

CHAPTER 4

HUMAN RIGHTS IN INDIA

INTRODUCTION

This chapter focuses on human rights laws in India and is divided into two key sections: one addressing the Indian Constitution and statutory laws, and the other examining complaint mechanisms and human rights commissions. Unlike thematic divisions based on children, women, Dalits, Adivasis, religious minorities, or citizens in general, the content is organized around the legal framework and provisions. Various themes are interwoven within discussions of relevant legal topics, such as the mention of child marriage and Dalits under the Constitution's 'right to equality' clause. This chapter will help students understand the term 'human rights,' explore historical and international developments, and review various human rights protected by Indian law. It also includes examples of different themes aligned with specific laws, as well as the role of human rights commissions and related complaint mechanisms in India. The chapter provides an introductory overview of these laws and mechanisms, offering students a foundational understanding of human rights, both internationally and within the Indian context. Following this introduction, the two sections will delve deeper into Indian laws and practices, the core focus of the chapter.




TOPICS COVERED

1. Introduction - International Context
2. Constitutional framework and Related laws in India
3. Complaint Mechanisms of Quasi-judicial Bodies

HISTORICAL CONTEXT

Historically, various **religious** and **social traditions**, along with **philosophical writings**, have acknowledged in different ways the fundamental principles of being human, particularly those that promote **respect for human dignity**. These principles are generally viewed as **basic** and **inalienable**. For instance, traditions such as **Christianity**, **Islam**, **Hinduism**, **Buddhism**, and **Confucianism** highlight the concepts of 'respect' and 'well-being' towards others, implying that individuals must behave accordingly. **Modern society** has also embraced these principles, framing them as **human rights**, which are viewed as entitlements that everyone should have and that should be safeguarded through duties and obligations. The **State** plays a role in ensuring these human rights are protected for all.





The **Bill of Rights (1689)** is an Act that establishes the **rights and liberties** of citizens and defines the **succession of the Crown**. Key rights include:

- Parliamentary privileges:** Ensuring **free elections** and **freedom of speech** within Parliament.
- Right not to be taxed without Parliament's approval.**
- Protection from government intrusion.**
- Right to petition courts.**
- Right to fair treatment** in the judicial system.

This historic document played a crucial role in limiting the powers of the monarchy and securing individual liberties.




The Bill of Rights 1689: An Act declaring the Rights and Liberties of the Subject, and Settling the Succession of the Crown.

The modern idea of human rights originated from **Western political and philosophical thought**. Early legal documents like the **Magna Carta (pic above)** of 1215 and the **English Bill of Rights of 1689** are prime examples of human rights laws. The **Magna Carta of 1215** was an agreement between **King John of England (pic above)** and the barons, who were dissatisfied with his taxation policies. This document included rights-based clauses, granting the barons the **right to a legal trial**, and protecting them from **arbitrary arrest, imprisonment, exile, or**

the loss of property without due process.

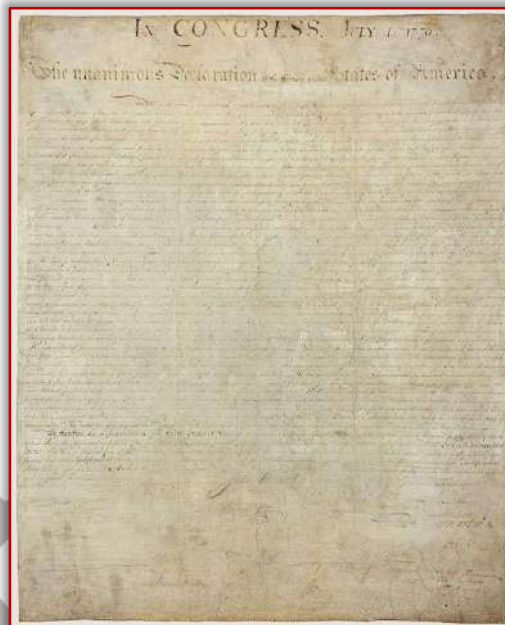
The **English Bill of Rights of 1689**, an agreement between the **Parliament** and the **King**, was created to prevent the monarch from abusing Protestants. It introduced provisions such as protection from **excessive fines** and **cruel punishment**, the **right to petition** the King, and **parliamentary privileges** like the freedom of speech and voting for members of Parliament.

In addition to these legal documents, the writings of **Western thinkers** from the late 17th and 18th centuries, such as **John Locke**, **Jean-Jacques Rousseau**, and **Thomas Paine**, further shaped the concept of human rights. Though detailed discussions on their philosophical theories are beyond the scope of this chapter, their works significantly influenced the understanding of human rights.

		
<p>John Locke</p> <p>"The state of nature has a law of nature to govern it, which obliges every one: and reason, which is that law, teaches all mankind, who will but consult it, that being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions."</p>	<p>Jean-Jacques Rousseau</p> <p>"What man loses by the social contract is his natural liberty and an unlimited right to everything he tries to get and succeeds in getting"</p>	<p>Thomas Paine</p> <p>"Man did not enter into society to become worse than he was before, nor to have fewer rights than he had before, but to have those rights better secured. His natural rights are the foundation of all his civil rights."</p>

Modern constitutions of democratic nations have adopted these ideals, with two early and influential examples being the **United States** and **France**. In 1776, when the United States

declared independence, the American Declaration of Independence articulated human rights values in its preamble, stating: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.”



Similarly, during the French Revolution in 1789, the National Constituent Assembly adopted the French Declaration of the Rights of Man and of the Citizen, drawing inspiration from the United States. This declaration, which laid the foundation for the human rights principles in France's modern

constitution, proclaimed that “Men are born and remain free and equal in rights” and that these rights include liberty, property, security, and resistance to oppression.

INTERNATIONAL HUMAN RIGHTS

In 1948, the United Nations General Assembly adopted the Universal Declaration of Human Rights (UDHR), establishing it as “a common standard of achievement for all peoples and nations.” This declaration outlines and defines the various types of human rights that apply to all individuals. These rights encompass fundamental civil, political, economic, social, and cultural rights, such as:

- Freedom of speech, assembly, conscience, and religion.
- Right to education.
- Right to livelihood and a decent standard of living.
- Right to life, liberty, and security of person.
- Right to equality.
- Freedom from discrimination, including those based on gender and race.



Nearly all **United Nations member states** have accepted this declaration and are committed to upholding and protecting these essential human rights. Following the adoption of the UDHR, the **United Nations** implemented a range of **international human rights laws** on various themes, including regional specifics. These laws impose **obligations** and **duties** on the signatory countries to safeguard and respect the outlined human rights. Many nations have integrated these rights into their **Constitutions** and **domestic laws** to ensure they are operationalized.

Furthermore, the international human rights framework includes **complaint mechanisms** and **procedures** for handling grievances and ensuring these rights are respected, protected, and enforced within each member state.

PREAMBLE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS

•The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Office of the High Commissioner for Human Rights

•The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights. "International Human Rights Law." www.ohchr.org.

International Covenant on Civil and Political Rights, 1976

•Based on the ideals of free human beings enjoying civil and political freedom and freedom from fear and want. E.g., freedom of speech, assembly, conscience and religion; right to life, liberty and security of person; right to equality; freedom from all forms of discriminations including based on gender and race; and so on.

International Covenant on Economic, Social and Cultural Rights, 1976

•Examples: Right to education; right to livelihood and decent standard of living; right to health, right to shelter, and so on.

Convention on the Rights of the Child, 1990

•The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection.

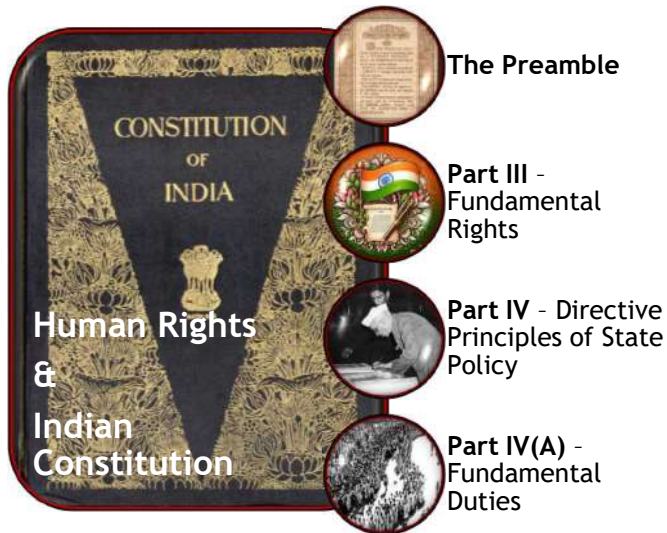
Convention on the Elimination of All Forms of Discrimination Against Women, 1979

•Discrimination against women is defined as "...any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

Convention Relating to the Status of Refugees, 1954

•It provides legal safeguards to a refugee/a person who is granted asylum/shelter in another country "A refugee is a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.."

CONSTITUTIONAL FRAMEWORK AND RELATED LAWS IN INDIA



Human rights in India, similar to many other nations like the **United States** and **South Africa**, are deeply embedded in the **Constitution**. The framework for these rights consists of four primary components:

THE PREAMBLE

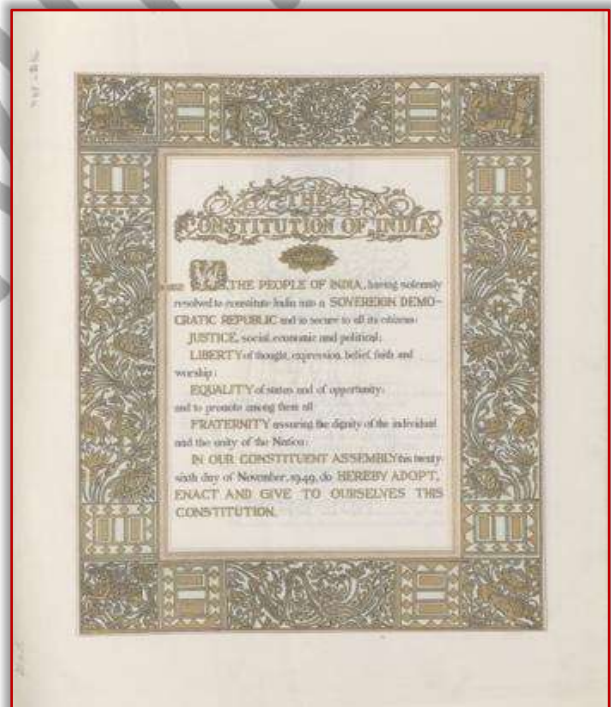
The **Preamble** of the Indian Constitution outlines its goals, principles, and objectives. It serves as a guiding document for interpreting constitutional provisions, especially when they are vague or ambiguous. As noted earlier, the **Preamble** forms part of the 'basic structure' of the Constitution, which limits the **Parliament's** power of

amendment. Essential features like **democracy**, **rule of law**, **secularism**, **separation of powers**, and **judicial review**—many of which are reflected in the Preamble—cannot be altered by amendments. The Preamble declares:

"WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a **SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC** and to secure to all its citizens:

- **JUSTICE**, social, economic, and political;
- **LIBERTY** of thought, expression, belief, faith, and worship;
- **EQUALITY** of status and opportunity, and to promote among them all;
- **FRATERNITY** assuring the dignity of the individual and the unity and integrity of the nation."

The **Preamble** was adopted on **November 26, 1949**, and serves as a proclamation of rights and freedoms to be secured for all citizens. These principles are further detailed in various parts and clauses throughout the Constitution.

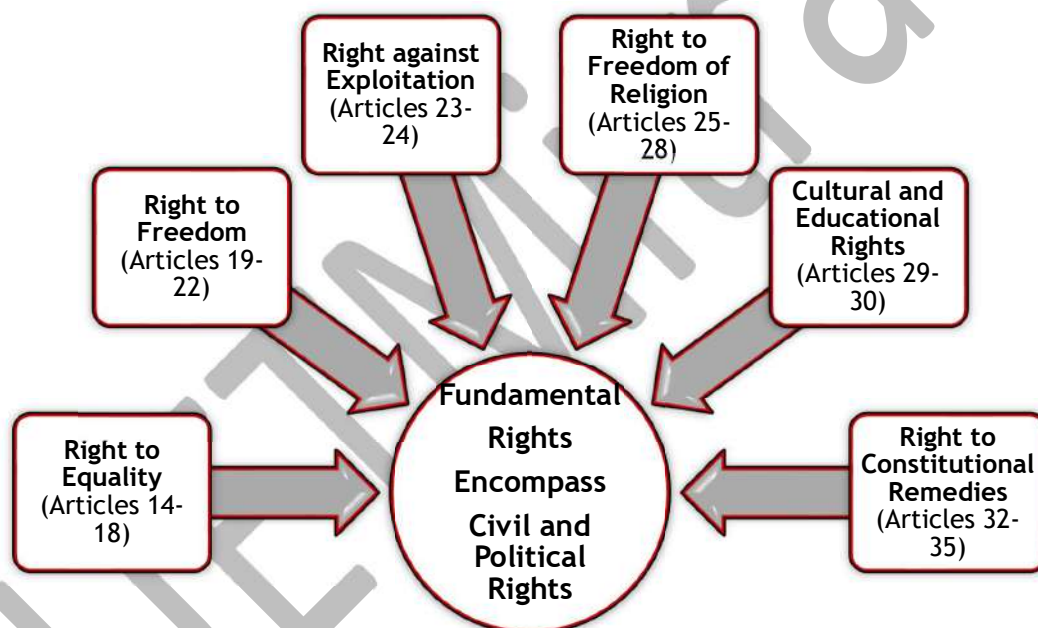


PART III - FUNDAMENTAL RIGHTS

Articles 12 to 35 in Part III of the Indian Constitution enshrine the **fundamental rights**. These rights are essential for protecting the civil liberties of individuals. Some key features of **fundamental rights** include:

- **Enforceability**: These rights are enforceable by higher courts, ensuring that individuals can seek legal remedies if their rights are violated.

- **Article 32:** It provides the right to **petition the Supreme Court** if fundamental rights are infringed, ensuring the enforcement of these rights.
- **Article 13:** This article safeguards the authority of fundamental rights, ensuring that no law, ordinance, or regulation made by the **State** or any competent authority can violate these rights. It invalidates any law that contradicts or infringes upon them.
- **State vs. Private Enforcement:** Fundamental rights are primarily enforceable against the **State** but, in some cases, can also apply to private entities. For example:
 - **Against the State: Right to freedom of speech and expression.**
 - **Against Private Persons: Prohibition of child labour** (employment of children under 14 years in hazardous activities).
- **Definition of 'State':** The term 'State' includes the **Government, Parliament, State Legislatures, Panchayats, Municipalities,** and other organizations functioning as state agencies, such as **Indian Oil Limited and Delhi Jal Board.**



RIGHT TO EQUALITY

Equality Principle (Article 14): Article 14 provides every citizen with the **right to equality before the law and equal protection of the law**, prohibiting discrimination based on **religion, race, caste, sex, or place of birth**. This means that the law applies equally to everyone, without regard to their status or background. However, the equality principle recognizes that not everyone is in the same circumstances, so **'equality' treats equals similarly and unequals differently**. For instance, under the **Prohibition of Child**



Marriage Act, 2006, the legal marriage age for girls is 18 and for boys 21, drawing an age-based distinction to prevent child marriages. If restrictions were based on religion, race, or caste, it would constitute a violation of the **right to equality**.

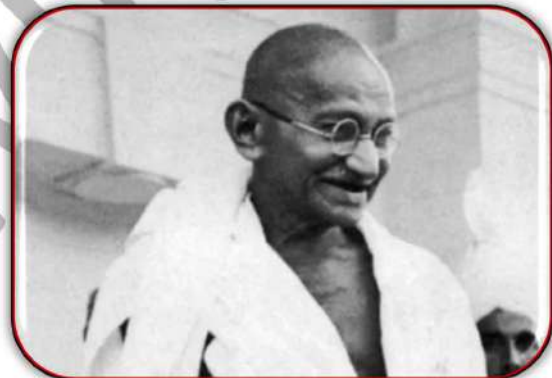
Discrimination & Access to Public Places (Article 15): Article 15 prohibits the State from discriminating against anyone on grounds of **religion, race, caste, sex, or place of birth**. Additionally, it prevents both the State and private individuals from restricting access to **public places**, such as shops, restaurants, hotels, and public facilities like wells, tanks, and roads, based on these grounds. The article promotes equal access for all citizens to public amenities and social spaces.

Reservation and Affirmative Action (Article 16): Article 16 upholds **equality of opportunity** in matters of public employment and forbids discrimination on grounds of **religion, race, caste, sex, descent, or place of birth**. However, it allows the State to implement **reservations or affirmative action programs** for **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**, who have historically faced disadvantages and underrepresentation in public services. This affirmative action helps redress historical inequalities.

Abolition of Untouchability (Article 17): Article 17 abolishes **untouchability** in any form and makes its practice punishable. This article is enforceable against both the **State and private individuals**, with offences being prosecuted under special laws such as the **Protection of Civil Rights Act, 1955** and the **Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989**. These laws aim to eliminate the exploitation and harassment of **Dalits and Adivasis**.



Practice of Untouchability
(Chhuwachhut Pratha)



"Our struggle does not end so long as there is a single human being considered untouchable on account of his birth."

RIGHT TO FREEDOM

Freedoms (Article 19): Article 19 enshrines the following fundamental freedoms for all citizens of India:

- **Freedom of speech and expression:** Citizens can express their thoughts and opinions freely.
- **Freedom to assemble peaceably and without arms:** Citizens have the right to gather peacefully.
- **Freedom to form associations or unions:** Citizens can form groups for various purposes, including trade unions.

- **Freedom to move freely throughout the territory of India:** Citizens are allowed to travel and reside anywhere within India.
- **Freedom to reside and settle in any part of the territory of India:** Citizens can choose their place of residence.
- **Freedom to practice any profession or to carry on any occupation, trade, or business:** Citizens can engage in any lawful occupation or business.

Reasonable Restrictions: While Article 19 guarantees these freedoms, it also allows for reasonable restrictions on them. The State can impose limitations in certain situations, such as:

- Threats to sovereignty and integrity of India
- Security of the State
- Friendly relations with foreign States
- Public order
- Decency or morality
- Contempt of court
- Defamation
- Incitement to an offence

For example, the State can prohibit inciting speeches that may lead to violence. However, the **Supreme Court** can invalidate unreasonable restrictions. For instance, the State cannot restrict the sale of a book due to a few unruly protesters, as this would breach the author's right to freedom of speech.

FREEDOMS	RESTRICTIONS (GROUNDS)
Freedom of speech and expression	Sovereignty and integrity of India, or the security of the State, or friendly relations with foreign States, or public order, or decency or morality, or contempt of court, or defamation, or incitement to an offence
Freedom to assemble peaceably and without arms	Sovereignty and integrity of India, or public order
Freedom to form associations or unions	Sovereignty and integrity of India, or public order or morality
Freedom to move freely throughout the territory of India Freedom to reside and settle in any part of the territory of India	Interests of the general public, or for the protection of the interests of any Scheduled Tribe
Freedom to practice any profession, or to carry on any occupation, trade or business	Interests of the general public; or the State prescribed professional or technical qualifications; or State run trade, business, industry or service, that excludes participation of citizens or others either completely or partially.

RIGHTS OF PERSONS ACCUSED OF CRIMES (ARTICLE 20)

Article 20 provides several protections for individuals accused of crimes:

1. **No ex post facto law:** No person can be convicted of an act that was not an offense under the law at the time it was committed. For instance, Section 377 of the IPC, which criminalized consensual homosexual conduct, was declared unconstitutional in 2009 but was later reinstated in 2013. This means that actions prior to 2013 cannot be prosecuted under this law.
2. **No increased penalty:** A person convicted of a crime cannot receive a harsher penalty than what was prescribed at the time of the offense.
3. **No double jeopardy:** A person cannot be prosecuted and punished more than once for the same offense.
4. **Right against self-incrimination:** No person accused of an offense can be compelled to testify against themselves. Accused individuals can choose to provide information but cannot be forced to self-incriminate.

RIGHT TO LIFE AND PERSONAL LIBERTY (ARTICLE 21)

Article 21 states: “No person shall be deprived of his life or personal liberty except according to procedure established by law.” This article is fundamental and encompasses various rights, applicable to both citizens and non-citizens. The **right to life** includes: Right to human dignity, basic necessities of life, participate in activities and expression, tradition, heritage, and culture.

Personal liberty refers to the rights that allow individuals to exercise their will freely. The scope of **right to life and personal liberty** is broad, covering various aspects of individual freedoms.

Deprivation of Rights (second part of the article): A person can only be deprived of their **right to life or personal liberty** through a fair and reasonable **procedure established by law**. For example, the **Indian Penal Code** prescribes the death penalty for certain crimes, which involves strict procedures such as awarding it only in the 'rarest of rare' cases and ensuring no delays in execution for those on death row. The major components of right to life are following:



Human Dignity, Basic necessities of life.



Engaging in Activities and Expression.



Tradition, Heritage, and Culture, Privacy.



Pollution free environment, Livelihood.



Against sexual harassment, solitary confinement, delayed execution in capital punishment, custodial violence, bonded labour, cruel and unusual punishment



Legal Aid, Speedy Trial, Shelter, Healthcare and medical provisions.

RIGHT TO EDUCATION (ARTICLE 21A)

Article 21A states: “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.” This article establishes the right to education for all children within this age range and mandates the State to ensure its implementation.



Prior to 2002, elementary education for children aged six to fourteen was viewed as a **policy goal** outlined in the **Directive Principles of State Policy (DPSP)** of the Indian Constitution. These principles are aspirational goals aimed at achieving social and economic welfare and are not enforceable by law.



Education is the most powerful weapon which you can use to change the world.
Nelson Mandela

In 1992-93, the **Supreme Court of India** recognized that depriving an individual of education constitutes a violation of their right to life. This landmark ruling effectively elevated elementary education from a policy goal to a **fundamental right**, making it enforceable under the law. Consequently, in 2002, **Article 21A** was introduced, explicitly granting the right to elementary education as a fundamental right for children aged six to fourteen years.

However, the implementation of this right poses significant challenges, particularly due to the financial demands on the State to address the high illiteracy rate. Despite the legal framework, the resources allocated by the State have been largely inadequate to meet the needs for universal elementary education.

PROTECTION AGAINST ARREST AND DETENTION (ARTICLE 22)

Article 22 of the Indian Constitution provides essential safeguards against arbitrary arrest and detention, ensuring the following:

1. **Right to be Informed:** No individual can be detained without being informed of the grounds for their arrest.
2. **Right to Legal Counsel:** The arrested individual has the right to consult and be defended by a legal practitioner of their choice.
3. **Production Before Magistrate:** An individual arrested and detained must be presented before the nearest magistrate within **twenty-four hours** of their arrest, excluding travel time.
4. **Detention Limitations:** No person can be held in custody for more than twenty-four hours without the authorization of a magistrate.

Exemptions: These safeguards do not apply to:

- Persons from enemy countries.
- Individuals detained under **preventive detention laws**, which allow for the detention of individuals based on suspicion rather than conviction. This is justified if their release is deemed detrimental to society, such as the risk of committing further crimes or interfering with investigations.

Concerns Regarding Preventive Detention

Preventive detention laws can lead to significant human rights violations, as they allow the State to detain individuals without a trial. A historical example includes the **Maintenance of Internal Security Act (MISA)** enacted during the **Emergency period** in 1971 under **Indira Gandhi's administration**. Many political opponents were detained under this act without the necessary safeguards against arbitrary arrest and detention, leading to widespread abuse of power and human rights violations.

RIGHT AGAINST EXPLOITATION

Prohibition of Traffic in Human Beings and Forced Labour - Article 23

Article 23 of the Indian Constitution prohibits the following:

- **Human Trafficking:** Any form of trafficking in human beings is strictly banned.
- **Forced Labour:** The provision prohibits forced labour, ensuring that individuals cannot be compelled to work against their will.

Additionally, this article encompasses prohibitions against practices such as begging, affirming the commitment to protect the dignity and rights of individuals.

Prohibition of Employment of Children - Article 24

Article 24 establishes the prohibition of employing children below the age of fourteen years in:

- **Factories**
- **Mining**
- **Other hazardous occupations**

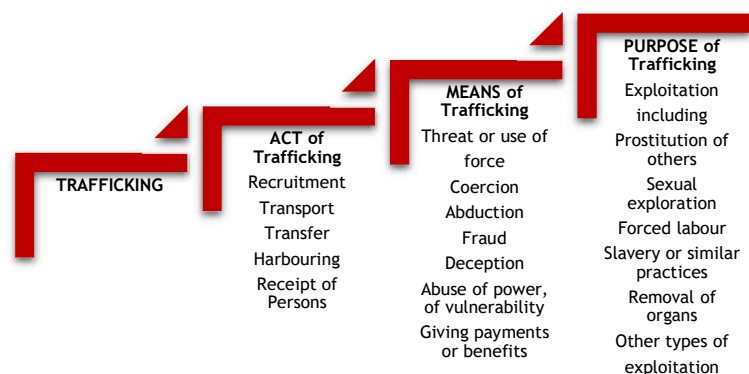
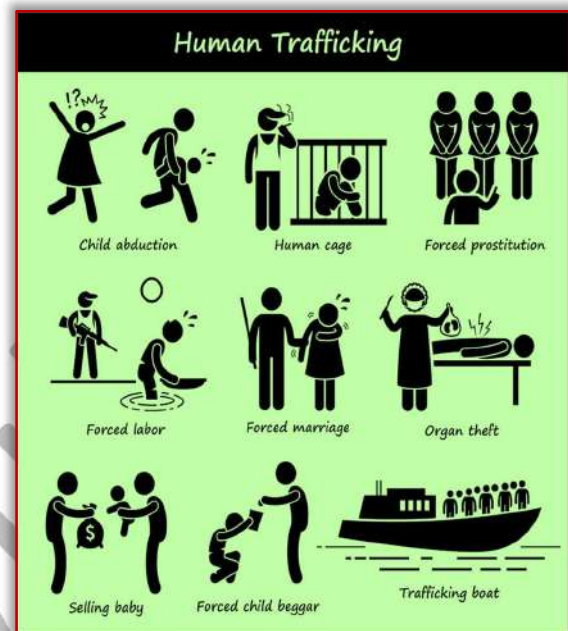
This provision aims to protect children from exploitation and harmful working conditions, promoting their right to education and a safe childhood.

RIGHT TO FREEDOM OF RELIGION

Freedom of Conscience and Religious Practices - Article 25

Article 25 guarantees:

- **Freedom of Conscience:** All individuals have the right to follow their beliefs.



- **Right to Practice and Propagate Religion:** Individuals can profess and practice their religion, provided their actions do not threaten public order, morality, or health.

A notable interpretation by the **Supreme Court** highlights that religious practices must not disturb public peace, citing that no religion mandates the use of loudspeakers or practices that violate noise pollution norms. The **Noise Pollution (Regulation and Control) Rules, 2000** must be adhered to, safeguarding the rights of others.

The State retains the authority to regulate or restrict secular activities linked to religious practices. Additionally, it can implement reforms in Hindu, Sikh, Jain, or Buddhist religious institutions, ensuring these institutions are accessible to all sections of society.

FREEDOM TO MANAGE RELIGIOUS AFFAIRS - ARTICLE 26

Article 26 provides every religious denomination, including its sects, the following rights:

- **Establish and Maintain Institutions:** To set up institutions for religious and charitable purposes.
- **Manage Religious Affairs:** To handle their own religious matters.
- **Property Rights:** To own, acquire movable and immovable property
- **To administer movable and immovable property** according to law.

These rights are conditional upon not endangering public order, morality, or health.



FREEDOM FROM RELIGIOUS TAXATION - ARTICLE 27

Article 27 prohibits coercing individuals to pay taxes that fund the promotion or maintenance of any religion. For instance, donations made for the upkeep of temples cannot be taxed, reinforcing the separation of religion from state financial obligations.

FREEDOM OF RELIGIOUS INSTRUCTION IN EDUCATIONAL INSTITUTIONS - ARTICLE 28

Article 28 addresses religious instruction in educational institutions:

- It prohibits religious instruction in government-funded educational institutions, such as **Sainik Schools** and **Kendriya Vidyalayas**.
- However, institutions established by endowments or trusts that require religious instruction are exempt from this rule.

Furthermore, State-recognized or State-aided institutions cannot compel students to participate in religious instruction or attend religious worship, ensuring that education remains secular.

CULTURAL AND EDUCATIONAL RIGHTS

Protection of Interests of Minorities - Article 29

Article 29 of the Indian Constitution safeguards the rights of minority groups in the following ways:

- **Right to Conserve Language, Script, and Culture:** Citizens belonging to minority sections, defined by distinct language, script, or culture, have the right to preserve and promote their unique identity.
- **Prohibition of Discrimination in Educational Institutions:** Educational institutions maintained by the State or receiving state aid cannot deny admission to any citizen based on religion, race, caste, or language. This ensures equitable access to education for all, fostering an inclusive educational environment.

Right of Minorities to Establish and Administer Educational Institutions - Article 30

Article 30 empowers minorities with:

- **Establishment and Administration of Educational Institutions:** All minorities, whether based on religion or language, have the right to set up and manage educational institutions of their choice.
- **Non-Discrimination by the State:** The State is prohibited from discriminating against educational institutions on grounds of religion or language when providing aid. This provision promotes the autonomy of minority educational institutions and helps sustain their cultural identity.

RIGHT TO CONSTITUTIONAL REMEDIES

Remedies for Enforcement of Fundamental Rights - Article 32

Article 32 guarantees the following:

- **Direct Petition to the Supreme Court:** Individuals whose fundamental rights have been violated or denied can approach the Supreme Court directly for enforcement. This is a unique feature, allowing immediate access to the highest court, bypassing lower courts, which is crucial for the protection of fundamental rights.
- **High Court Authority:** Article 226 empowers High Courts to directly take up matters related to violations of fundamental rights, facilitating swift judicial intervention.

PUBLIC INTEREST LITIGATION (PIL)

Public Interest Litigation, often referred to as **Social Action Litigation**, is a significant aspect of Article 32:

- **Process of PIL:** Letters written to the Supreme Court or High Courts by individuals or organizations with a public-spirited intent can be converted into formal petitions. These letters typically highlight violations of fundamental rights affecting vulnerable groups who cannot approach the court themselves.
- **Target Groups:** This includes individuals such as:
 - People in custody

- Victims of police violence
- Bonded labourers
- Migrant and contracted labourers
- Child workers
- Rickshaw pullers
- Hawkers
- Pensioners
- Pavement dwellers
- Slum dwellers

Additionally, courts can initiate action based on newspaper reports alleging fundamental rights violations, thereby broadening the scope of judicial accountability.

DIRECTIVE PRINCIPLES OF STATE POLICY

The **Directive Principles of State Policy**, outlined in Articles 36-51 of Part IV of the Indian Constitution, serve as guiding principles for governance and are integral to the nation's framework of social justice and economic welfare. Here are some salient features of these principles:

1. **Guiding Principles for Governance:** The State is duty-bound to apply these principles when formulating laws and policies aimed at social and human development.
2. **Nature of Rights:** These principles primarily encompass **economic and social rights**, aiming to promote the welfare of all citizens.
3. **Non-Enforceability:** While the provisions of Directive Principles are not legally enforceable in a court of law, they provide essential guidance in drafting laws and policies related to human and social development.
4. **Elevation to Fundamental Rights:** The Supreme Court has elevated the status of certain Directive Principles to that of fundamental rights, particularly when their violation affects an individual's right to life as enshrined in **Article 21**. For instance, the right to education for children aged six to fourteen was previously a policy goal within the Directive Principles but was raised to a fundamental right by the Supreme Court, affirming that denial of education constitutes a violation of the right to life.
5. **Welfare Orientation:** Directive Principles aim to promote the **welfare of the people** by ensuring social, economic, and political justice for all citizens. They serve as a framework for creating a just and equitable society.
6. **Reduction of Inequalities:** These principles are designed to minimize income inequalities and eradicate disparities based on status, facilities, and opportunities among individuals and groups.

KEY JUDICIAL INTERPRETATIONS

- **Right to Education:** The Supreme Court recognized the right to education as a fundamental right, establishing its significance in ensuring the right to life. The transformation of this policy goal into a fundamental right reflects the judiciary's commitment to social justice.
- **Right to Livelihood:** The right to livelihood, often interpreted alongside the right to life, has led to judicial mandates for the rehabilitation of evicted slum dwellers. The Court has

ruled that eviction without adequate rehabilitation—especially close to their workplaces—constitutes a violation of their right to livelihood, reinforcing the connection between livelihood and the right to life.

'DIRECTIVE PRINCIPLES'

- Right to adequate means of livelihood for both men and women.
- Equal pay for equal work for both men and women.
- Right to healthy working conditions for men, women and children.
- Protection to children against exploitation and against moral and material abandonment.
- Legal aid for securing justice - for those with economic or other disabilities.
- Village panchayats vested with powers and functions as units of selfgovernment.
- Right to work, to education, and to public assistance in cases of unemployment, old age, sickness and disablement, etc.
- Provision for just and humane conditions of work and for maternity relief.
- Living wage and conditions of work to agricultural, industrial or other workers that ensures a decent standard of life and full enjoyment of leisure and social and cultural opportunities.
- Promoting cottage industries on an individual or co-operative basis in rural areas.
- Participation of workers in management of industries.
- Uniform civil code for the citizens - one uniform law for family law matters.
- Provision for early childhood care and education to children below age of six years.
- Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections and protection from social injustice and all forms of exploitation.
- Raising level of nutrition, standard of living and improving public health and prohibition of the consumption of intoxicating drinks and drugs injurious to health.
- Organization of agriculture and animal husbandry in modern and scientific way and preserving and improving the breeds, prohibiting the slaughter of cows.
- Protection and improvement of environment and safeguarding of forests and wild life.
- Protection of monuments and places and objects of artistic or national importance.
- Separation of judiciary from executive in the public services of the State.
- Promotion of international peace and security, maintaining just and honorable relations between nations, fostering respect for international law and treaty obligations, and encouraging settlement of international disputes by arbitration.

FUNDAMENTAL DUTIES

- Respecting the Constitution and institutions, the National Flag and the National Anthem.
- Cherishing and following the noble ideals of the national struggle for freedom.
- Upholding and protecting the sovereignty, unity, and integrity of India.
- Defending the country and rendering national service when called upon to do so.
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- Promoting harmony amongst religious, linguistic and regional diversities and renouncing practices derogatory to women's dignity.
- Valuing and preserving the rich heritage and culture.
- Protecting natural environment including forests, lakes, rivers and wild life.
- Developing the scientific temper, humanism and the spirit of inquiry and reform.
- Safeguarding public property and abjuring violence.
- Striving for excellence and raising the nation to higher levels of endeavor and achievement.
- Providing opportunities for education to children by their parents between the age of six and fourteen years.

FUNDAMENTAL DUTIES

Part IV(A) of the Indian Constitution, specifically **Article 51A**, outlines the **Fundamental Duties** of every citizen. These duties emphasize the responsibilities and ethical conduct expected of citizens to foster a strong and democratic society. Here are the salient features of these duties:

- 1. Non-Enforceability:** Fundamental Duties are **not legally enforceable** in a court of law. Citizens cannot be punished for failing to adhere to these duties, distinguishing them from fundamental rights which carry enforceable provisions.
- 2. Standards of Conduct:** The Fundamental Duties establish **standards of behaviour** for citizens, encouraging them to actively participate in the democratic process and uphold the values of the Constitution.
- 3. Promotion of Responsible Citizenship:** These duties serve as a reminder for citizens to avoid irresponsible behaviour and contribute positively to society. They aim to promote a sense of **responsibility**, fostering a culture of civic engagement and respect for the nation.

COMPLAINT MECHANISMS OF QUASI-JUDICIAL BODIES

Quasi-judicial bodies serve as essential mechanisms within the public administrative framework, acting with powers similar to those of traditional courts. They are tasked with resolving disputes and imposing penalties in various contexts, including human rights, consumer rights, and taxation. Key examples include:

- **National Human Rights Commission (NHRC)**
- **National Commission for Minorities**
- **National Commission for Women**
- **National Commission for Scheduled Castes**
- **National Commission for Scheduled Tribes**

These bodies are established under specific legislation to promote and protect human rights and operate with a degree of independence and transparency.

NATIONAL HUMAN RIGHTS COMMISSION

The **Protection of Human Rights Act**, passed by Parliament in 1993, established the National Human Rights Commission (NHRC) as an independent body tasked with promoting and protecting human rights. The act also mandates the creation of **State Human Rights Commissions** to handle complaints at the state level.

The NHRC is chaired by a **former Chief Justice of the Supreme Court**, with other members including a former Supreme Court judge, a current or former High Court Chief Justice, and two individuals with expertise in human rights matters. The **Secretary-General**, who serves as the Commission's Chief Executive Officer, manages its administrative functions. Appointments of the Chairperson and members are made by the **President of India** on the recommendation of a committee consisting of the **Prime Minister**, the



Speaker of the Lok Sabha, the Home Affairs Minister, leaders of opposition in both Houses of Parliament, and the Deputy Chairman of the Rajya Sabha. If the appointee is a sitting judge, the Chief Justice of India must be consulted. Additionally, the government appoints investigative and administrative staff for the Commission's effective operation. The NHRC is headquartered in New Delhi, with State Commissions complementing its work.

Powers and Functions of the Commission

The NHRC has several key functions:

1. **Inquiry and Investigation:** The NHRC investigates alleged **human rights violations**, whether by public officials or through negligence in preventing such violations. Complaints can be filed by victims, their representatives, courts, or initiated **suo motu** by the Commission, especially in cases where victims from marginalized groups face barriers to justice. The Commission has **civil court powers**, including the ability to:
 - Summon and examine witnesses under oath.
 - Request the production of documents.
 - Receive evidence via affidavits.
 - Access public records from any court or office.
 - Examine witnesses or documents.

FORMAT FOR FILING A COMPLAINT WITH THE NHRC

1. **Complainant's Details**
 - a. Name:
 - b. Sex: Male / Female
 - c. State:
 - d. Full Address:
 - e. District:
 - f. Pin Code:
2. **Incident Details**
 - a. Incident Place(Village/Town/City):
 - b. State:
 - c. District:
 - d. Date of Incident:
3. **Victim's Details**
 - a. Name of the victim:
 - b. No. of victims:
 - c. State:
 - d. Full Address:
 - e. District:
 - f. Pin Code:
 - g. Religion:
 - h. Caste (SC/ST/OBC/General):
 - i. Sex:
 - j. Age:
 - k. Whether Disabled person:
4. Brief summary of facts/allegations of human rights involved:
5. Whether complaint is against Members of Armed Forces/ Para- Military: Yes/No
6. Whether similar complaint has been filed before any Court/State Human Rights Commission:
7. Name, designation & address of the public servant against whom Complaint is being made:
8. Name, designation & address of the authority/officials to whom the public servant is answerable:
9. Prayer/ Relief if any, sought:

Following an inquiry, the Commission can recommend compensation for victims or call for the prosecution of public servants. It may also seek intervention from the **Supreme Court** or **High Court** and suggest immediate interim relief to victims.

2. **Court Interventions:** The Commission can intervene in court proceedings with permission, especially in cases involving human rights violations. For instance, it may request the transfer of riot cases to ensure witness safety and protect evidence.

3. **Institutional Inspections:** The NHRC has the authority to visit jails and other detention facilities to inspect conditions and make recommendations to improve the living standards of inmates.
4. **Awareness and Sensitization:** The Commission reviews human rights laws and recommends measures for effective enforcement. It also examines factors, such as terrorism, that hinder the enjoyment of human rights. Additionally, the NHRC promotes **research and public awareness** of human rights through seminars, publications, and media. It actively supports **non-governmental organizations** involved in human rights efforts.

Complaint Mechanism

The NHRC provides a **simple and accessible complaint mechanism**. Anyone aggrieved by human rights violations can file a complaint in any language, either online at www.nhrc.nic.in, by post, fax, or email, without any fee. Complaints must be submitted within a year of the incident. Once a complaint is filed, its status can be tracked online.

GUIDELINES ON HOW TO FILE COMPLAINT WITH THE NHRC

1. Complaint may be made to the Commission by the victim or any other person on his behalf.
2. Complaint should be in writing either in English or Hindi or in any other language included in the eighth schedule of the Constitution. Only one set of complaint needs to be submitted to the Commission.
3. Complaint may be sent either by Post or Fax or E-mail.
4. No fee is chargeable on such complaints.
5. The complaint shall disclose
 - (i) violation of human rights or abetment thereof; or
 - (ii) negligence in the prevention of such violations, by a public servant
6. The jurisdiction of the Commission is restricted to the violation of human rights alleged to have been committed within one year of the receipt of complaint by the Commission.
7. Documents, if any enclosed in support of the allegations in the complaint must be legible.
8. Name of the victim, his/ her age, sex, religion/ caste, State and District to which the incident relates, incident date etc. should invariably be mentioned in the complaint.
9. Please submit the complaint preferably in the enclosed format.
10. Following types of Complaint(s) are not ordinarily entertainable:
 - (i) Illegible
 - (ii) Vague, anonymous or pseudonymous.
 - (iii) Trivial or frivolous in nature.
 - (iv) The matters which are pending before a State Human Rights Commission or any other Commission.
 - (v) 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.
 - (vi) Allegation is not against any public servant.
 - (vii) The issue raised relates to civil dispute, such property rights, contractual obligations, etc.
 - (viii) The issue raised relates to service matters.
 - (ix) The issue raised relates to labour/industrial disputes.
 - (x) Allegations do not make out any specific violation of human rights.
 - (xi) The matter is sub-judice before a Court/ Tribunal.
 - (xii) The matter is covered by judicial verdict/decision of the Commission.

As far as possible complainants are encouraged to make use of the format given above to file their complaints. The guidelines indicate the kind of information, which would facilitate in processing a complaint.



The **National Commission for Minorities Act, 1992**, was passed by Parliament to establish the National Commission for Minorities (NCM) with the objective of safeguarding the human rights of minorities and protecting them from **inequality and discrimination**. These rights are guaranteed in the **Constitution** and other laws enacted by Parliament and state legislatures. The term "minorities" refers to religious communities such as **Muslims, Christians, Sikhs, Buddhists, Jains, and Zoroastrians (Parsis)**. Several states have also created **State Minorities Commissions**, which are based in state capitals. Members of minority communities can approach both national and state commissions to seek remedies for

human rights violations. The National Commission is composed of a **Chairperson, a Vice-Chairperson, and five members**, all nominated by the **Central Government** from among individuals of eminence, ability, and integrity from minority communities.

Functions of the Commission

The NCM's key functions include:

1. **Evaluating the progress** of minority development.
2. **Monitoring safeguards** for minorities outlined in the Constitution and other laws.
3. **Making recommendations** to the Central and State Governments for effective implementation of these safeguards.
4. **Addressing specific complaints** related to the deprivation of minority rights and following up with appropriate authorities.
5. **Conducting studies and research** on issues of discrimination against minorities and proposing solutions.
6. **Focusing on the socio-economic and educational development** of minorities.
7. **Providing reports** to the Central Government on matters concerning minorities, especially on their challenges.

Similar to the National Human Rights Commission, the NCM is vested with **civil court powers**. When handling complaints or hearings, it can:

- Summon and examine individuals under oath.
- Request the production of documents.
- Receive evidence in the form of affidavits.
- Access public records.
- Issue commissions for the examination of witnesses and documents.

Complaint Mechanism

The NCM may decline complaints for several reasons:

1. If the issue does not pertain to **minority rights**.
2. If the matter is already pending before another court or commission (i.e., **sub judice**).
3. If the complainant has not exhausted other available **judicial, quasi-judicial, or administrative remedies**.
4. If the complaint concerns events more than **one year old**.
5. If the complaint is **vague, anonymous, pseudonymous**, or frivolous.
6. If the complaint is not **directly addressed** to the Commission.

The NCM can also take **suo motu action** based on media reports or other findings. Complaints should be sent to the **Secretary, National Commission for Minorities**, New Delhi. There are **no fees** for filing a complaint, and contact details are available on the Commission's official website: www.ncm.nic.in.

NATIONAL COMMISSION FOR WOMEN (NCW)

The **National Commission for Women** was established in 1992 under the **National Commission for Women Act, 1990**. It consists of a **Chairperson and five members**, all nominated by the **Central Government** from among individuals of **ability, integrity, and standing**, with expertise in areas such as law, legislation, trade unionism, industry management, women's voluntary organizations, administration, economic development, health, education, or social welfare. **At least one member must belong to the Scheduled Castes and Scheduled Tribes** communities. Administrative responsibilities are managed by the **member-secretary**.



The **National Commission for Women (NCW)** undertook several initiatives to enhance the status and economic empowerment of women during the reported period. The Commission completed visits to nearly all States and Union Territories, barring Lakshadweep, to develop **Gender Profiles**, evaluating women's conditions and empowerment. It addressed a significant number of complaints and acted on its own in many cases to ensure swift justice. The NCW tackled issues like child marriage, promoted legal literacy, and organized **Parivarik Mahila Lok Adalats**. It also reviewed key legislations like the **Dowry Prohibition Act (1961)**, **PNDT Act (1994)**, **Indian Penal Code (1860)**, and the **National Commission for Women Act (1990)** to strengthen them. Additionally, the Commission held workshops and consultations, formed expert committees on women's economic empowerment, and conducted gender awareness seminars. It launched public campaigns against female foeticide, violence against women, and other harmful social practices to raise societal awareness.

Functions and Powers of the Commission

The NCW has several key functions:

1. **Investigating safeguards for women:** It examines and investigates the constitutional and legal safeguards provided for women.
2. **Reporting to the government:** It submits annual and other reports to the **Central Government** on the functioning of these safeguards.

3. **Making recommendations:** The Commission provides recommendations to the **Central and State Governments** on improving the conditions of women through better implementation of safeguards.
4. **Reviewing laws:** It reviews provisions in the **Constitution** and other laws that impact women and proposes legislative changes to address inadequacies.
5. **Addressing human rights violations:** It takes up cases of **women's rights violations** with relevant authorities, based on complaints or **suo moto** action.
6. **Investigating issues:** The NCW conducts **special studies** or investigations into specific problems, such as discrimination or atrocities against women, and recommends strategies to overcome these issues.
7. **Promoting women's advancement:** The Commission undertakes research and suggests measures to ensure women's representation in all spheres, identifying barriers like lack of access to housing, inadequate services, or occupational health risks.
8. **Advising on socio-economic planning:** It participates in planning processes related to the **socio-economic development of women** and evaluates progress at both the national and state levels.
9. **Inspecting custodial institutions:** The NCW inspects **jails, remand homes, and women's institutions** and recommends remedial actions if necessary.
10. **Funding litigation:** The Commission supports litigation on issues affecting large groups of women.
11. **Reporting difficulties:** It regularly reports to the government on challenges faced by women in various areas.

The NCW also holds **civil court powers**, allowing it to:

- **Summon and examine individuals under oath.**
- **Require the production of documents.**
- **Receive evidence via affidavits.**
- **Access public records.**
- **Issue commissions for the examination of witnesses and documents.**

NATIONAL COMMISSION FOR SCHEDULED CASTES & SCHEDULED TRIBES

Article 338 of the Constitution of India mandates the creation of a **Special Officer** to investigate matters concerning the safeguards for **Scheduled Castes (SCs)** and **Scheduled Tribes (STs)**. In line with this, the **National Commission for Scheduled Castes** and the **National Commission for Scheduled Tribes** were established to protect the **human rights** of these communities, prevent their **exploitation**, and advocate for their



social, educational, economic, and cultural rights as outlined in the Constitution and other laws.

These Commissions work to ensure that **affirmative action programs**—such as **reservation in government jobs**—are implemented, considering the historical disadvantages faced by these communities. Significant legislations include the **Protection of Civil Rights Act, 1955** and the **Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989**.

Powers and Functions

The key functions of both commissions, as outlined in **Article 338**, include:

1. **Investigating and monitoring** matters related to the **safeguards** provided for SCs and STs in the **Constitution** and other laws.
2. **Evaluating the effectiveness** of these safeguards.
3. **Inquiring into specific complaints** regarding the deprivation of rights and safeguards for SCs and STs.
4. **Advising on the socio-economic development** of SCs and STs and evaluating their progress at both the **Union and State levels**.
5. **Reporting to the President** annually and periodically on the working of the safeguards, along with **recommendations** for better protection, welfare, and socio-economic development of SCs and STs.

Like other commissions, the **National Commissions for SCs and STs** have **civil court powers**, allowing them to:

- **Summon and examine individuals** under oath from anywhere in India.
- **Require the production of documents**.
- **Receive evidence on affidavits**.
- **Request public records** from courts or offices.
- **Issue commissions** for the examination of witnesses and documents.

Article 338 also requires the **Union and State Governments** to consult these commissions on major policy matters affecting SCs and STs.

Complaint Mechanism

The Commissions accept complaints from individuals or groups who allege denial of **safeguards** provided in the Constitution. Upon receiving complaints, the Commissions engage with the relevant authorities and organizations to address the issues raised.

For more information, the respective websites are:

- **Scheduled Castes:** www.ncsc.nic.in
- **Scheduled Tribes:** www.ncst.nic.in