to draw public attention to those matters.

Article 7

Everyone has the right, individually and in association with others, to develop and discuss new human rights ideas and principles and to advocate their acceptance.

Article 8

1. Everyone has the right, individually and in association with others, to have effective access, on a non-discriminatory basis, to participation in the government of his or her country and in the conduct of public affairs.

2. This includes, *inter alia*, the right, individually and in association with others, to submit to governmental bodies and agencies and organizations concerned with public affairs criticism and proposals for improving their functioning and to draw attention to any aspect of their work that may hinder or impede the promotion, protection and realization of human rights and fundamental freedoms.

Article 9

1. In the exercise of human rights and fundamental freedoms, including the promotion and protection of human rights as referred to in the present Declaration, everyone has the right, individually and in association with others, to benefit from an effective remedy and to be protected in the event of the violation of those rights.

2. To this end, everyone whose rights or freedoms are allegedly violated has the right, either in person or through legally authorized representation, to complain to and have that complaint promptly reviewed in a public hearing before an independent, impartial and competent judicial or other authority established by law and to obtain from such an authority a decision, in accordance with law, providing redress, including any compensation due, where there has been a violation of that person's rights or freedoms, as well as enforcement of the eventual decision and award, all without undue delay.

3. To the same end, everyone has the right, individually and in association with others, *inter alia*:

- (a) To complain about the policies and actions of individual officials and governmental bodies with regard to violations of human rights and fundamental freedoms, by petition or other appropriate means, to competent domestic judicial, administrative or legislative authorities or any other competent authority provided for by the legal system of the State, which should render their decision on the complaint without undue delay;
- (b) To attend public hearings, proceedings and trials so as to form an opinion on their compliance with national law and applicable international obligations and commitments;
- (c) To offer and provide professionally qualified legal assistance or other relevant advice and assistance in defending human rights and fundamental freedoms.

4. To the same end, and in accordance with applicable international instruments and procedures, everyone has the right, individually and in association with others, to unhindered access to and communication with international bodies with general or special competence to receive and consider communications on matters of human rights and fundamental freedoms.

5. The State shall conduct a prompt and impartial investigation or ensure that an inquiry takes place whenever there is reasonable ground to believe that a violation of human rights and fundamental freedoms has occurred in any territory under its jurisdiction.

Article 10

No one shall participate, by act or by failure to act where required, in violating human rights and fundamental freedoms and no one shall be subjected to punishment or adverse action of any kind for refusing to do so.

Article 11

Everyone has the right, individually and in association with others, to the lawful exercise of his or her occupation or profession. Everyone who, as a result of his or her profession, can affect the human dignity, human rights and fundamental freedoms of others should respect those rights and freedoms and comply with relevant national and international standards of occupational and professional conduct or ethics.

Article 12

1. Everyone has the right, individually and in association with others, to participate in peaceful activities against violations of human rights and fundamental freedoms.

2. The State shall take all necessary measures to ensure the protection by the competent authorities of everyone, individually and in association with others, against any violence, threats, retaliation, *de facto* or *de jure* adverse discrimination, pressure or any other arbitrary action as a consequence of his or her legitimate exercise of the rights referred to in the present Declaration.

3. In this connection, everyone is entitled, individually and in association with others, to be protected effectively under national law in reacting against or opposing, through peaceful means, activities and acts, including those by omission, attributable to States that result in violations of human rights and fundamental freedoms, as well as acts of violence perpetrated by groups or individuals that affect the enjoyment of human rights and fundamental freedoms.

Article 13

Everyone has the right, individually and in association with others, to solicit, receive and utilize resources for the express purpose of promoting and protecting human rights and fundamental freedoms through peaceful means, in accordance with article 3 of the present Declaration.

Article 14

1. The State has the responsibility to take legislative, judicial, administrative or other appropriate measures to promote the understanding by all persons under its jurisdiction of their civil, political, economic, social and cultural rights.

2. Such measures shall include, *inter alia*:

(a) The publication and widespread availability of national laws and regulations and of applicable basic international human rights instruments;

(b) Full and equal access to international documents in the field of human rights, including the periodic reports by the State to the bodies established by the international human rights treaties to which it is a party, as well as the summary records of discussions and the official reports of these bodies.

3. The State shall ensure and support, where appropriate, the creation and development of further independent national institutions for the promotion and protection of human rights and fundamental freedoms in all territory under its jurisdiction, whether they be ombudsmen, human rights commissions or any other form of national institution.

Article 15

The State has the responsibility to promote and facilitate the teaching of human rights and fundamental freedoms at all levels of education and to ensure that all those responsible for training lawyers, law enforcement officers, the personnel of the armed forces and public officials include appropriate elements of human rights teaching in their training programme.

Article 16

Individuals, non-governmental organizations and relevant institutions have an important role to play in contributing to making the public more aware of questions relating to all human rights and fundamental freedoms through activities such as education, training and research in these areas to strengthen further, *inter alia*, understanding, tolerance, peace and friendly relations among nations and among all racial and religious groups, bearing in mind the various backgrounds of the societies and communities in which they carry out their activities.

Article 17

In the exercise of the rights and freedoms referred to in the present Declaration, everyone, acting individually and in association with others, shall be subject only to such limitations as are in accordance with applicable international obligations and are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Article 18

1. Everyone has duties towards and within the community, in which alone the free and full development of his or her personality is possible.

2. Individuals, groups, institutions and non-governmental organizations have an important role to play and a responsibility in safeguarding democracy, promoting human rights and fundamental freedoms and contributing to the promotion and advancement of democratic societies, institutions and processes.

3. Individuals, groups, institutions and non-governmental organizations also have an important role and a responsibility in contributing, as appropriate, to the promotion of the right of everyone to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights and other human rights instruments can be fully realized.

Article 19

Nothing in the present Declaration shall be interpreted as implying for any individual, group or organ of society or any State the right to engage in any activity or to perform any act aimed at the destruction of the rights and freedoms referred to in the present Declaration.

Article 20

Nothing in the present Declaration shall be interpreted as permitting States to support and promote activities of individuals, groups of individuals, institutions or non-governmental organizations contrary to the provisions of the Charter of the United Nations.

20 METHODS FOR STUDENT ENGAGEMENT

1. Brainstorming
2. Case studies
3. Creative expression
4. Debates and Negotiations
5. Discussion
6. Dramatizations
7. Energizers
8. Field Trips
9. Hearings and Tribunals
10. Interpretation of Images
11. Interviews
12. Jigsaw
13. Journal Writing
14. Media
15. Mock Trials
16. Presentations
17. Research Projects
18. Storytelling
19. Surveys and Data Collection
20. Webbing Activities

Method 1: Brainstorming

Brainstorming encourages creativity and generates many ideas quickly. It can be used for solving a specific problem, answering a question, introducing a new subject, raising interest, and surveying knowledge and attitudes.

Most brainstorming sessions follow this procedure:

1. Introduce a question, problem, or topic both orally and in writing on chart paper;
2. Invite participants to respond with as many ideas or suggestions as possible, ideally in single words or short phrases. Encourage everyone to participate but do not proceed in any set order;
3. Explain that until the brainstorm is complete, no one may repeat or comment on any response;
4. Record every response on chart paper. Often, the most creative or outrageous suggestions are the most useful and interesting;
5. Afterward, prioritize, analyze, or use the list to generate discussion or problem solving.

Method 2: Case Studies

Give small groups of participants case studies to respond to as primary data for learning. Cases can encourage analysis, critical thinking, problem solving, and planning skills, as well as cooperation and team building. They can be used to set up effective debates (e.g., groups assigned to argue assigned positions on an issue) and comparisons (e.g., different analyses or solutions of problems in the case).

- **Real cases** can be drawn from historical or current events.
- **Fictional or hypothetical cases** might be developed to address particular issues or workshop topics. Fictional situations can often address locally sensitive issues without evoking responses to particular individuals, organizations, social groups, or geographic regions.
- **Fieldwork cases** can be developed participant interviews in the community.

Method 3: Creative expression

Creative expression can help to make concepts more concrete, personalize abstractions, and affect attitudes by involving emotional as well as intellectual responses to human rights. Although facilitators should feel comfortable using these techniques, they need not be accomplished artists themselves. These enriching techniques should not be restricted to children and or groups with limited literacy; adults, especially academics and professionals, often need ways to relate personally to human rights. Because some participants may find non-intellectual methods unfamiliar, embarrassing, or even threatening, provide several choices of expression and be very careful to create a safe, non-judgmental situation.

- **Writing:** Participants might write original poetry, songs, dramas, stories, or essays or compile collections of relevant material from other sources. They might also write letters or editorials on issues that concern them.
- **Graphic Arts:** The possible media are limitless: drawing and painting; making mobiles, collages, or sculptures; taking photographs; creating installations; designing posters, banners, or tee shirts; etc. To raise awareness, display the results in a public place.
- **Music:** The possibilities of music for learning are limitless. Groups of all ages respond to songs that inspire, energize and link them to historical struggles for justice.
- **Movement and Dance:** These non-verbal arts often permit participants to say the "unsayable." Combined with music, they can lead to spontaneous "opera."

Method 4: Debates and Negotiations

Debates help to clarify different positions on a controversial issue. They usually involve two or several small groups who plan and present arguments on different sides of an issue, which may not necessarily represent their personal views. Debates develop logic, understanding of an issue, and listening and speaking skills. Ideally a debate concludes with all participants being able to vote for or against the proposition and discuss their positions.

- **Informal Debates:** Informal debates can take many forms. Sometimes participants are asked to take a stand on an issue and then explain their position. You might divide participants arbitrarily into two groups, each with an assigned position on an issue. The two groups prepare their arguments with each person in the group making one point for that side. The two sides present their arguments in turn, with all

participants speaking. Afterward participants indicate their personal positions, perhaps including "undecided."

- **Formal Debates:** Role-playing sides in a negotiation process clarifies conflicting positions. These might be simulated international summit talks, labor disputes between workers and management, or even family conflicts. Negotiations differ from debates in that the result is not a "winning side" but a settlement that both sides can accept. Negotiation skills are especially important for conflict resolution and consensus building.
- **Active Listening:** Working in pairs or groups of four, Person A gives one reason for support of an issue. Person B listens and then summarizes or restates A's reason. Person B then gives one reason opposing the statement. Person A (or Person C in a group of four) listens and summarizes B's reason and so forth until each person has had a chance to express at least two reasons.

Method 5: Discussion

To keep discussion focused, you might initially pose several key questions. The larger the group, the more likely that some participants will dominate and others remain silent. To ensure that everyone has the opportunity to speak, you may want to divide participants into smaller units. When any discussion concludes, summarize the main points orally and in writing.

- **Small Groups:** Size will depend on time and the sensitivity or complexity of the subject. In most cases each group selects a reporter to summarize its discussion.
- **Buzz Groups:** Participants discuss in pairs for a limited period. This method is especially effective for articulating ideas in preparation for a general discussion or to give expression to personal response to a film, presentation, or experience. After talking in pairs, couples might be asked to combine in groups of four and compare their opinions.
- **Open Questioning:** Facilitators need to develop the skills of keeping the goal of discussion clearly in mind and of asking questions that encourage participation and analysis. Here are some typical forms of open questions:
 - Hypothetical: "What would you do if...?"
 - Speculating: "How might we solve this problem?"
 - Defining: "Can you say more about how that idea would work?"
 - Probing: "Why do you think that?"
 - Clarifying/Summarizing: "Am I right to say that you think...?"
- **Rules for Discussion:** One way to help create an environment of trust and mutual respect is to have participants develop "Rules for Discussion": Ask participants to think of some principles for discussion, which they think everyone should follow.

Write all of these suggestions where everyone can see them, combining and simplifying where necessary. If not already mentioned, you might want to suggest some of the following principles:

- Listen to the person who is speaking;
- Only one person speaks at a time;
- Raise your hand to be recognized if you want to say something;
- Don't interrupt when someone is speaking;
- When you disagree with someone, make sure that you make a difference between criticizing someone's idea and criticizing the person;
- Don't laugh when someone is speaking (unless she or he makes a joke!);
- Encourage everyone to participate.

Copy the list of rules neatly and hang it where participants can refer, add, or make changes to it as necessary.

Method 6: Dramatizations

Many dramatic techniques can enhance learning. Sometimes their purpose is for participants to "experience" an unfamiliar situation or identity (e.g., being a refugee, being disabled) and develop empathy and appreciation for different points of view (e.g., acting the role of a perpetrator, a witness, an advocate). Other dramatizations may serve to concretize concepts (e.g., acting out articles of the UDHR) or analyze conflict (e.g., acting out confrontations between police and demonstrators).

- **Charades:** Working in several teams, participants act out articles of human rights documents, which others must guess. These charades might illustrate rights denied, rights enjoyed, or rights defended.
- **Dramatic Readings:** Participants create presentations by reading from plays, testimonies, stories, or poems on a particular subject.
- **Image Creation:** Ask a volunteer to name a human rights problem from her or his own experience. The volunteer then uses the other participants to build an image of this problem. Everyone must agree that the image accurately represents the problem. Then ask the volunteer slowly to change the "actual" image into an ideal one (i.e., an example of the situation as she or he would like to see it). Discuss possible agents of change.
- **Puppets:** Participants create puppet shows on human rights themes.
- **Role-Play:** This well-known method can take many forms, but in all participants act out little dramas. Give clear instructions and ensure time for full development and discussion of the role-play, concluding with an explicit restatement of its purpose and learning points. Be sensitive to feelings the drama may evoke in the actors and the audience. Allow times to "debrief" the role-play, asking both actors and audience how

they felt. Encourage evaluation of what took place and analysis of its relevance to human rights.

- **Street Theater:** To raise public awareness, especially among limited-literacy audiences, participants perform human rights plays in public places, often inviting onlookers to take part.

Method 7: Energizers

Sometimes the energy level of even the most enthusiastic group lags. Refocus attention with a quick "energizer" activity. The following non-verbal activities can help to raise group spirits, create solidarity, and refocus energy.

- **Arm in Arm:** Ask participants to divide in pairs of equal strength. Explain: "How many times can you put your partner's hand to the table in 60 seconds? There can be two winners to this game." Then say "Go" and let participants know when 30 seconds and 10 seconds remain. Those who cooperate will be able to touch many times while those who compete will have few or no touches. Point out the difference between cooperation and competition.
- **The Chain:** Ask participants to stand in a circle with their eyes closed. Move them around, attaching their hands to each other so that they make a knot. Then tell participants to open their eyes and try to untangle themselves without letting go of their hands.
- **Fireworks:** Assign small groups to make the sounds and gestures of different fireworks. Some are bombs that hiss and explode. Others are firecrackers imitated by handclaps. Some are Catherine Wheels that spin and so on. Call on each group to perform separately, and then the whole group makes a grand display.
- **Group Sit:** Ask participants to stand in a circle toe-to-toe. Then ask them to sit down without breaking the connection of their toes. Avoid this activity if members of the group are disabled or elderly.
- **The Rain Forest:** Stand in the center of participants, who mimic your movements, making different sounds and gestures for aspects of the forest (e.g., birds, insects, leaves rustling, wind blowing, animals calling) by snapping fingers, slapping sides, clapping hands, and imitating animals. The resulting sound is like a rain forest.
- **Silent Calendar:** Explain that the whole group must line up in order of the day and month they were born, but they cannot use words to accomplish this.
- **The Storm:** Assign different sounds and gestures to small groups of participants (e.g., wind, rain, lightning, thunder, etc.) and then narrate the soft beginnings of the storm, conducting the various sounds like an orchestra (e.g., "And then the lightning flashes! And the thunder roars!") through to the conclusion of the storm.
- **To the Lifeboats!:** First demonstrate a "lifeboat": two people hold hands to form the boat; passengers stand inside the circle of their hands. Then explain that everyone is

going on a voyage: "At first the sea is calm and everyone is enjoying the trip. Then, suddenly, the ship hits a rock. Everyone must get into a lifeboat in groups of three (or one, or four, etc.)." Participants then scramble to form "lifeboats" and take in the proper number of passages. Usually someone "drowns." Then take up the narrative again. "Now the ship continues peacefully ... but suddenly a hurricane begins. The ship is sinking. Everyone to the lifeboats in groups of two." Continue like this through several "shipwrecks."

Method 8: Field Trips

Sometimes participants need a safe place to learn, removed from the outside world. At other times learning is enhanced by exposure to new people and places, often unrecognized in their own communities. Visits might be to places where human rights issues develop (e.g., prisons, hospitals, international borders, urban centers) or where people work to stop abuses or relieve victims (non-profit organizations, government offices, homeless or battered women's shelters, food or clothing banks). Prepare participants for any visit (e.g., create preliminary questions and research projects, give background information, specific assignments for observation) and provide appropriate ways to respond to the experience (e.g., journaling, creative expression, small-group discussions) and take action.

Method 9: Hearings and Tribunals

Public testimony can give a human face to both human rights defenders and victims and serve to both educate and motivate those who attend.

- **Live Testimony:** To be effective, hearings with "real" witnesses require careful orchestration of time, speakers, and situation. Take care, of course, to respect both the dignity and privacy of speakers. Hearings might be set up to draw public attention to a problem, raise awareness of a targeted group (e.g., legislative body), or provide an alternative perspective on an issue. Conclude with some action opportunities.
- **Quoted Testimony:** Having participants create a hearing using recordings of live testimony or reading transcripts in the voices of others can be a powerful learning tool.
- **Fictional Testimony:** Participants might also research and write the testimony based on what a person might have said at a trial or hearing about their experience. This method combines elements of mock trial, creative expression, and dramatization.

Method 10: Interpretation of Images

Responding to photographs, pictures, cartoons, or artifacts can illustrate individual differences and evoke feelings about abstract concepts. If possible, permit participants to choose the image they will examine. Ask key questions for writing or discussion (e.g., "What do you know about this picture?" "... think about this picture?" "... feel about this picture?"). Conclude by asking participants to show their picture and summarize their discussion.

Method 11: Interviews

Interviewing provides direct learning and personalizes human rights issues and history. Those interviewed might be family, community members, activists, leaders, experts, or witnesses to human rights events. Participants need to be clear on the goals and desired outcomes for their interviews and to prepare in advance with key questions. They also need to plan how they will document the interview and to understand the ethical implications of how they use the information they obtain. Interviews might be conducted by the whole group, teams, or individuals who later consolidate and compare their results. Careful preliminary research and preparation of questions is essential to effective interviewing.

Method 12: Jigsaw

This methodology builds cooperation and enables participants to teach each other. Divide an issue into several sub-topics (e.g., different arguments for and against the death penalty), and assign each sub-topic to a different small groups (e.g., 5 groups of 5 people). Each group works together to learn more about its aspect of the topic (e.g., do research, discuss, read handouts). When the initial group has informed itself, assign new groups containing one person from each initial group. Each member of the new group is then responsible for sharing her or his information or point of view on the sub-topic, thus covering many aspects of a topic.

Method 13: Journal Writing

Having participants write down their reactions, opinions, and ideas before a discussion not only raises the level of discourse, but also provides them with a written record of their evolving ideas about human rights. Journal writing also reinforces the value of independent, critical thinking. For some participants a journal provides an outlet to express thoughts and emotions too personal to bring up for open discussion.

- Provide enough time for journal writing (10 minutes minimum) at regular intervals (e.g., end of a discussion or activity);
- Never require anyone to read from or show the journal;
- If a participant chooses to read from a journal, no one should criticize the opinion expressed.

Collective/Community Journal: its participants to contribute entries from their journals to a group journal, either reproduced and given to each participant or mounted on a group bulletin board. These may be anonymous.

Method 14: Media

Newspapers, news magazines, and news programs on radio or television can serve as excellent learning tools. Ask participants to analyze the media for stereotypes, prejudices, and different treatment of similar stories. Questions for analysis might include the following:

- Does the title of the article suggest a view on the issue?

- Are both sides of the issue presented in a balanced manner?
- Are direct accusations made against anyone? Are indirect accusations made? Is any proof offered in support of the allegations?
- Are there direct quotations from people being criticized?
- Are there direct quotations from people in authority (e.g., police, social workers, elected officials)?
- If there are photographs or film footage, is it unbiased? Is anyone made to look especially good or bad?

When participants are sensitized to a particular issue, they often begin to recognize it all around. Encourage them to bring in examples they hear or read in the media. If participants show interest, establish a time in every session to present these examples. Human rights issues in the media may also inspire participants to write to local officials or newspaper editors or to take some other form of action.

Method 15: Mock Trials

A familiar method of law-related education, the mock trial combines role play, simulation, and debate, permitting participants to hear many sides of an issue and recognize the multiple roles and impacts of a human rights situation. They also build familiarity with court procedures and human rights law, as well as the intersection and potential conflicts of international, regional, national, and customary law. Assign roles (e.g., one group represents the prosecution and another the defense) and explain their tasks (e.g., how to make an opening statement, lead evidence, cross-examine, make a closing statement). Allow time to prepare carefully. Verdicts might be decided upon by a panel of real or role-playing "judges" or by vote of all participants. Cases might be based on historical or current human rights issues.

Method 16: Presentations

Outside resource people can greatly enrich learning, but such voices should never silence or devalue those of participants. Identify people with special expertise in human rights, perhaps because of their information (e.g., journalists, academics, researchers), their work (e.g., judges, medical professionals, government officials, staff of non-profit organizations), or their experience (e.g., former prisoners, refugees) and invite them to speak to the participants.

- Lectures and Formal Addresses: Lectures and speeches should be kept to a minimum as they tend to inspire passive listening and disempowering deference. Several short lectures are more effective than one long lecture. Facilitators should seek ways to permit personal interchanges between speakers and participants (e.g., a shared meal, a question period, small group discussions, an interview technique).
- Formal Panels: In the typical panel format, experts make prepared statements or read papers on a topic, followed by questions from the audience. Usually the panelists do not address each other and only a few assertive participants speak.

Method 17: Research Projects

Projects are independent investigations that permit participants to explore topics in depth and to share their findings with others. Some suggestions for research projects:

- Help participants define their topics precisely and clearly, perhaps in question form (e.g., "How are people of color treated in my school or community?" or "Are schools re-segregating in my community?");
- Make clear project goals, parameters, and deadlines; suggest research resources and techniques;
- Clarify the way in which results can be presented (e.g., written report, exhibition, artistic expression, poster, or web site);
- Include both objective findings and the participant's subjective responses;
- Provide a way for participants to present their results publicly so others may learn from their research.

Case Study Research: While library or Internet resources are useful, projects can also draw on interviews and other "live" sources (e.g., studying community immigration patterns in the local cemetery; evaluating the route to school for disability access; creating statistics from personal observation). Such projects develop research skills, independent thinking, and cooperative learning and illustrate the links among issues, the local situation, and the range of conflicting views. **Internet Research:** Where Internet access is available, many research projects can be accomplished electronically, including geography, statistics, documents, and newspaper articles.

Method 18: Storytelling

Both personal and traditional stories can be a rich source of relating human rights themes to lived experience. Participants need a receptive audience, often a small group, and control over how much they wish to reveal about themselves. Stories can be retold from a human rights perspective, dramatized, or analyzed in relationship to human rights issues and documents.

To stimulate narratives, ask "How is this an issue in our community?" and encourage participants to offer illustrative stories from their experience. These stories need not be personal; encourage stories drawn from legend, literature, films, television, or local history. Invite historical perspective (e.g., "How was domestic violence handled in your grandmother's day?") and analysis of these stories. (e.g., "How might the story be different if told by the police?").

Method 19: Surveys and Data Collection

- **Opinion Polls:** Conducting a "person-in-the street" survey on human rights issues can provide useful data about the local community. Help participants formulate unbiased questions that will elicit the desired information and discuss the components of reliable data.

- **Documenting Evidence:** Data gathering can also involve observing and recording day to day events related to human rights (e.g., gender roles in the family, number of times participants hear a racial slur).
- **Online Surveys:** Conducting online surveys on human rights issues using such sites as www.surveymonkey.com can provide a quick way to get insights into other students' or teachers' attitudes and perceptions.

Method 20: Webbing Activities

Drawing charts that indicate relationships can help participants to analyze situations.

- **Webbing:** Begin by writing a word, phrase or question in the center of a paper or chalkboard (e.g., "Race"). Circle the word and ask participants to brainstorm adjectives, thoughts, or memories evoked by what is written in the circle. (e.g., "discrimination," "resources," "Gay bashing," "Fear of AIDS"). Write these down and connect each suggestion by a line to the central circle. If participants relate to responses generated by the circled word, write those and connect with a line to the response, gradually creating an expanding web (e.g., "Dyke" or "Faggot" connected to "Insults").
- **Effects Wheel:** Write a question or statement in the center of a circle (e.g., "What if women earned salaries equal to men?" or "In the USA one child in four lives below the poverty level."). Then draw three concentric rings around the central circle. Divide the first ring into three equal parts and write three effects that would result from the statement (e.g., "Greater decision making," "Greater role in business world," "More involvement in investment"). Divide the second ring into six equal parts and write in two effects that would result from each of the three statements (e.g., "Greater decision making," "Greater role in supporting women's concerns," and "More independence"). Small groups might work on the same statement and compare their results. You might prepare a list of relevant questions or statements and let each group choose one to work on.

Source: <http://hrusa.org/closethegap/educator/annex-2/methods.php>