
Unit - 2 □ Provisions Related to Social Justice and Human Rights in the Constitution of India With Reference To Women and Children, Scheduled Tribes, Minorities and Displaced Persons

Structure

2.1 Social Justice

2.2 Human Rights, with special reference to, Protection of Human Rights Act, 1993

2.3 Provisions in the Constitution of India

2.1 □ Social Justice

Social justice refers to conceptions of justice applied to an entire society. That is to say, it refers to the idea of a just society, which gives individuals and groups fair treatment and a just share of the benefits of society.

Social justice is also a concept that people use to describe the movement towards a socially just world. In this context, social justice is based in the idea of **human rights** and **equality**. So a very broad definition of social justice is : “*social justice reflects the way’ in which human rights are manifested in the everyday lives of people at every level of society*”. It can be further defined as working towards the realisation of a world where all members of a society, regardless of background have basic human rights and equal, access to their community’s wealth and resources.

This view is exemplified in the United Nations assertion that: Human rights are based on respect for the dignity and worth of all human beings and seek to ensure freedom from fear and want. Therefore in a general sense, social justice can be seen as a belief in and the pursuit of human rights and the equal distribution of resources for all people.

2.2 □ Human Rights, with special reference to, Protection of Human Rights Act, 1993

Human rights refers to the concept of human beings as having universal rights, or status, regardless of legal jurisdiction or other localizing factors, such as ethnicity, nationality, and sex. As is evident in the United Nations Universal Declaration of Human Rights, human rights, at least in the post-war period, are conceptualized as based on inherent human dignity, retaining their universal and inalienable character.

Where it has been adopted, human rights legislation commonly contains :

1. **security rights** that protect people against crimes such as murder, massacre, torture and rape
2. **liberty rights** that protect freedoms in areas such as belief and religion, association, assembling and movement
3. **political rights** that protect the liberty to participate in politics by expressing themselves, protesting, participating in a republic
4. **due process rights** that protect against abuses of the legal system such as imprisonment without trial, secret trials and excessive punishments
5. **equality rights** that guarantee equal citizenship, equality before the law and nondiscrimination
6. **welfare rights** (also known as economic rights) that require the provision of education and protection against severe poverty and starvation
7. **group rights** that provide protection for groups against ethnic genocide and for the ownership by countries of their national territories and resources

Protection of Human Rights Act 1993 is 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, deemed to have come into force on the 28th day of September, 1993.

2.3 □ Provisions in the Constitution of India

Development and empowerment of scheduled castes (SCs), scheduled tribes (STs), other backward classes (OBCs), minorities, disabled and other social groups in order to bring them at par with the rest of society is a commitment enshrined in the Constitution. This is to be done by adopting the approach of social justice to ensure equal rights, access to benefits and resources and empowerment to enable them to develop their potential and capacities as agents of social change, through the process of planned development.

The Constitution lays down the basic structure of government under which the people are to be governed. It establishes the main organs of government - the executive, the legislature and the judiciary. The Constitution not only defines the powers of each organ, but also demarcates their responsibility. It regulates the relationship between the

different organs and between the government and the people.

The Constitution is superior to all other laws of the country, Every law enacted by the government has to be in conformity with the Constitution. The Constitution lays down the national goals of India - **Democracy, Socialism, Secularism and National Integration**. It also spells out the **rights** and **duties** of citizens.

The Constitution applies to the State of Jammu Kashmir with certain exceptions and modifications as provided in Article 370 (which is a temporary provision) and the Contitution (Application to Jammu and Kashmir) Order, 1954.

The Ministry of Social Justice & Empowerment is entrusted with the **welfare, social justice & empowerment** if disadvantage and marginalised section of the society viz, Schedule Caste, Minorities, Backward Classes, Persons with Disabilities, Aged Persons, Street Children and victims of Drug Abuse etc. Basic objective of the policies, programmes, law and institution of the Indian welfare system is to bring the target groups into the main stream of development by making them self-reliant.

The Constitution of India lays down specific provisions regarding the welfare of women and children, minorities and displaced persons, etc, in several chapters, viz, the Chapters on Fundamentals Rights, the Directive Principles of State Policy and the Fundamental Duties.

1. Preamble

The Preamble to the Constitution, which as amended in 1976, summarizes the aim and objective of the Constitution :-

WE THE PEOPLE OF INDIA, having solemnly resolved to Constitute India into a Sovereign Socialist Secular Democratic Republic and secure to all its citizens :

JUSTICE, social, economic and political;

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

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

FRATERNITY, assuring the dignity of the individual and the unity and intergrity of the nation;

IN OUR CONSTITUENT ASSEMBLY this 26th day of November, 1949 do HEREBY ADOPT, TNACT AND GIVE TO OURSERLVES THIS CONSTITUTION.

The Preamble to our Constitution serves two purpose :-

A) It indicates the source from which the Constitution derves its authority;

B) It also states the objects, which the Constitution seeks to establish and promote.

The Preamble seeks to establish what Mahatma Gandhi described as The India of my Dreams,

“.....an India in which the poorest shall feel that it is their country in whose making they have an effective voice;.... an India in which all communities shall leave in perfect harmony. There can be no room in such an India for the curse of untouchability or the curse of Intoxicating drinks and drugs. Woman will enjoy as the same rights as man.”

2. Fundamental Rights

The *Fundamental Rights* embodied in Part III of the Indian Constitution act as a guarantee that all Indian citizens can and will lead their lives in peace and harmony as citizens of India. These civil liberties precede over other laws of the country. They include individual rights common to most **liberal democracies**, such as **equality before law**, freedom of speech and expression, freedom of association and peaceful assembly, freedom to practice religion, and the **right to constitutional remedies** for the protection of civil rights by means of writs such as **habeas corpus**. The punishment for encroaching on these rights depends upon the discretion of the **judiciary**.

The six Fundamental Rights are:

- Right to equality
- Right to freedom
- Right against exploitation
- Right to freedom of religion
- Cultural and educational rights
- Right to constitutional remedies

The relevant Rights for the welfare of disadvantaged and marginalised section of the society viz, Scheduled Caste, Minorities, Backward Classes, Persons with Disabilities, Aged Persons, Street Children and victims of Drug Abuse etc. in this section are :

- 1) **The Right to Equality** - the Right to Equality comprises of the Articles 14 to 18. However the most relevant ones for us Articles 14,15,16, 17.
 14. **Equality before law** - The State 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 Schedule Castes and the Schedule Tribes.

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 Schedule Castes and the Schedule 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 (4 A) 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.

Thus, *Equality before Law*, given in Article 14 of the Constitution, guarantees that all citizens will be equally protected by the laws of the country. It means that the State cannot discriminate against a citizen in the basis of caste, **creed, colour, sex, religion or place of birth**. According to the *Electricity Act of 26th January, 2003* the Parliament has the power to create special courts for the speedy trial of offences committed by persons holding high offices. Creation of special courts is not a violation of this right.

Social equality and equal access to public areas, in Article 15, states that no person will be discriminated on the basis of caste, **colour, language, sex etc.** Every person will have **equal access** to public places like public parks, museums, wells bathing ghats and temples etc. However, the State may make any special provision for **women and children**. Special provisions may be made for the advancements of **any socially or educationally backward class or schedule castes or schedule tribes**.

Equality in matters of public employment, in Article 16, lays down that the State cannot discriminate against anyone in the matters of employment. All citizens can apply for government jobs. There are some exceptions. The Parliament may make laws prescribing any requirement as to the residence for State employment. This may be meant for posts that require knowledge of the locality and language of the area. The State may also reserve posts for members of backward classes, scheduled castes or scheduled tribes which is not adequately represented in the services under the State. The purpose of reservation of seats is bring up the weaker sections of the society. Also, there may be a law which requires that the holder of an office of any religious institution shall also be a person professing that particular religion.

Abolition of Untouchability, in Article 17, abolishes the practice of **Untouchability**. Practice of Untouchability is an **offence** and anyone doing so is **punishable by law**. The Untouchability Offences Act of 1955 provided penalties for preventing a person from entering a place of worship or from taking water from a tank or well. In 1976, the name of this act was changed from Untouchability Offences Act to Protection of Civil Rights Act.

- II. **Right to Freedom** - The Right to Freedom comprises of the Articles 19(a)-(e) and (g), 20,21,21A and 22. However the most relevant ones for us are Article 21 and 21 A.
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.

21 A. Right to Education - to provide free and compulsory education to all children of the age of 6-14 years in such a manner as the State may, by law, determine.

The main object of Article 21 is that before a person is deprived of his life or personal liberty by the State, the procedure established by law must be strictly followed. Right to Life means the right to lead meaningful, complete and dignified life. It does not have restricted meaning. It is something more than surviving or animal existence. The meaning of the word life cannot be narrowed down and it will be available not only to every citizen of the country. As far as Personal Liberty is concerned, it means freedom from physical restraint of the person by personal incarceration or otherwise and it includes all the varieties of rights other than those provided under Article 19 of the Constitution. Procedure established by Law means the law enacted by the State. Deprived has also wide range of meaning under the Constitution. These ingredients are the soul of this provision. The fundamental right under Article 21 is one of the most important rights provided under the Constitution which has been described as heart of fundamental rights by the Apex Court.

It was observed in Unni Krishnan's case that Article 21 is the heart of Fundamental Rights and it has extended the scope of Article 21 observing that the life includes the education as well as, as the right to education flows from the right to life, thus making way for the insertion of the **Article 21A** by the Eighty-Sixth amendment act, 2002.

III. Right Against Exploitation - The Right against Exploitation comprises of Articles 23 and 24.

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 services 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.

The right against exploitation, given in Article 23 and 24, provides for two provisions namely, the abolition of **Begar** and trafficking in human beings, and abolition of employment of children below the age of 14 years in dangerous jobs.

Begar was carried out without any payments for landlords and other wealthy persons. It has now been declared a crime and is punishable by law. Trafficking in humans for the purpose of **slave trade** or **prostitution** is prohibited by law.

The Constitution forbids employment of children below the age of 14 years in

dangerous jobs like factories and mines. According to it, children are the assets of the country and they should be allowed to lead a happy childhood and get **education**. **Child labour** is a gross violation of the spirit and provisions of the constitution. An exception is made in employment without payment for compulsory services for public purposes. Compulsory military **conscription** is covered by this provision. The right against exploitation allows Indian citizens to stand up against any kind of exploitation that he/she might be going through and are perhaps the most relevant articles in guaranteeing social justice to the Indian people irrespective of class, creed, caste, sex, religion, or place of birth, etc.

IV. Right to Freedom of Religion - The Right to Freedom of Religion comprises of the Articles 25-28.

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 right freely to practise and propagate religion.

(2) Nothing in this article shall affect the operation on 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 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 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.

Right to freedom of **religion**, covered in Articles 25,26,27 and 28, provides religious freedom to all citizens of India. The objective of this right is to sustain the principle of **secularism** in India. All religions are equal before the State and no religion will be given preference over the other.

Citizens are free to preach practice and propagate any religion of their choice. Thus no one can be allowed to hurt the religious feelings of any class of citizens of India. The wearing and carrying of *Kirpans* is included in the profession of the **Sikh religion**. This can be restricted in the interest of public order, morality and health. Religious communities can set up charitable institutions of their own. Many educational institutions are run by such charities. However, there could be activities in such institutions which are not religious. These activities are performed according to the laws laid down by the government. Establishing a charitable institution can also be restricted in the interest of public order, morality and health. A State run institution cannot impart education that is pro-religious.

V. Cultural and Educational Rights - the Cultural and Educational Rights comprises of the Articles 29 and 30.

- 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 as would not restrict or abrogate the right guaranteed under that clause.
- (2) The State shall not, in granted 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.

India is a country on many languages, religious and cultures. The constitution provides special measures, in Articles 29 and 30, to protect the rights of the minorities. Any community which has a language and script of its own, has the right to conserve and develop them.

No citizen can be discriminated against for admission in State or State aided institutions. All minorities, religious or linguistic, can set up their own educational institutions. By doing so, they preserve and develop their own culture. In granting aid to institutions, the State cannot discriminate against any institution on the basis of the fact that it is administered by a minority. But the right to administer cannot include the right to maladminister. In a leading case in 1980, the Supreme Court held that “the State can certainly take regulatory measures to promote the efficiency and excellence of educational standards. (It can also) issue guidelines for ensuring the security of the services of the teachers or other employees of the institution”. In another landmark judgement delivered on **31 October, 2002**, the Supreme Court ruled that in case of aided minority institutions offering professional courses, admission could only be through a common entrance test conducted by State or university. Even an unaided minority institution ought not to ignore the merit of the students for admission.

VI. Right to Constitutional Remedies - the Right to Constitutional Remedies comprises of the Articles 29 and 30.

The right to constitutional remedies allows Indian citizens to stand up for their rights against anybody even the government of India. This fundamental right is described in the constitution as:

Article 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.

The Right to Constitutional Remedies and more recently the provision for PIL (Public Interest Litigation) gives each Indian the right to stand up for his/her own rights as well as those of his/her fellow citizens. Right to Constitutional Remedies empowers the citizens to go to **court** in case on any denial of the Fundamental Rights. The court of law stands as a guard against the violation of these rights by the government. In case the government uses power against a citizen unjustly or if he is imprisoned or punished unlawfully, this right empowers the aggrieved person to go to court and get justice against government action.

The Constitution gives every citizen the right to go to court to get his Fundamental Rights enforced. For instance, in case of imprisonment, the citizen can ask the court to see if it is according to the provisions of the law of the country. If the court finds that is not, the person will have to be freed. This procedure of asking the court to preserve or safeguard the citizen's fundamental rights can be done in various ways. The courts can issue various kinds of *writs*. These writs are *habeas corpus*, *mandamus*, *prohibition*, *quo warranto* and *certiorari*.

The Fundamental Rights were included in the Indian Constitution because they are essential for the development of the personality of every individual and to preserve human dignity. They are secured to promote social progress. The Fundamental Rights for Indians are aimed at overturning the inequities of past social practices. They have also been used to successfully abolishing the "untouchability" prohibit discrimination in the grounds of religion, race, caste, sex, or place of birth; and forbid trafficking in human beings and also the forced labor. They go beyond conventional civil liberties in protecting cultural and educational rights of minorities by ensuring that minorities may preserve their distinctive languages and establish and administer their education institutions.

3. Directive Principles of State Policy

The *Directive principles of State Policy* (DPSPS), given in part IV of the **Constitution of India**, are certain directions given to the central and state government to establish a just society in the country. The government must keep them in nature and they aim at achieving social and economic democracy for establishing a welfare.

➤ Social justice

The Programme of Universalization of Elementary has been accorded the highest priority in order to provide **free education** to all children up to the age of 14 years.

The 86th constitutional amendment of 2002 inserted a new article, Article 21-A, into the Constitution, which seeks to provide free and compulsory education to all children aged 6 to 14 years.

Welfare schemes for the weaker section are being implemented both by the Central and state governments. These include programmes, such as boys' and girls' **hostels**, for scheduled caste or schedule tribe students. The year 1990-1991 was declared as the "Year of Social Justice" in the memory of **B.R. Ambedkar**. The government provides free textbooks to students belonging to schedule castes or scheduled tribes pursuing medicine and engineering courses. During 2002-2002, a sum of Rs. 4.77 crore was released for this purpose.

In order that scheduled castes and scheduled tribes are protected from atrocities, the Government enacted the **Prevention of Atrocities Act**, which provided serve punishments for such atrocities.

Article 31-C, inserted by the 25th Amendment Act of 1971 seeks to upgrade the Directive Principles. If laws are made to give effect to the Directive Principles over Fundamental Rights, they shall not be invalid in the grounds that they take away the Fundamental Rights.

DPSPs promote an environment where the citizen's life becomes comfortable and meaningful. If the **government** fails provide these conditions, the citizens are free to vote that government out in the next election and elect a new government. However, if a government does not adhere to the DPSPs, no punishment can be meted out since they are only guidelines; and not laws; and are hence, non-justiciable. This means that a person cannot go to court if the government makes a law which is not in adherence to the DPSPs.

DPSPs make the citizens aware about the inhuman treatment meted out human beings in different parts of the world. Our policy framers have to keep such situations in view and frame policies which will make our lives worth living.

In case of a conflict between Fundamental Rights and DPSP's, if the DPSP aims at promoting larger interest of the society, the court will uphold the case in favour of the DPSP.

4. Fundamental Duties

51 A. Fundamental duties - It shall be the duty of every citizen of India -

- a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- b) to cherish and follow the noble ideals which inspired our national struggle for freedom;
- c) to uphold and protect the sovereignty, unity and intergrity of India;
- d) to defend the country and render national service when called upon to do so;

- e) **to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;**
- f) to value and preserve the rich heritage of our composite culture;
- g) to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures;
- h) to develop the scientific temper humanism and the spirit of inquiry and reform;
- i) to safeguard public property and to abjure violence;
- j) to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement.

India is a multi-racial, multi-linguistic, multi-religious and multi-cultural country. In spite of various diversities, there is a need for developing harmony between different races, languages, religious and cultures. We should promote the spirit of common brotherhood. Since ages women in India are being given a very low status in society. Infanticide, dowry and sati system are some of the most derogatory practices that bring down the dignity of women. It is the duty of every citizen to renounce these evil practices.

However, Fundamental Duties are non-justiciable : a person cannot be taken to court for not fulfilling his or her Fundamental Duties. They are merely moral obligations which every citizen **of India** is expected to fulfill. They are in nature a Code of Conduct which citizen and the State has to follow. The inclusion of fundamental duties reminds that the constitution presents an integrated scheme of which the fundamental or any other constitutional rights are only a part. The scheme must also be taken as a part of the constitution. The fundamental duties, when they mentioned in the Constitution, take an educative role. They also hold legal value, because when laws, legislated by the parliament or the State Legislature cannot be held invalid on the ground of conflict with the Fundamental Rights unless such conflict is irreconcilable. The rights must be reconciled with the duties.

5. Miscellaneous

I. Panchayati Raj Institutions

The Statement of objects and Reasons appended to the Constitution (Seventy-second Amendment) Bill, 1991, which was enacted as the **Constitution (Seventy-third Amendment) Act, 1992**, states that " Though the Panchayati Raj Institutions have been in existence for a long time, it has been observed that these institutions have not been able to acquire the status and dignity of viable responsive people's bodies due to a number of reasons including absence of regular elections, prolonged suppressions, insufficient representation of weaker section like Schedule Castes,

Schedule Tribes and women, inadequate devolution of powers and lack of financial resources”.

As such Article 243D of the Constitution of India specifies reservation of seats for SCs, STs and women in Panchayati Raj Institutions :

243D. Reservation of seats - (1) Seats shall be reserved for—

- a) the Schedule Castes; and
- b) the Schedule Tribes

in every Panchayat and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes in that Panchayat area or of the Scheduled Tribes in that Panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Panchayat.

- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
- (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.
- (4) The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law provide :

Provided that the number of the offices of Chairpersons reserved for the Scheduled Castes and the Scheduled Tribes in Panchayats at each level in any State shall bear, as nearly as may be, the same proportion to the total number of such offices in the Panchayats at each level as the population of the Scheduled Castes in the State or Scheduled Tribes in State bears to the total population of the State :

Provided further that not less than one-third of the total number of the offices of Chairpersons in the Panchayats at each level shall be reserved for women :

Provided also that the number of offices reserved under this clause shall be allotted by rotation to different Panchayats at each level.

- (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
- (6) Nothing in this part shall prevent the Legislature of State from making any provision for reservation of seats in any Panchayat or offices of Chairpersons in the Panchayats at any level in favour of backward class of citizens.

II. Urban Local Bodies

Similarly, the Statement of Object and Reasons appended to the Constitution (Seventy-third Amendment) Bill, 1991 which was enacted as the **Constitution (Seventy-fourth Amendment) Act, 1992**, states that “In many States local bodies have become weak and ineffective an account of a variety of reasons, including the failure to hold regular election, prolonged suppressions and inadequate devolution of powers and functions. As a result, Urban Local Bodies are not to perform effectively as vibrant democratic units of self-government”.

As such Article 243T of the Constitution of India specifies reservation of seats for SCs, STs and women in Urban Local Bodies :

243T. Reservation of seats - (1) Seats shall be reserved for the Scheduled Castes and the Scheduled Tribes in every Municipality and the number of seats so reserved shall bear, as nearly as may be, the same proportion to the total number of seats to be filled by direct election in that Municipality as the population of the Scheduled Castes in the Municipal area or of the Scheduled Tribes in the Municipal area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a Municipality state. The concept of Directive Principles of State Policy has been borrowed from the Irish Constitution.

Directive Principles are classified under the following categories: Gandhian economic and socialistic, political and administrative, justice and legal, environment, protection of monuments and peace and security.

The following are the efforts made by the State to implement the Directive Principles, most relevant to our purpose.

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 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 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.
- 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.
- 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 free, and compulsory education for children—** The State shall endeavour to provide, within a period a ten years from the commencement of this Constitution, for free and compulsory education for all children until they complete the age of fourteen years.
- 46. Promotion of education 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 purpose of intoxicating drinks and drags which are injurious to health.

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

- a) promote international peace and security;
 - b) maintain just and honorable relations between nations;
 - c) foster respect for international law and treaty obligations in the dealings of organized peoples with one another; and
 - d) encourage settlement of international disputes by arbitration.
- (2) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled Tribes.
 - (3) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation of different constituencies in a Municipality.
 - (4) The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.
 - (5) The reservation of seats under clauses (1) and (2) and the reservation of offices of Chairpersons (other than the reservation for women) under clause (4) shall cease to have effect on the expiration of the period specified in article 334.
 - (6) Nothing in this Part shall prevent the Legislature of a State from making any provision for reservation of seats in any Municipality or offices of Chairpersons in the Municipalities in favour of backward class of citizens.

III. Apart from this there are other provisions for reservation such as :

- i) 330. Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the people
- ii) 332. Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States
- iii) '334. Reservation of seats and special representation to cease after sixty years