ACKNOWLEDGEMENT

On occasion of submission of this thesis, first of all I humbly offer my reverence to ALMIGHTY, with whose blessings; it was possible for me to complete this research work.

I am thankful to Prof. Kulwant Singh, Head, Department of Law for allowing me to work on this topic.

I am also thankful to Prof. Arvind Jasrotia, Dean, Faculty of Law for the same.

I am placing high regards for my supervisor, Dr. Sanjay Gupta, Associate Professor, Department of Law, who inspired me to work on this topic and magnanimously contributed in masterly manner towards the accomplishment of this work.

My thanks are also due to the Library staff of university of Jammu, University of Delhi, Indian Law Institute, Jawahar Lal Nehru University for their cooperation extended to me during the present research work.

I have no words to acknowledge the contribution of my family members especially my Father- in- Law, Prof. Dr. K.L. Bhatia, who has always been there for guiding me from time to time with regard to my research work. I am thankful to my Mother- in –Law (Mrs. Veenal Bhatia) and my Husband (Advocate Mr. Sumeet Bhatia) for their cooperation and support.

I again have no words to thanks to my Parents Mother Mrs. Sneh Aggarwal & Mr. L.P. Aggarwal my brother & Bhabi (Mr. Arvind & Mrs. Prerna Aggarwal) who has been a constant source of inspiration and moral support to undertake this academic journey.

Last but not the least my little angel Ms. Adhaya who always encouraged me for my research work, I always remember her cooperation towards me.

(KOMILA AGGARWAL)
LIST OF CONTENTS

List of Abbreviations v
List of cases x

CHAPTER-I

Introduction

1. Human Dignity: An International Perspective 3-4
2. Human Dignity under Indian Constitution 4-6
3. Marginalisation 6
4. Economic Reasons 6-7
5. Political & other Reasons 7-8
6. Critical Analysis of the Discrimination among the
   Vulnerable Groups 13
7. Diagrammatic Analysis of Discrimination 13-15
8. Casteism: A phenomenon of Inequality 16-18
9. Different types of Marginalisation 18-20
10. Justification 21-22
11. Objectives 22-23
12. Research Methodology 23
13. Outline of the Content of the Chapters 23-24

CHAPTER-II

Human Dignity of Marginalised Section of Society: A
Conceptual Analysis

1. Introduction to concept of human dignity 25-30
2. Human Dignity the fundamental concept of Human Rights 30-33
3. Human Dignity: The Genesis of Sustainability 33-34
4. Types of Marginalisation  
   3.1 Social Marginalisation  
   3.2 Economic Marginalisation  
   3.3 Political Marginalisation  
   3.4 Age based Marginalisation  
   3.5 Gender based Marginalisation  
   3.6 Health based Marginalisation  
5. Concept under Indian Constitution

CHAPTER-III

Constitutional Perspective of Human Dignity of Scheduled Castes, Scheduled Tribes and Socially and Educationally Backward Classes of Citizens

1. Introduction 39-41  
2. Policy Perceptions of Human Dignity of Schedule Castes, Schedule Tribes and Socially and Educationally Backward Classes of Citizens 41-42  
3. Affirmative Action 42-45  
4. Controversy and Judicial Trends 45-61  
5. Critique 61-62  

CHAPTER- IV

Hawkers, Slum Dwellers, Prostitution and Beggary: A Case of Economic Marginalisation
Hawkers, Slum Dwellers and Street Vendors

1. Introduction 63
2. Categories of Street Vendors
   1.1 Stationary Vendors
   1.2 Peripatetic Vendors
   1.3 Mobile Vendors
3. Myths about Street Vending
4. Case against the Street Hawkers
5. Case for the Hawkers
6. Constitutional Mandate
7. Judicial Attitude
8. Recognition of hawker’s right
9. Classification of Zones
   9.1 Town Vending Committees
   9.2 Spatial Planning Norms
   9.3 Quantitative Space Norms
   9.4 Provisions for Civic Facilities
   9.5 Functions of Town Vending Committee
11. Eviction, Relocation and Confiscation
12. Slum Dwellers
    The Slum Area (Improvement and Clearance) Act, 1956

**Trafficking**
1. Trafficking
2. Meaning of Trafficking
3. Prostitution
4. Biological
5. Socio-Economic
6. Causes for Prostitution
6.1 Group – I 93
6.2 Group – II 93
6.3 Group – III 93
6.4 Group – IV 94
6.5 Group – V 94
6.6 Group– VI 94

7. Classification of Prostitutes on the basis of sex 95-99
   7.1 Male Prostitutes 95-96
   7.2 Female Prostitutes 96-99

8. History of Prostitution 99-102
   8.1 Greece 99
   8.2 Rome 100
   8.3 Egypt 100-101
   8.4 England 101
   8.5 India 101-102

9. Juristic Trends 103-105

10. Legal Framework: International and National 105-112
   10.1 International Framework 105-109
   10.2 Indian Legal Framework 109-112
   The Immoral Traffic (Prevention) Act 1956 112-114
   Two proposed Amendment 114-116
   The Immoral Traffic (Prevention) Amendment, Act 2006. 114-115

# Beggary

1. Introduction 122-123
2. Meaning of Beggary 123
3. Reasons behind the Profession 123-126

## CHAPTER –V

# Health Marginalisation: Human Dignity of Disabled Persons

1. Introduction 132-133
2. Conceptual Approaches to Disability 133-134
3. Defining disability 134-136
4. Causes of disability 136-138
5. Approaches to Disability from International Law and National Law Perspectives. 138-143
6. The Mental Health Act 1987 143-144
7. The Rehabilitation Council of India Act, 1992 144
8. Persons with disabilities (equal opportunities, protection of rights and full participation) Act, 1995 144-145
10. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 146-147
11. Case for protection 147-148
10.1 Reward of sacrifice 147
10.2 Recompense for parenting 148
10.3 Economic recompense 148
11.4 Religious considerations 148
11. Causes for destitution 148-150
11.1 Family structure 148
11.2 Moral and ethical degradation 148-149
11.3 Industrialization 149
11.4 Individual mobility 149
11.5 Family disorganization 149
   11.6 Improper role-models 149-150
12. Self-interest approach 150
12. Expectations of the aged and infirm 150-151
   12.1 Maintenance 150
   12.2 Effective care and protection 150-151
   12.3 Emotional and psychological needs 1151
   12.4 Physical help 151

CHAPTER VI

Conclusions and Suggestions

1. The Social Marginalisation and Human Dignity 159-163
2. The Economic Marginalisation and Human Dignity 163-168
3. Health Based Marginalisation and Human Dignity 168

Suggestions

1. Social and Economic Justice 169
2. Scheduled Castes, Scheduled Tribes and Backward Classes 170-172
3. Hawkers and Slum Dwellers 172-173
4. Prostitution 173-178
5. Begging 178
6. Disability 178-181

Bibliography 182-196
**LIST OF ABBREVIATIONS**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AIDS</td>
<td>Acquired Immunodeficiency Syndrome</td>
</tr>
<tr>
<td>ALD</td>
<td>Andhra Legal Decisions</td>
</tr>
<tr>
<td>AIR</td>
<td>All India Reports</td>
</tr>
<tr>
<td>BMCA</td>
<td>Bombay Municipal Corporation Act, 1888</td>
</tr>
<tr>
<td>CAD</td>
<td>Constituent Assembly Debate</td>
</tr>
<tr>
<td>CAT</td>
<td>Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment</td>
</tr>
<tr>
<td>CEDAW</td>
<td>Convention on Elimination of Discrimination Against Women</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention on Rights of Child</td>
</tr>
<tr>
<td>Cr.P.C.</td>
<td>Criminal Procedure Code</td>
</tr>
<tr>
<td>CSEC</td>
<td>Commercial Sexual Exploitation of Children</td>
</tr>
<tr>
<td>DLHS</td>
<td>District Level Household Survey.</td>
</tr>
<tr>
<td>DLT</td>
<td>Delhi Law Times.</td>
</tr>
<tr>
<td>GLR</td>
<td>Gujarat Law Review</td>
</tr>
<tr>
<td>G.O.</td>
<td>Government Order</td>
</tr>
<tr>
<td>HC</td>
<td>High Court</td>
</tr>
<tr>
<td>HIV</td>
<td>Human Immunodeficiency Virus</td>
</tr>
<tr>
<td>Ibid</td>
<td>In the same place</td>
</tr>
<tr>
<td>Id.</td>
<td>The term is used to replace the name of the repeated Author</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Convention on Civil and Political Rights</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Convention on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>ICERD</td>
<td>International Convention on Elimination of All Forms of Racial Discrimination</td>
</tr>
<tr>
<td>IDPs</td>
<td>Internally Displaced Persons.</td>
</tr>
<tr>
<td>IDMC</td>
<td>Internal Displacement Monitoring Centre</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>L.Ed.</td>
<td>Lawyer’s Edition</td>
</tr>
<tr>
<td>MGREGA</td>
<td>Mahatma Gandhi Rural Employment Guarantee Act, 2005</td>
</tr>
<tr>
<td>NASVI</td>
<td>National Alliance of Street Vendors of India</td>
</tr>
<tr>
<td>NCEUS</td>
<td>National Commission for Enterprises in the Unorganized Sector</td>
</tr>
<tr>
<td>NCRL</td>
<td>The National Commission on Rural Labour</td>
</tr>
<tr>
<td>NREGA</td>
<td>National Rural Employment Guarantee Act, 2005</td>
</tr>
<tr>
<td>Op.cit.</td>
<td>It is used in endnotes/footnotes to refer the reader to a previously cited work, standing in for repetition of the full title of the work</td>
</tr>
<tr>
<td>RCH</td>
<td>Reproductive and Child Health Programme</td>
</tr>
<tr>
<td>SAARC</td>
<td>South Asian Association for Regional Cooperation</td>
</tr>
<tr>
<td>SC</td>
<td>Supreme Court</td>
</tr>
<tr>
<td>SCs</td>
<td>Scheduled Castes</td>
</tr>
<tr>
<td>SCC</td>
<td>Supreme Court Cases</td>
</tr>
<tr>
<td>Abbreviation</td>
<td>Full Form</td>
</tr>
<tr>
<td>--------------</td>
<td>-----------</td>
</tr>
<tr>
<td>SEBCs</td>
<td>Socially and Educationally Backward Classes</td>
</tr>
<tr>
<td>SEWA</td>
<td>Self-Employed Women’s Association</td>
</tr>
<tr>
<td>STs</td>
<td>Scheduled Tribes</td>
</tr>
<tr>
<td>Supra</td>
<td>It is used when a writer desires to refer a reader to an earlier cited authority</td>
</tr>
<tr>
<td>SUP</td>
<td>Slum Upgradation Programme</td>
</tr>
<tr>
<td>TVC</td>
<td>Town Vending Committee</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration of Human Rights.</td>
</tr>
<tr>
<td>UN Charter</td>
<td>United Nation Charter.</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations International Children’s Emergency Fund</td>
</tr>
<tr>
<td>VDPA</td>
<td>Vienna Declaration and Programme of Action</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organization</td>
</tr>
</tbody>
</table>
LIST OF CASES

A

ABK Sangh (Rly) v. Union of India, AIR 1981 SC 298
A.C. Aggarwal v. Mst. Ram Kali, AIR 1968 SC 1
Ajit Singh Januja v. State of Punjab, AIR 1996 SC 1189
Akhil Bhartiya Soshit Karamchari Sangh (Railway) v. Union of India, AIR 1981 SC 298.
Apparel Export Promotion Council v. A. K. Chopra, AIR 1999 SC 625
Ashok Kumar Thakur v. Union of India, AIR 2008 SC 1

B

Bai Radha v. State of Gujarat, AIR 1967, Guj. 211
Bandhua Mukti Morcha v. Union of India, AIR 1984 SC 802.
Bhula Mia v. State AIR 1969 Cal. 416

C

Chiranjit Lal v. Union of India, AIR 1951 SC 41, 54
Delhi Development Horticulture Employees’ Union v. Delhi Administration, AIR 1992 SC 789
Dharam Singh v. Municipal Corporation of Delhi, 124 (2005) DLT 466
Dhirendra Kumar Mandal v. Superintendent & Legal Ramanbrancer of Legal Affairs, AIR 1954 SC 424
Dr. Gulshan Prakash v. State of Haryana, AIR 2010 SC 288
Dr. Jagdish Saran v. Union of India AIR 1980 SC 820
Dr. Upendra Baxi v. U.P AIR 1987 SC 191

E

Escorts Farms Ltd. v. Commissioner Kumanon Division Nanital, AIR 2004 SC 2186

F

Francis Coralie Mullin v. Administration, Union Territory, Delhi AIR 1981 SC 746

G

General Manager, Southern Rlys. V. Rangachari AIR 1962 SC 36
Grih Kalyan Kendra Worker Union v. Union of India AIR 1991 SC 1173, 1176.
Guarav Jain v. Union of India AIR 1990 SC 292

H
Hoskot v. State of Maharashtra, AIR 1978 SC 1548

I
Indra Sawhney v. Union of India, AIR 1993 SC 477
Islamic Academy of Education v. State of Karnataka, AIR 2003 SC 3724

J

K
Kamladevi Chattopadhyay v. State of Punjab AIR 1984 SC 1895
Keshvananda Bharti v. State of Kerala, AIR 1973 SC1461

Kharak Singh v. U.P, AIR 1963 SC 1295

Khatri (VI) v. State of Bihar, AIR 1981 SC 928

L
M

Maneka v. Union of India, AIR 1978 SC 597
M.C. Mehta v. Union of India, AIR 1987 SC 1086.
M. H. Hoskot v. State of Maharashtra, AIR 1978 SC 1548
M. Nagaraja v. Union of India, AIR 2007 SC 71.
Mohini Jain v. State of Karnataka, AIR 1992 SC 1858
Mukesh v. State of Madhya Pradesh, AIR 1985 SC 537
Municipal Corporation of Delhi v. Female Worker, AIR 2000 SC 1274

N

National Human rights Commission v. Sate of Arunachal Pradesh, AIR 1996 SC 1234
Nihal Singh v. Ram Bhai, AIR 1987 MP 126

O

P


Panchayat Varga Sharmajivi Samudaik Sahakari Khedut Cooperative Society Ltd. v. Haribhai Mevabhai, AIR 1996 SC 2578

Parmanand Katara v. Union of India, AIR 1989 SC 2039


People Union of Civil Liberties v. Union of India, AIR 1997 SC 568

People’s Union of Democratic Rights v. Union of India, AIR 1982 SC 1473

Planned Parenthood v. Casey, 505 U.S. 833

Police Commissioner Delhi v. Registrar Delhi HC, AIR 1997 SC 95.


Post Graduate Institute of Medical Education & Research Chandigarh v. Faculty Association, AIR 1998 SC 1767


P. Rajendran v. State of Madras, AIR 1968 SC 1012


Pyare Lal v. Delhi Municipal Committee, AIR 1968 SC 133

R

Railway Board v. Chandrima Das, AIR 2000 SC 988

Ramsharan v. Union of India, AIR 1989 SC 549.

Ratnamala v. Respondent, AIR 1962 Madras 31

S

Sanjit Roy v. State of Rajasthan, AIR 1983 SC 328
Santbir v. State of Bihar, AIR 1982 SC 1470
Shantisar Builders v. Narayan Khimlal Tomate, AIR 1990 SC 630
Shanta Bai v State of U.P, AIR 1959 All. 57
Soobramoney v. Minister of Health, [1997] ZACC 17
State of Haryana v. Darshana, AIR 1979 SC 855

State of Kerala v. Pathuma, AIR 1978 SC 771
State of Madras v. Champakam Dorairajan, AIR 1951 SC 226
State of Maharashtra v. Prabhakar Pandurang, AIR 1966 SC 424
State of Mysore v. Susheela, AIR 1966 Mys.194
State of Punjab v. Mohinder Singh Chawla, AIR 1997 SC1225
State of Punjab v. Hiralal, AIR 1971 SC 1777


Sunil Batra, (1) v. Delhi Administration, AIR 1978 SC 167

Sunil Batra (II) v. Delhi Administration, AIR 1980 SC 1579.

Suk Das v. Union Territory, AIR 1986 SC 991.

Suraj Bhan v. State of Rajasthan, AIR 2011 SC 874

State of West Bengal v. Anwar Ali, AIR 1952 SC 75

T

Tata Press Ltd. v. MTNL, AIR 1995 SC 2438


T. Jacob v. State of Kerala, AIR 1971 Ker. 166


U

Union of India v. Varpal Singh Chauhan, AIR 1996 SC 448

Union of India v. V.P.Prabhakaran, (1997) 11 SCC 638

UP Avas Awam Vikas Parishad v. Friend’s Housing Cooperating Societies Ltd, AIR 1996 SC 1

Unni Krishnan v. State of Andhra Pradesh, AIR 1993 SC 2178
V


Vtteralli v. Seton, 3 L.Ed. (2 series) 1012.

Y