Part - C
Legislative Provisions,
Governmental Policies
and Plans Relating to
Social Justice
CHAPTER VII
LEGISLATIVE PROVISIONS AND SOCIAL JUSTICE

Central and State legislatures have always tried to make laws for the furtherance of goal to achieve a 'socialist state'. Many old laws are upgraded, modified and amended according to the needs and requirements of the new society and some others are formulated for the new emerging problems of varied fields. According to Krishna Iyer J., "a procedural revolution is on the national agenda of social justice in action."1 According to him the law drafting must be plain, purposive and sensibly interpreted. It is only the legislature that can undertake the function of social engineering through the instrumentality of law making.2

Too much legislative activity is as harmful as too little. *Summa Jus, Summa Injuria* is a well known maxim, which may be rendered thus - the more the law, the lesser the justice. The East India Company governed the people with forty - three regulations. Today the statute book is full of laws. There is a maxim of law that ‘ignorance of law excuses nobody’. But a person must be a

wizard who can say that he knows the law.\textsuperscript{4} Even the most illustrious can claim, where the law is and not what the law is. About the laws, Burke said, "where mystery begins, justice ends?"\textsuperscript{5}

‘Himalayan heaps’ of legislation together with rules, notifications, circulars, bye-laws etc. are enough to frighten away the common man though the intention behind them is avowedly to protect and benefit him. The more the law, the more the litigation since it treads on toes of increasing number of prospective litigants. As Macaulay remarked, “if recourse to law is more difficult, men must suffer wrong without redress or redress wrongs by the strong hand”.\textsuperscript{6} We want laws that actually wipe tears but our legislatures are more used in rough exchanges and our courts to logomactic exercise and the people hardly expect parliamentary or forensic social justice. Bad laws are like organised bedlams\textsuperscript{7}.

But common man is hit hard by the multiplicity of hastily enacted laws, some of which are badly drafted, the enormous fees demanded by lawyers and the court fees that has to be paid. Added to this there is a cumbersome procedure which the courts

\textsuperscript{5} Quoted in \textit{supra} note 3 at xi.
\textsuperscript{6} Ibid.
must follow and of which one side or the other is ever ready to
take full advantage. The numerous appeals and revisions to which
the decision of courts and tribunals are successively subject to
further impediments to speedy justice.

Law is a social engineering to remove the existing
imbalance and to further the progress, serving the needs of the
socialist democratic Bharat under the rule of law. The prevailing
social conditions and actualities of life are to be taken into
account in adjudging whether or not the impugned legislation
would subserve the purpose of the society.

Various legislations promoting social justice may be studied
under the following heads:

I) Labour Welfare Laws
II) Laws Relating to Society or Societal Laws
III) Consumer Laws
IV) Environmental Laws
V) Land Reform Laws

I. LABOUR WELFARE LAWS

Legislation is a conscious attempt, as a social direction, in
the process of change. The fusion between the law and social
change would be affected only when law is introspected in the
context of ordinary social life. Life of the law has not been logic
but has been experience. It is a means to serve social purpose and

8. Supra note 4 at 14.
to feel necessities of the people. In the context of the claims of the labour for social justice under welfare legislation, the principle is that the employer and the employees are so interrelated and dependent on each other that it is in the interest of each that the other should survive, and it is in the interest of society that both should be kept functioning in harmony with each other.\(^{10}\)

For the last few decades, labour laws have undergone tremendous changes to meet the requirements of rapid industrialisation and increasing awareness amongst the workers. To safeguard the workers from economic and social exploitation of the employer or the upper state of society, laws have been made lenient and beneficial for the proletariats. Industrial workers, though better organised, are still a weak species, self-divided and subject to exploitative privations, with the result that welfare legislations are struck dumb; even when the public sector runs industries. Curiously enough, the conciliation procedures, the industrial tribunals and other facets of labour jurisprudence offer benefit only after decades of litigation.\(^{11}\) Favourable laws to

\(^{10}\) Regional Director, E.S.I. Corpn. v. Francis De Costa, 1993 Supp (4) SCC 100.

\(^{11}\) Supra note 1 at 65.
secure participation of workers in the internal affairs and management of industry have been made. Minimum living wages has also been contemplated and has been made obligatory by the Constitution makers to lead a reasonable standard of living with human dignity. In the present work, various types of labour laws, their main purpose and objective implementation, after effects, along with lacunae etc. have been studied in detail by taking and analysing each legislation one after the other, which are as follows:

1. Industrial Disputes Act, 1947.
2. Workmen's Compensation Act, 1923.
8. Payment of Wages Act, 1936.

1. **Industrial Disputes Act, 1947**

   The Act has been enacted to promote industrial peace, legitimate trade union activities and discouragement of unfair
labour practices or victimisation of workers. The Act also provides extensive and effective alternative dispute resolution mechanism\textsuperscript{12} for the maintenance of industrial peace and ensuring uninterrupted industrial production by giving priority to the examination of issues involving the class of workers, employees, etc. To harmonise and synthesize their respective interests, the Act regulates and restricts the rights of employer and employees. Qua employer, the restrictions are regarding right to retrench, lay-off, lockout and close down business activities which has the effect of adversely affecting the livelihood of employees. Issues affecting larger class of workers have more stringent restrictions\textsuperscript{13}. Unfair and unscrupulous practices are penal and punishable\textsuperscript{14}. The employer is liable to pay full wages to workman during the pendency of the case before higher courts against the orders of reinstatement passed by labour courts.\textsuperscript{15}

\begin{enumerate}
\item Industrial Disputes Act, 1947, Chapter II. Also see, Rajasthan State Road Transport Corporation v. Krishan Kant, AIR 1995 SC 1715.
\item Ibid., Chapter V-B.
\item Ibid., Sections 25-T and 25-U.
\item Ibid., Section 17-B.
\end{enumerate}
Right of workmen to get lay-off compensation\textsuperscript{16} and compensation in case of transfer\textsuperscript{17} or closing down of undertakings\textsuperscript{18} has been provided.

Restrictions imposed under the Act in the matters of retrenchment\textsuperscript{19} of workmen or lay-off\textsuperscript{20}, or close down\textsuperscript{21} the business have been held to be reasonable and in public interest and in accordance with the Constitutional mandate contained in Articles 19(1)(f)(g), 38,39-A, 41 and 43.\textsuperscript{22}

For contravening the provisions of Act various penalties have been contemplated, such as for lay off and retrenchment without prior permission,\textsuperscript{23} for closure,\textsuperscript{24} for unfair labour practices,\textsuperscript{25}

\begin{flushleft}
\textsuperscript{16} Ibid., Section 25-C.  \\
\textsuperscript{17} Ibid., Section 25-FF.  \\
\textsuperscript{18} Ibid., Section 25-FFF.  \\
\textsuperscript{19} Industrial Disputes Act, 1947, Section 25-N.  \\
\textsuperscript{20} Ibid., Section 25-M.  \\
\textsuperscript{21} Ibid., Section 25-O.  \\
\textsuperscript{22} Workmen of Meenakshi Mills Ltd. v Meenakshi Mills Ltd. (1992) 3 SCC 336.  \\
\textsuperscript{23} Industrial Disputes Act, 1947, Section 25 Q (Imprisoment for a term extending upto one month or fine which may extend to Rs.1000 or both can be there in cases of wrongful lay off or retrenchment of workers)  \\
\textsuperscript{24} Ibid., Section 25-R (Penalty for closure of an undertaking without compliance of Section 25-0(1) (2) & 25-P can be imprisonment for a term of 6 months to 1 year or fine extending upto Rs 5000 or with both.)  \\
\textsuperscript{25} Ibid., Section 25-T and Section 25-U (Penalty for committing unfair labour practices can extend upto imprisonment of 6 months or fine of Rs. 1000 or with both.)
\end{flushleft}
for illegal strikes and lock outs etc. Frivolous or vexatious or otherwise patently untenable complaints filed either by workmen or trade union or employer are not taken cognizance of unless made with the authorisation of appropriate government and they are not entertained in the public interest. Similarly, workers' right to strike, etc. are also regulated to protect the interest of uninterrupted production and maintenance of public services, etc.

The whole legislation is based upon the concept of 'collective bargaining' giving equal powers to workmen to negotiate with the employer, so as to reach the ultimate goal to provide justice to each and every individual i.e. social justice to all in every aspect and in every human endeavour.

2. Workmen's Compensation Act, 1923

The Workmen's Compensation Act is a piece of social security legislation. Employees are being paid compensation by employers for death or injury sustained by them by an accident

26. *Ibid.*, under Sections 26-29, penalties are provided even for instigation and for providing financial aid to illegal strikes and lock-outs and also for breach of any settlement or award which ranges from imprisonment for a term of 1 month to 6 months or fine of Rs. 50 to Rs. 1000 or with both depending upon the kind of wrong committed by the person.


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arising out of and during the course of employment\textsuperscript{28}.

For providing immediate monetary relief to the victim, Section 4(a) contemplates provisional payment of compensation due to an employee under Section 4 of the Act,\textsuperscript{29} and also provides for the penalty and interest if compensation is not paid within one month from the due date or where the Commissioner does not consider the delay to be justified. In cases of death, the new provision of granting funeral expenses to the tune of Rs. 1000 has also been added in the Act\textsuperscript{30}.

For safeguarding the interests of the dependents\textsuperscript{31} who are entitled to receive compensation proper distribution of compensation is provided for under the Act, so that they may not

\begin{itemize}
\item \textsuperscript{29} ibid., Section 4 provides for the amount of compensation. Section 4(a) (After the Workmen's Compensation Act 1995) For Death - 50\% of monthly wages of the deceased multiplied by relevant factor or Rs. 50,000/- whichever is more and Section 4 (b) for Permanent Total Disablement - 60\% or Rs. 60,000/- whichever is more. Section 4 (c) for Permanent Partial Disablement, see, under Schedule I, Part I etc.
\item \textsuperscript{30} Ibid., Section 4 (4) [Inserted by the Workmen's Compensation (Amendment) Act, 1995].
\item \textsuperscript{31} Ibid., Section 2(d) defines 'dependant'. [ The Workmen's Compensation (Amendment) Act, 1995 includes adopted children].
\end{itemize}
fall a prey to the machinations of the employer or be subjected to
deceit or fraud.\textsuperscript{32} To safeguard and monitor the interests of
workers, employers are required to provide notice to the
authorities regarding any fatal accident and any accident causing
serious bodily injuries to any worker.\textsuperscript{33}

3. Factories Act, 1948

The Act is a social enactment to achieve social reform
relating to regulation of labour and welfare of workers and to
secure health, safety, welfare, proper working hours, leave and
other benefits for workers employed in factories.\textsuperscript{34} The stringent
provisions relating to the obligations of the occupiers or managers
with a view to protect workers from industrial and occupational
hazards and to secure to them employment in conditions
conducive to their health and safety indicate the broad purpose of
the Act.\textsuperscript{35}

In \textit{G.L. Hotel Ltd.} \textit{v. T. C. Sarin,}\textsuperscript{36} it was held that certain

\begin{itemize}
\item \textsuperscript{32} \textit{Ibid., Section 8.}
\item \textsuperscript{33} \textit{Ibid., Section 10B.}
\item \textsuperscript{34} Benefit of the Factories Act, 1948 does not extend to field
workers working outside the factory. See, \textit{N.E.L.P.Co. v. E.S.I. Corporation}, AIR 1967 SC 1364 at 1367,para 9 per
R. S. Bachawat J.
\item \textsuperscript{35} \textit{J.K. Industries Ltd. v. Chief Inspector of Factories and
\item \textsuperscript{36} (1993)4 SCC 363.
\end{itemize}
premises as a factory or certain activities as an industry etc. given in social welfare legislations like the present, are necessarily artificial. The object is to extend the welfare coverage to as large a section of the individuals as possible. Such definitions cannot be tested on the anvil of the common usage of the terms defined.

Detailed, exhaustive provisions regarding health, safety and relating to hazardous processes welfare, working hours of adults, employment of young persons, annual leave with wage are there provided under the Act. Special provisions have been provided to prevent circumvention of provisions of the Act and to secure to persons working in establishments, where manufacturing process is carried on adequate safeguards where necessity is felt.

Notice regarding accidents, dangerous occurrences, diseases are to be sent to authorities and the state government

37. Factories Act, 1948, Chapter III (Sections 11 to 20).
38. Ibid., Chapter IV (Sections 21 to 41).
39. Ibid., Chapter VI A (Sections 41A to 41H).
40. Ibid., Chapter V (Sections 42 to 50).
41. Ibid., Chapter VI (Sections 51 to 66).
42. Ibid., Chapter VII (Sections 67 to 77).
43. Ibid., Sections 78 to 84.
44. Ibid., Section 85.
45. Ibid., Section 88.
46. Ibid., Section 88A.
47. Ibid., Section 89.
may enquire into the cases of accidents or diseases.\textsuperscript{48} Safety and occupational health surveys\textsuperscript{49} or taking of samples\textsuperscript{50} etc., penalties for violation of the provisions of the Act\textsuperscript{51} for the proper implementation of the Act has also been provided for. Right to obtain information from the occupier relating to workers health and safety at work,\textsuperscript{52} to have training and sponsorship for getting training\textsuperscript{53} and also right to represent for inadequate provision for protection of his health and safety in the factory\textsuperscript{54} are the most important dynamic rights granted to the workers by 1987 Amendment Act.

4. Employees' State Insurance Act, 1948

The Employees' State Insurance Act is a piece of social security legislation for grant of cash benefits to the employees in the recognised contingencies of sickness, maternity and employment injury. It also provides for medical benefits, in kind, to the employees and their families. The Act is at present applicable to all factories and establishments whether, industrial,
commercial, agricultural or otherwise, where prescribed number of workers are employed and can be extended to other establishments as well. The Act also applies to Govt. factories except where substantially similar or superior benefits are available to the employees.  

The benefit of this Act extends to the employees whether working inside the factory or establishment or elsewhere.  

Sickness benefit as prescribed by Central Government perioical payments to an insured women in case of miscarriage or confinement, premature birth of child etc. and maternity benefit as prescribed by Central Government, disablement benefit both for temporary or permanent (partial or total), dependents' benefit by way of periodical payments; medical benefit for the medical treatment for and attendance on insured persons; etc. are

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55. Employees' State Insurance Act, 1948, Sections 1 (4) and 1 (5). Also see, Cochin Shipping Co. v. E.S.I. Corpn. AIR 1993 SC 252.
56. ibid., Section 2(12).
57. ibid., Proviso to Section 1(4) [Inserted by the Employees State Insurance (Amendment) Act, 1989].
58. ibid., Section 2 (9) (i). [The definition of an ‘employee’ in Employees’ State Insurance Act is wider than ‘worker’ defined under the Factories Act].
59. ibid., Sections 46 (a), 49 and 69.
60. ibid., Sections 46 (b) & 50.
61. ibid., Sections 46 (d) & 52.
62. ibid., Sections 46 (c) & 51.
63. ibid., Sections 46 (e) & 56-59, 59-A.
the main benefits provided in detail under the Act. Employee's State Insurance fund contemplated under the Act\textsuperscript{64} is to be spent for providing various benefits to the employees and for the administrative expenses.\textsuperscript{65}

Under Section 38 of the Act, all employees have to be insured compulsorily. Contributions have to be paid by the employer failing or delaying of which can create an additional liability with regard to interest levied on that amount.\textsuperscript{66} In the first instance, both the contributions i.e. employer's contribution and employees' contribution has to be paid by the employer, subject to a right of re-imbursement from the concerned employee or employees.\textsuperscript{67}

5. Employees Provident Fund and Miscellaneous Provisions Act, 1952

The Act provides for the institution of compulsory provident fund, pension fund\textsuperscript{68} and deposit linked insurance fund, for the

\textsuperscript{64} Ibid., Section 26. Also see, Regional Director, ESI Corpn. v. Francis De Caste, 1993 Supp. (4) SCC 100.
\textsuperscript{65} Ibid., Sections 28 and 28A [Inserted by Employees State Insurance (Amendment) Act, 1989].
\textsuperscript{66} Ibid., Section 39.
\textsuperscript{67} Ibid., Sections 40-41.
\textsuperscript{68} In the long title to the Employees' Provident Funds and Misc. Provisions Act, 1952 the words 'family pension fund', the words 'pension fund' are substituted by the Employees' Provident Funds and Misc. Provisions (Amendment) Act, 1996.
benefit of employees in factories and other establishments.  

Section 5 of the Act empowers the Central Government to frame the Employee's Provident Fund Scheme for the purpose of establishing the provident fund benefit to the employees or to any prescribed category of employees.

Contributions which shall be paid by the employer to the Fund have been increased from $\frac{8}{3}\%$ to 10\% of the basic wages, payable to each employee.  

Employees' Pension Scheme framed by Central Government provides for the superannuation pension, retiring or permanent total disablement pension, widow or widowers' pension, children or orphan pension etc. and for all or any of the

69. Employees' Provident Funds and Misc. Provisions Act, 1952, Section 16. [As amended by the Employees' Provident Fund and Misc. Provisions (Amendment) Acts of 1958, 1988, 1998 & 1999. (It does not apply to establishments belonging to Central or State Government or local authority, registered under Cooperative Societies Act, 1912 or to any recent (newly set up) establishment until the expiry of three years from the date on which such establishment has been set up].

70. Ibid., Section 2 (b) defines 'basic wages'.

71. Ibid., Section 6 [Substituted by Employees' Provident Fund & Misc. Provisions (Amendment) Act, 1998].

72. Ibid., Section 6-A [Substituted by Employees’ Provident Fund and Misc. Provision (Amendment) Act, 1996 for old Sections 6A and 6B].

73. Ibid., Section 6-A (a).

74. Ibid., Section 6-A (b).
matters specified in Schedule III.\textsuperscript{75}

Provision for Deposit Linked Insurance Scheme for the purpose of providing for life insurance benefits to the employees is also there under Section 6C of the Act\textsuperscript{76}, into which employer shall pay maximum amount of 10\% of the aggregate of basic wages, dearness allowance and retaining allowance from time to time.

6. Employers' Liability Act, 1938

Employers' Liability Act enhances the liability of employer in respect of injuries sustained by the workmen.\textsuperscript{77} Any contract excluding or restricting employers' liability in respect of personal injuries caused to the employee by the negligence of the another

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\textsuperscript{75} \textit{Ibid.}, Section 6-A (j) [Schedule III has also been substituted by the Employees' Provident Fund and Misc. Provisions (Amendment) Act, 1996].
\textsuperscript{76} Inserted by the Labour Provident Fund Laws (Amendment) Act, 1976.
\textsuperscript{77} The Employers' Liability Act, 1938, Section 3(d). [The Act abolished the defence of common employment in suit for damages brought by any workman. While the English Employers Liability Act, 1880 was restricted in its scope in denying the defence of common employment only to the workmen of particular classes only (railway servants, journeymen etc. and not to menial or domestic servants etc.) the Indian Act of 1938 applies to all employees, for, the term 'workman' is quite exhaustive under the Act. Moreover, defences such as contributory negligence, lack of knowledge to employer or express exclusion by the workman himself out of the Act etc. were only available in English Act and were never allowed under Indian Act].
\end{flushleft}
employed person in common employment with him was held to be void.78

7. Minimum Wages Act, 1948

The Act is intended to achieve the object of social justice to workmen by prescribing minimum wages for them.79 It is to prevent exploitation of the workers by fixing of minimum wages which the employers must pay, irrespective of his resources.80 The payment of any amount towards wages which falls short of minimum wages prescribed under the Act is impermissible and amounts to exploitation and begar.81

The concept of wage structure can be divided into three categories - the basic “minimum wage” which provides bare

78. Ibid., Section 3A. [Inserted by the Employer’s Liability (Amendment) Act, 1951].
79. M.P. Mineral Industry Association v. R.L. Commr., AIR 1960 SC 1068 at 1071, para 11 per Gajendragadkar J. [The legislature undoubtedly intended to apply the Act to those industries or localities in which by reason of causes such as unorganised labour or absence of machinery for regulation of wages, the wages paid to workers were in the light of the general levels of wages, subsistence level inadequate]. Also see, M/s B.Y. Kshatriya v. S.A.T.B. Kamgar Union, AIR 1963 SC 806 at 810, para 5 per J. C. Shah J.
subsistence and is at poverty line level, a little above is the “fair wage” and finally the “living wage” which comes at a comfort level. It is not possible to demarcate these levels of wage structure with any precision.\textsuperscript{82}

The wages of an industrial worker must be such as would enable him to have not merely the means for bare subsistence of life, but also for preservation of his efficiency as a worker and the minimum means which he must have, irrespective of the capacity of the industry or his employer to pay, is to provide for measure of education, medical requirements and amenities\textsuperscript{83}. Any employer who contravenes any provision of this Act or of any rule or order made thereunder shall be punishable with imprisonment or fine or both.\textsuperscript{84}

8. Payment of Wages Act, 1936

The purpose of the Act is to regulate the payment of wages and to ensure their timely payment\textsuperscript{85} without any unjustified

\textsuperscript{82} Workmen v. Reptakoss Brett. & Co., AIR 1992 SC 504.

\textsuperscript{83} Express Newspaper Ltd v. U.O.I., AIR 1958 SC 578; U. Unichoji v. State of Kerala, AIR 1962 SC 12 at 17-18, paras 12-13 per Gajendragadkar J.

\textsuperscript{84} Minimum Wages Act, 1948, Sections 22,22A,22B. (Imprisonment may extend upto 6 months or with fine ranging from Rs. 500 to Rs. 1000).

\textsuperscript{85} Payment of Wages Act, 1936, Section 5 prescribes the last day as 7th of every month, where less than 1000 workers are employed and 10th in all other cases.
deductions to the employees. Responsibility of proper payment of wages is that of the manager or employer or occupier. Maximum wage period of 1 month has to be fixed and the wages are to be paid on the date fixed under the Act in current coins or currency coins or by cheques.

Fermisible deduction which can be made from wages, arising out of that deductions made from wages or delay in payment of wages and penalty for malicious or vexation claims have been provided under Section 15 of the Act e.g. claims for back wages allowances, bonus etc. Separate application by several employed persons belonging to the same unpaid group can also be

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86. Deductions which may be made are enumerated under Sections 7-13 of the Act and cannot exceed more than 50% of the wages.
87. Payment of Wages Act, 1936, Sections 1(4) and 1(5) (Industrial Disputes Act is a general Act, while the Payment of wages is a special Act dealing with wages and the enforcement of payment thereof).
88. Ibid., Section 3.
89. Ibid., Section 4.
90. Ibid., Section 5. (The wages are paid on 7th of every month to the employees employed in any railway, factory, industrial or other establishment in which less than 1000 persons are employed and in any other establishment wages are paid before the expiry of 10th of every month).
91. Ibid., Section 6.
92. Ibid., Section 7.
According to recently added Section 25-A, payment of undisbursed wages in cases of death of employed person would go to the nominated person or to the prescribed authority in absence of such nomination, whereby the employer would stand discharged of his liability to pay those wages.

9. Payment of Bonus Act, 1965

The Act is comprehensive and exhaustive law dealing with payment of bonus to persons employed in various establishment on the basis of profit or on basis of production or productivity. The scheme of the Payment of Bonus Act, broadly stated is four dimensional: (i) to impose statutory liability upon the employer of every establishment covered by the Act to pay bonus to employees in the establishment; (ii) to define the principle of payment of bonus according to the prescribed formula; (iii) to provide for payment of minimum and maximum bonus and linking the payment of bonus with the scheme of "set-off" and "set-on" and (iv) to provide machinery for enforcement of the liability for payment of bonus. Section 8 deals with the entitlement of bonus.

93. Ibid., Section 16.
94. Ibid., Section 25A [Inserted by the Payment of Wages (Amendment) Act, 1982, w.e.f. 1994].
95. Jalan Trading Co. v. Mill Mazdoor Sabha, AIR 1967 SC 691 at 702, para 17 per Shah J.
for all those who have worked for minimum of 30 working days in that year and Section 9 describes about the disqualifications or disentitlement for bonus.

Generally, the employers covered under the Act are to pay a minimum bonus (8.33% of the salary or wage earned by the employee or Rs. 100 whichever is high)\(^{96}\) and maximum bonus\(^{97}\) (20%) calculating by taking Rs. 2500 as the salary or wage as the basis for calculations.\(^{98}\)

Section 31-A\(^{99}\) deals with special provisions which permit the employees and employers to alter the basis of bonus by linking it to production and delinking it from profit. But employees with whom there is no agreement cannot resort to section 31-A. The maximum amount of bonus payable to the employees cannot exceed 20% percent of the salary or wage earned by them.

10. Payment of Gratuity Act, 1972

The present Act provides for the payment of gratuity to employees engaged in factories, mines, ports, railway companies, shops or other establishments.

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97. *Inid.*, Section 11.
98. *Inid.*, Section 12. [Substituted for Rs. 1600 by Payment Of Bonus (Amendment) Act, 1995]
99. *Inid.*, Section 31-A. [Inserted by the Payment of Bonus (Amendment) Act, 1976.]
Gratuity is payable according to wages paid in each industry. Gratuity shall be payable to an employee on termination of his employment only if he has rendered continuous service of minimum 5 years, on his superannuation or on his retirement or resignation or death or disablement\(^{100}\) within thirty days from the date it becomes payable otherwise interest has to be paid by the employer\(^{101}\).

Gratuity payable under the Act, can be recovered from the employer along with compound interest if not paid within the prescribed time.\(^{102}\) Penalties for avoiding any payment or for contravening any provision of the Act by the employer have been provided under Section 9 of the Act.\(^{103}\)

11. Contract Labour (Regulation And Abolition) Act, 1970

The Act is an important piece of social legislation and it seeks to regulate the employment of contract labour and where necessary to abolish the same. The Act does not provide for total

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100. Payment of Gratuity Act, 1972, Section 4. (For Rs. 1 lakh, Rs. 3 lakhs 50 thousand has been substituted by Payment of Gratuity (Amendment) Act, 1998). Also see, Bakshish Singh v. Darshan Engineering Works, (1994)1 SCC 9.
101. Ibid., Section 7(3) & (3A)
102. Ibid., Section 8.
103. Imprisonment for a minimum term of 3 months extending upto 1 year or fine ranging from Rs 10,000 to Rs. 20,000 or both can be imposed upon employer or upon any other person.
abolition of contract labour, but provides for abolition by appropriate government in appropriated cases. As without employment or appointment (If by abolition of contract labour), the workmen will be denuded of their means of livelihood and resultantly right to life, leaving them in lurch since prior to abolition, they had the work and thereby earned livelihood. 104

The Act seeks to abolish the system of middle-man, where the job is of perennial nature, 105 so that the service conditions of the employees are improved and security of tenure and terminal benefits may be assured to them. In the absence of action of abolition of contract labour, the court is also entitled to see the nature of job being performed by the contract labour and remove the institution of contract labour so as to bring about the direct relationship of employer and employee. 106

Where the courts are satisfied that the institution of contractor is merely a device to deprive the conditions of service to the workers and is only a camouflage, an appropriate direction


can also be issued to government for notifying the abolition of contract labour and bring about the direct relationship of employer and employee. The genuineness or otherwise of the contract contemplating giving rise to the contract labour can also be examined by the courts including the labour court.\textsuperscript{107}

The appropriate government can appoint licensing officers\textsuperscript{108} to issue licences to the contractors which contained the conditions regulating wages, work hours and other basic amenities required for the contract labour.\textsuperscript{109} The provisions and maintenance of certain basic welfare amenities for contract labour like, first aid facilities, drinking water etc. canteen, rest rooms, have been provided within the Act\textsuperscript{110} as well as under the Central rules annexed with the Act.


Article 23 of the Constitution prohibits \textit{begar} and other similar forms of forced labour and further provides that any contravention of the said prohibition shall be an offence punishable in accordance with law.

\begin{itemize}
  \item \textsuperscript{107} \textit{Gujarat State Electricity Board v. Hind Mazdoor Sabha}, AIR 1995 SC 1893.
  \item \textsuperscript{108} Contract Labour (Regulation And Abolition) Act, 1970, Section 11.
  \item \textsuperscript{109} \textit{Ibid.}, Section 12.
  \item \textsuperscript{110} \textit{Ibid.}, Sections 16-19.
\end{itemize}
Under the old system of usury (money-lending), the usurer used to give money on exorbitant interest rate, for the repayment of which many generations used to work under the bondage without reasonable wages or with no wages at all. Such bondage cannot be interpreted as the result of any legitimate contract or agreement. The system implies the infringement of basic human rights and destruction of human labour.

The present Act was enacted to provide for the abolition of bonded labour system with a view to prevent the economic and physical exploitation of the weaker sections of the people and in furtherance of the rights guaranteed under Art. 23 of Constitution of India. Therefore, under the Act, bonded labour system includes any type of forced labour entered into or presumed to be entered into an agreement with the creditor for any ancestral sum, debt or advance or due to any customary, social or caste obligation, for which he has forfeited his many basic human rights viz. right of movement, of employment or livelihood, to have proper wages, to sell his property or product or labour at market value etc. It also includes any type of forced/or partly forced labour including contract labourers or migrant labourers working under somewhat similar circumstances and subjected to all or any of the
disabilities referred above\textsuperscript{111} including the work taken without adequate remuneration for payment of minimum wages.\textsuperscript{112} The provisions of this Act has overriding effect on all other Acts.\textsuperscript{113}

After the commencement of the Act, bonded labour system was abolished and every bonded labourer was freed and discharged from obligation to render any bonded labour,\textsuperscript{114} and any agreement or custom, contract or instrument acknowledging or promoting bonded labour would be void and inoperative.\textsuperscript{115} Bonded debt\textsuperscript{116} would stand extinguished,\textsuperscript{117} property of bonded labourer freed from mortgage\textsuperscript{118}, no obligation to repay any bonded debt\textsuperscript{119} and even creditor has been barred from accepting any payment against extinguished debt\textsuperscript{120}. Moreover, the freed and discharged labourer is not under any obligation to leave any

\textsuperscript{111}. Section 2 (g) defines Bonded Labour System and Section 2 (g) Explanation [Inserted by the Bonded Labour System (Abolition) Amendment Act, 1985].
\textsuperscript{113}. The Bonded Labour System (Abolition) Act, 1976, Section 3.
\textsuperscript{114}. \textit{Ibid.}, Section 4.
\textsuperscript{115}. \textit{Ibid.}, Section 5.
\textsuperscript{116}. \textit{Ibid.}, Section 2 (d)
\textsuperscript{117}. \textit{Ibid.}, Section 6.
\textsuperscript{118}. \textit{Ibid.}, Section 7.
\textsuperscript{119}. \textit{Ibid.}, Section 6.
\textsuperscript{120}. \textit{Ibid.}, Section 9.
homestead or other residential premises occupied by him previously before the commencement of the Act\textsuperscript{121}.

For the proper implementation of the Act implementing authorities \textit{viz.} District magistrate and other officers has been provided for.\textsuperscript{122}

Various punishments for enforcement, advancement or extraction of bonded labour,\textsuperscript{123} for non restoration of possession of property of bonded labour\textsuperscript{124} or even abetment to any offence\textsuperscript{125} are given under the Act. Provision to constitute Vigilance Committees in each district and in each sub-division by State Government to provide for the economic and social rehabilitation of freed bonded labourers, to make survey, to co-ordinate the functions of rural banks and co-operative societies etc. for the proper implementation of the Act are provided under the Act\textsuperscript{126}.

\begin{itemize}
\item \textsuperscript{121} \textit{Ibid.}, Section 8.
\item \textsuperscript{122} \textit{Ibid.}, Sections 10-12.
\item \textsuperscript{123} \textit{Ibid.} Sections 16-18, whereby punishment in form of imprisonment extending upto 3 years and fine upto Rs. 2000 has been contemplated.
\item \textsuperscript{124} \textit{Ibid.} Section 19 (Imprisonment upto 1 year or fine upto Rs. 1000 or both can be imposed if the possession of property is not restored within a period of 30 days from the commencement of the Act).
\item \textsuperscript{125} \textit{Ibid.}, Sections 20
\item \textsuperscript{126} \textit{Ibid.}, Sections 13-15 (Vigilance Committees and their Functions).
\end{itemize}
The Act also provides for identification and extinguishment or discharge of debt of bonded labourers', their welfare rehabilitation and employment shelter, food and education to their children, regular inspection by Labour Commissioner, reporting to District Magistrates to Supreme Court Legal Aid Committee or to Commissioner appointed by the Court. Appointment of independent body for collecting information, and facilities to provide for rural credit have also been made\textsuperscript{127}.

13. **Public Liability Insurance Act, 1991**

The Public Liability Insurance Act, 1991\textsuperscript{128} provides for immediate relief in case of death, injury or damage to any property to the victims of hazardous substances and makes mandatory to take out adequate insurance policy by the owners who has control over hazardous substances\textsuperscript{129}. The aggrieved party has been exempted from pleading or establishing any fault, neglect or wrongful act on his part, i.e. the liability is strict for

\textsuperscript{127} *Public Union for Civil Liberties v. State of T.N.*, (1994) 5 SCC 116. [Directions issued by Supreme Court in these matters to all State Governments for prompt compliance alongwith Additional directions also issued with specific reference to State of M.P.].

\textsuperscript{128} The Act has yet not come into force. It shall come into force on such date on the Central Government may by notification appoint. See, Section 1 (2).

\textsuperscript{129} The Public Liability Insurance Act, 1991, Section 4.
the owners\textsuperscript{130}. The right to claim compensation under the Act is in addition to any other right of compensation under the existing laws\textsuperscript{13}.

Environment Relief Fund has been contemplated to be established by the Central Government to make payments from it in accordance with the provisions of the Act\textsuperscript{132}. An amount equivalent to the insurance premium has to be credited by the owner, which will be remitted to the authorities by the insurer, failing which it shall be recovered from insurer as arrears of land revenue or of public demand\textsuperscript{133}.

Persons authorised by the Central Government can inspect any premises to find out the measures taken by the owner and can seize any hazardous substance to prevent any accident etc.\textsuperscript{134} Prohibition and regulation of handling of any hazardous substance can also be ordered by Central Government\textsuperscript{135}. Penalties have also been provided under Section 14 of the Act for contravening the provisions of Section 4 (1) or (2) of the Act or for failure to comply with the directions of the Central Government.

\begin{itemize}
\item \textsuperscript{130} Ibid., Section 3 [Principle of No-fault Liability].
\item \textsuperscript{131} Ibid., Section 8.
\item \textsuperscript{132} Ibid., Section 7A. [Inserted by Public Liability Insurance (Amendment) Act, 1992].
\item \textsuperscript{133} Ibid., Section 4 (2D) (Substituted by \textit{ibid.}).
\item \textsuperscript{134} Ibid., Sections 10,11.
\item \textsuperscript{135} Ibid., Section 12.
\end{itemize}

Article 39 of the Constitution envisages that the State shall direct its policy towards securing that there is equal pay for equal work for both men and women. To give effect to this Constitutional provision, the Equal Remuneration Act, 1976 was passed, which provides for the payment of equal remuneration to men and women workers and for the prevention of discrimination, on the ground of sex, against women in the matter of employment.

In *State of Madhya Pradesh v. Pramod Bhartiya*[^136^], it was held that the rule is as much as part of Article 14 as it is of Article 16 (1) and of Article 39 (d). Equality of opportunity guaranteed by Article 16 (1) necessarily means and involves equal pay for equal work[^137^]. It would be evident from the definition given under the Act is that the stress is upon the similarity of skill, effort and responsibility when performed under similar conditions. Further, the quality of work may vary from post to

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[^136^]: AIR 1993 SC 286.
[^137^]: Ibid., p. 288, para 1 per B.P Jeevan Reddy J. - In this context, it would be appropriate to refer to the definition of the expressions 'same work or work of similar nature' contained in clause (h) of Section 2 of the Equal Remuneration Act, 1976, enacted by Parliament to implement Article 39 (d) of the Constitution and the obligation created by the Convention concerning equal remuneration for men and women workers for work of equal value to which India is a signatory.
post. It may vary from institution to institution. Discrimination even during recruitment is not allowed. Any condition of service subsequent to the recruitment such as promotions, training or transfer etc. can also not be discriminated against women except some cases of positive discrimination left aside\textsuperscript{138}.

15. \textit{Maternity Benefit Act, 1961}

The Act is intended to achieve the object of justice to women workers and to provide for maternity benefit to them\textsuperscript{139}.

Prohibition on employment of or work by women in any establishment during the six weeks immediately following the day of her delivery or miscarriage or medical termination of pregnancy is also there\textsuperscript{140}. Provisions for payment of maternity benefit in case of death of women and payment of medical bonus are also there under the Act\textsuperscript{141}.

Leave for miscarriage or medical termination of pregnancy, leave with wages for tubectomy operation and paid leave for illness arising out of pregnancy, delivery and premature birth of

\textsuperscript{138} Equal Remuneration Act, 1976, Section 5 [As amended by the Equal Remuneration (Amendment) Act, 1987].

\textsuperscript{139} Municipal Corporation of Delhi \textit{v.} Female Workers' Union, 2000 (3) JT 13.

\textsuperscript{140} Maternity Benefit Act, 1961, Section 4 (As amended by the Maternity Benefit (Amendment) Act, 1995).

\textsuperscript{141} \textit{Ibid.}, Sections 7-8 (As amended by the Maternity Benefit (Amendment) Act, 1988, the amount of Rs. 25 was increased to Rs. 250.)
child or miscarriage are the welcome measure incorporated in the Act by the recent 1995 Amendment Act.\textsuperscript{142}

Section 12 of the Act prohibits dismissal of a woman during or on account of absence on maternity leave, ensures her complete justice during her attaining motherhood.


Article 47 of the Constitution provides that the State shall regard raising the standard of living of the people and the improvement of public health. Preamble of the Constitution assures the dignity of the individual. The Act was enacted to provide for the prohibition of employment of manual scavengers of human excreta as well as construction or continuance of dry latrines and for the regulation of construction and maintenance of water-seal latrines\textsuperscript{143}.

It was much needed and desirable legislation for eliminating the dehumanising practice of employment of manual scavengers which was prevalent in many parts of the country even after the elapse of many years of independence. Rehabilitation and

\textsuperscript{142} \textit{Ibid.}, Sections '9, 9A & 10 [Substituted by Maternity Benefit (Amendment) Act, 1995].
\textsuperscript{143} The Employment of Manual Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, Section 3.
promotion of the welfare of the persons who are engaged in or employed for as manual scavengers is the chief aim of the Act.

Housing and Urban Development Corporation Ltd. (HUDCO), a Government company may extend the financial facilities for implementation of various schemes made by the State Government.¹⁴⁴

17. Industrial Employment (Standing Orders) Act, 1946

The Industrial Employment (Standing Orders) Act, 1946 was made by the Parliament to require employers of all industrial establishments to define formally the conditions of employment on which the workmen would be engaged. The object of this beneficent piece of legislation is to introduce uniformity of terms and conditions of employment in respect of workmen belonging to the same category and discharging same and similar work under the industrial establishment and to make the terms and conditions of industrial establishment well-settled and known to the employees before they accept the employment¹⁴⁵.

¹⁴⁴ *ibid.*, Section 11 (The Project Committees for the appraisal of schemes, Monitoring Committees and other Committees such as State Co-ordinate Committees etc. can also be constituted by the Central Government for the effective implementation and proper progress in the Act).

¹⁴⁵ *B.P. Corporation Ltd. v. Maharashtra General Kamgar Union*, AIR 1999 SC 402 at 404, paras 13,14 per Saghir Ahmed J.
The Act also aims at achieving a transition from mere contract between unequals to the conferment of “status” on workmen through conditions statutorily imposed upon the employers by requiring every industrial establishment to frame “Standing Orders” in respect of matters enumerated in the Schedule appended on the Act. Certified Standing Orders have statutory force and the provisions of rules of natural justice are implicit in them.

18. PUNJAB LABOUR WELFARE FUND ACT, 1965

The Act provides for the constitution of a fund for the financing of activities to promote welfare of labour in the State of Punjab. The State Government has been empowered to constitute Labour Welfare Fund which will consist of all fines realised from the employees, unpaid accumulations, grants and subsidies by the State Government, any voluntary donations or sums transferred or borrowed.

Punjab Labour Welfare Board established for the purpose of administering the Labour Welfare Fund and for performing

150. *Ibid.*, Section 10 (5).
other assigned function under the Act, for the states of Punjab and Haryana or the territory of Chandigarh, as the case may be. Board will vest, hold and apply the Labour Welfare Fund as trustee. The money in the fund is utilised by the Board to defray expenditure or community and social education centres, community necessities, games and sports, excursions, entertainment etc., home industries and subsidiary occupations for women and unemployed persons, corporate social activities and other social functions. Welfare Commissioners, Inspectors and other staff are appointed to carry out the provisions of the Act.

II. LAWS RELATING TO SOCIETY OR SOCIETAL LAWS

Social dimension of law is the key issue and the real relevance of court and litigation today is not jurisprudential perfection of judicial judgements, but the acceleration of 'human ascent' - the ascent of all people in their equality, dignity and development. Development is where people are. Sans the people, development is dehumanised and law has survival value only if it cares for Man. Nietzsche once said, “the great problems are in the streets, and so our concern is the village street and slum

153. *ibid.*, Section 10.
154. *ibid.*, Section 14.
155. *ibid.*, Section 15.
156. *ibid.*, Section 17.
Lord Scarman draws our attention to the human essence of law in his Hamlyn Lectures:

"I shall endeavour to show that there are in the contemporary world challenges, social, political and economic, which, if the system cannot meet them, will destroy it. These challenges are not created by lawyers; they certainly cannot be suppressed by lawyers; they have to be met either by discarding or by adjusting the legal system." 159

Various laws affecting the very fabric and foundation of society are needed according to the changing times and requirements of modern Indian society. Indian society is primarily male-dominated, caste oriented patriarchal society. Lower castes include mostly economically poorer sections of society i.e. Scheduled Castes, Scheduled Tribes, Backward Classes etc. Constitution makers provided for reservation and other welfare measures for the upliftment of these classes. They have been the victim of socio-economic suppression and form a third world within the third world. Illiteracy, lack of awareness of rights, vulnerability to privations and scarce Harijan - Girijan presence in the hierarchies of power, make these categories. 150

158. Ibid.
million strong, the special concern of the Constitution. Some laws were also enacted especially for their upliftment.

It is nearly 55 years since the independence of our country, but women are still a neglected lot. Today the vast majority of women are victims of exploitation of feudals and religious fundamentalists. Sex discrimination is a serious violation to the women folk. Due to the gender bias women are deprived of gender justice. Constitutional provisions such as Article 14 declares equality before law. Article 15 prohibits discrimination on the ground of sex. The Constitution (Seventy-third Amendment) and (Seventy-fourth Amendment) Acts provide opportunities by reserving one third posts to women at all levels including Panchayats, municipalities, local bodies and in jobs. Article 51-A introduced by the Constitution (Forty-second Amendment) Act, 1976 describes fundamental duties of the citizen, wherein it has been laid down that the citizens should renounce practices derogatory to the dignity of women. Many Central as well as State legislations are enacted for providing

160. Supra note 1 at 65.
162. Art. 51A (e).
welfare and justice to women.

Similarly, children are the most vulnerable group in any population and in need of the greatest social care - on account of their vulnerability and dependence, they can be exploited, ill-treated and directed into undesirable channels by anti-social elements in the community. The State has the duty of according proper care and protection to children at all times, as it is on their physical and mental well-being that the future of the nation depends. With increased industrialization and urbanisation, the State needs to be even more alert and vigilant in this respect. Children and women are being abused for petty monetary considerations and are exploited at every stage. Rights against exploitation such as traffic in human beings, begar and other forms of forced labour, child labour in hazardous employments are specifically prohibited under the Constitution of India Article 39(f) directs the State to make some positive steps for the welfare of such children as well as for improving the quality of their life. These proposition have also been fortified by judicial pronouncements. Some of the legislative measures studied to calculate their impact and effect on these vulnerable sections

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163. Article 23.
164. Article 24.
165. Substituted by the Constitution (Forty-fourth Amendment) Act 1978.
of society viz. Scheduled Castes and Scheduled Tribes, Other Backward Classes, Women, Children etc. for the purpose of this study are as follows:

A. GENERAL LAWS RELATING TO SOCIETY:


B. LAWS RELATING TO WOMEN:


C. LAWS RELATING TO CHILDREN:


A. LAWS RELATING TO SOCIETY:

1. Protection Of Civil Rights Act, 1955

Under Article 17 of the Constitution, 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. The Untouchability (Offences) Act, 1955 was passed by the Parliament to make the practice of untouchability a cognizable offence. Later, to plug the loopholes suggested by Committee on untouchability, education and economic development of Scheduled Castes, it was renamed as Protection of Civil Rights Act 1955. The present Act is to prescribe punishment for the ‘preaching and practice of untouchability’ and for the enforcement of any disability arising therefrom. Civil rights under the present Act means any right accruing to a person by reason of the abolition of ‘untouchability’ under Article 17 of the Constitution. These rights mentioned under the Act in favour of untouchables are intended to put them at par with other caste Hindus. Religious disabilities like preventing any person from entering any place of worship which is open to other persons professing the same religion, or preventing him from worshipping or offering prayers or performing any religious service or using

166. Appointed by Government of India in April 1965 under the Chairmanships of L. Elavaperumal.
168. Substituted by *ibid.* for the words 'practice of untouchability'.
169. Protection of Civil Rights Act, 1955, Section 2 (a) (Substituted by *ibid.*).
waters of that religious place on the ground of untouchability is punishabale under the present Act. Similar penalties are imposed on any person discriminating on the ground of untouchability refusing to admit person to hospitals, to sell goods or render services. Other offences arising out of untouchability are punished more stringently according to the provisions of the Act.

Compulsory labour with the threat to a person of social or economic boycott compelling him to practice untouchability has also been made punishable. In State of Karnataka v. Appa Balu Ingale, the Supreme Court held that untouchability was an indirect form of slavery and only extension of caste system and untouchability had stood together and would fall together.

The Act also provides for licencing, grants, imposition

170. Ibid., Section 3 (Substituted by Ibid.). [Imprisonment for a term ranging from 1 month to 6 months and fine extending from Rs.100 to Rs. 500 can be imposed].
171. Ibid., Section 4 (Substituted by Ibid.)
172. Ibid., Section 5.
173. Ibid., Section 6.
174. Ibid., Section 7. (Substituted by Ibid.) [Imprisonment for a term extending from 1 month to 2 years with fine can be imposed].
175. Protection of Civil Rights Act, 1955, Section 7A [Inserted by Ibid.]
176. AIR 1993 SC 1126.
177. Ibid., Section 8.
178. Ibid., Section 9.
of collective fine\textsuperscript{179} by the State Government and also for enhanced penalty for subsequent conviction\textsuperscript{180}. Even abetment of any offence committed under this Act has also been made punishable with wider connotation given after the Amendment Act of 1976\textsuperscript{181}.

2. \textbf{Protection of Human Rights Act, 1993}

Human Rights constitute all basic, inherent inalienable and essential rights relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution of India or embodied in the International Covenants and Declarations\textsuperscript{182}. Human rights were firstly recognised and declared by Universal Declaration on Human Rights, 1948 at international level. Later on, these rights were implemented with the help of regional international Conventions\textsuperscript{183} International Covenants\textsuperscript{184} by different nations of

\begin{itemize}
  \item 179. \textit{Ibid.}, Section 10A.
  \item 180. \textit{Ibid.}, Section 11.
  \item 182. Protection Of Human Rights Act, 1993, Section 2 (d) defines 'Human Rights'.
  \item 184. International Covenant on Civil and Political Rights, 1966 ; International Covenant on Economic, Social and Cultural Rights, 1966
\end{itemize}
the world. After World Conference on Human Right held in Vienna in 1993, the emphasis for enactment of independent state legislations to implement human rights at national level led to the formation of the Protection of Human Rights Act, 1993 in India.

For the implementation and better protection of human rights National Human Rights Commission185, State Human Rights Commission in States186 and Human Right Courts have been Constituted under the Act.187 Vast powers have been given to National and State Human Rights Commission to inquire intervene, visit or investigate in any matter concerning violation of Human Rights188 Spreading human rights literacy and related awareness among people, promoting research and encouraging the efforts of non-governmental organisations and institutions are the other important functions performed by the Commissions189. Annual or special reports regarding the actions taken by the Commissions are sent to the concerned State or Central Govt. 190

186. Ibid., Sections 21-29 [State Human Rights Commissions - Their Constitution, Functions, Powers and Procedure].
187. Ibid., Sections 30-31 [Human Rights Courts]
188. Ibid., Sections 13-19.
189. Ibid., Section 12.
190. Ibid., Sections 20-28.
3. **Legal Services Authorities Act, 1987**

Article 39A of the Constitution of India provides that the State shall secure the operation of legal system to promote justice, on a basis of equal opportunity, and shall 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.

The present Act has been enacted to constitute legal services authorities to provide free and competent legal service to the weaker sections of the society to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities, and to organise lok adalats to secure that the operation of the legal system promotes justice on a basis of equal opportunity.

Organization of lok adalats at different intervals and places as decided by State or District authorities, their constitution and jurisdiction to determine and arrive at a compromise or settlement between the parties to a dispute is a

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192. Under Chapter VI, Sections 19-22 of the Act, detailed provisions regarding organisation of lok-adalats, their jurisdiction and powers have been mentioned.
major contribution of the Act\textsuperscript{193}. Award of lok adalat and its powers similar to that of a civil court has also been contemplated under the Act\textsuperscript{194}.

Committees for implementing legal aid schemes were also appointed\textsuperscript{195} with the object of providing free legal aid, to monitor and implement legal aid programmes on a uniform basis in all the States and Union Territories. Statutory legal service authorities at the National,\textsuperscript{196} State\textsuperscript{197} and District levels\textsuperscript{198} so as to provide for the effective monitoring of legal aid programmes were constituted for the first time under the Act. Criteria regarding entitlement to legal services\textsuperscript{199} on the satisfaction of concerned authority\textsuperscript{200} has been provided in detail under the Act.

\begin{itemize}
\item[193.] Ibid., Section 19 (1), (2) & (3)
\item[194.] Ibid., Sections 21, 22.
\item[195.] Vide Resolution of Government of India, 26 Sep. 1980.
\item[196.] Legal Services Authorities Act, 1987, Sections 3-5 [National Legal Service Authorities- Constitution, Functions and Co-ordination with other agencies].
\item[197.] Ibid., Sections 6-8 [State Legal Service authorities - Constitution, Functions and Co-ordination subject to Central Government]
\item[198.] Ibid., Sections 9-11 [District Authorities - Constitution, Functions and Co-ordination with other agencies subject to Central Government]
\item[199.] Ibid., Section 12.
\item[200.] Ibid., Section 13.
\end{itemize}
The Central Government shall pay grants to the Central authority for utilising that sum of money for the purpose under the Act\textsuperscript{201} and separate funds can also be established by Central State or by District authority by adding other amounts to that grant\textsuperscript{202}.


The provisions of the Act are in the nature of a beneficial legislation enacted with a view to confer the benefit of expeditious payment of compensation to the victims of accidents arising out of the use of a motor vehicles. Under the new Act special provisions have also been enacted for the grant of compensation on the basis of 'no fault liability'. This right to claim compensation under Section 140\textsuperscript{203} is in addition to other rights except the right to claim compensation under the scheme referred to in Section 163A or any other law for the time being in force.\textsuperscript{204}

\begin{itemize}
\item \textsuperscript{201} Ibid., Section 14.
\item \textsuperscript{202} Ibid., Sections 15-17 (Legal aid funds-National, State and District).
\item \textsuperscript{203} Interim compensation as Rs. 50,000 in cases of death and Rs. 25,000 in cases of permanent disablement has been provided under the Act.
\item \textsuperscript{204} Motor Vehicles Act, 1988, Sections 141-143. [Section 142 seeks to clarify injuries which are considered permanent disablement. Section 143 lays down that the provision of this chapter shall not apply in relation to any claims under Workmen's Compensation Act, 1923].
\end{itemize}
Acknowledging the need to award compensation to the victims of motor accidents by way of social security and basing the liability on 'no fault' as distinct from the basis of 'negligence or wrongful act', the Law Commission of India in its 119th report emphasised the need to award immediate compensation to the victim as a measure of social security and social justice. In *S. Kaushnuma Begum v. New India Assurance Company*, the Supreme Court has extended the principle of strict liability to the motor vehicle accidents and awarded compensation even in the absence of any negligence on the part of driver or the owner of the vehicle. The parliament has also amended the provisions of Motor Vehicles Act, 1988 and has inserted the provisions of Sections 163-A and 163-B as also the Second Schedule *vide* Act 54 of 1994. Section 163-A has been added as a special provision as to payment of compensation on structured formula basis and has over-riding effect on other provisions of the Act or on any other law for the time being in force. Under this special provision,

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the owner/insurer is liable to pay compensation indicated in the second schedule without there being any requirement to plead or establish\textsuperscript{207} any wrongful act, neglect or default of the owner of the vehicle. The claimant has an option to file no fault liability claim under Section 163-A or under Section 140, but not under both\textsuperscript{208}.

Chapter XI deals with insurance of motor vehicles against third party risks. The object of the provisions under the chapter is to ensure that third parties who suffer due to use of the motor vehicle should be able to get damages for injuries suffered and that the recoverability of the damages should not depend on the financial condition of the driver of the vehicle who caused injuries\textsuperscript{209}.

5. **Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**

The Act has been passed to prevent the commission of atrocities against the members of the Scheduled Castes and Scheduled Tribes. Special Courts for trial of such offences and for the relief and rehabilitation of the victims of such offences\textsuperscript{210}.

\begin{flushleft}
\textsuperscript{207} Motor Vehicles Act, 1988, Section 163-A (2).
\textsuperscript{208} Ibid., Section 163-B.
\textsuperscript{209} Ibid., Section 146.
\end{flushleft}
have been provided under the Act. The Act gives a detailed list of offences and punishments for the person who is committing the said offence/offences and is not a member of a Schedule Caste or a Scheduled Tribe\(^{211}\). Even punishment for wilful neglect of duties by a public servant not being a member of a Scheduled Caste or a Scheduled Tribe has also been specified under Section 4 of the Act.

On receiving information regarding likelihood or threat of committing an offence under the Act, District Magistrate or Subdivisional Magistrate or other executive magistrate or any police office: not below the rank of Deputy Superintendent of Police may take preventive action by declaring any area prone to atrocities or by any other necessary action for maintenance of public order and tranquillity\(^{212}\).

Under Section 21 of the Act, the State or Central Govt. are empowered to take various measures necessary for the effective implementation of this Act, such as provision for adequate facilities including legal aid to the persons subjected to atrocities to enable them to avail themselves of justice; economic and social rehabilitation of the victims of the atrocities, setting up of

\(^{211}\) Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, Section 3 (1)(i)-(xv).

\(^{212}\) Ibid., Section 17.
communities and appointment of officers, periodic surveys, identification of areas for ensuring safety of these classes, members etc.

7. Mental Health Act, 1987

The Act has been enacted to consolidate and amend the law relating to the treatment and care of mentally ill persons to make better provisions with respect to their property and other affairs.

Mental health authorities (Central and State) are established for regulating, developing supervising and co-ordinating with their respective governments regarding mental health services, psychiatric hospitals and nursing homes and other incidental functions. An individual person can also establish or maintain psychiatric hospital or nursing home, after getting valid licence granted to him under the Act by the Central or State Government.

Provisions for appointment of guardian of mentally ill person and for manager of property, their remuneration, duties and powers have been provided in detail under Chapter VI of the Act. Under Chapter VIII of the Act, any indignity or cruelty or any wrong use of the mentally ill person for purposes of research

213. Mental Health Act, 1987, Sections 3-5.
214. Ibid., Sections 6-11.
etc. without his/her guardian's consent, for which he is not going to be directly benefited nor for treatment or diagnosis is considered to be in violation of human rights of that person\textsuperscript{215}.

Provisions for payment of pension to mentally ill persons by Government\textsuperscript{216} and for legal aid at State expense in certain cases\textsuperscript{217} has also been contemplated.


There is no all India legislation dealing with the complex problem of beggary which is causing wastage of man power and is public nuisance. This Act provides for the prevention of begging\textsuperscript{218}, and for the future training and employment of beggars. Persons found begging are produced before court for summary proceedings and are detained.\textsuperscript{219} Penalties have also been provided for the beggars who are found begging even after

\textsuperscript{215} Ibid., Section 81.
\textsuperscript{216} Ibid., Section 90.
\textsuperscript{217} Ibid., Section 91.
\textsuperscript{218} Punjab Prevention of Beggary Act, 1971, Section 2(1) defines 'begging'.
\textsuperscript{219} Ibid., Sections 3-7. [Under Section 4(5) - detention can be in a workhouse, Special Home, Certified Home; Section 6 - Power of Court to detain dependants of convicted beggars. Section 7 - Report of Medical Officer before committal].
Penalties are also imposed for employing or causing persons to beg or using them for purposes of begging.221

B. LAWS RELATING TO WOMEN

1. Dowry Prohibition Act, 1961

The object of the Act is to prohibit the evil practice of giving and taking of dowry.222 It provides for penal provisions for giving, taking or abetting the give or take of dowry221 and for demanding dowry, directly or indirectly from parents, relatives.

220. Ibid., Section 5. (For first conviction, detention in Certified Institution can be there for a term of 3 years extending up to 7 years which can be converted into sentence of imprisonment of 1 year. This detention can be increased up to 10 years and imprisonment for 2 years in cases of subsequent convictions).

221. Ibid., Section 9. (Imprisonment for a term of 1 year up to maximum 3 years can be there.)

222. Dowry Prohibition Act, 1961, Section 2 defines ‘dowry’ which is wider than the concept of ‘Stridhan’. Dowry has been defined as any property a valuable security given or agreed to be given directly or indirectly by one party to a marriage to another or by parents of either party or by any other person, before, at or any time after the marriage which should be in connection with the marriage of the said parties. See, Section 2 (b) [Substituted for words “as consideration for the marriage of the said parties” by the Dowry Prohibition (Amendment) Act, 1984](Haryana State Act still carries the same words).

223. Ibid., Section 3 [Substituted by the Dowry Prohibition (Amendment) Act, 1986 - Minimum 5 years imprisonment and minimum fine of Rs.15000/- or equivalent amount to the value of dowry whichever is more has been contemplated. Under Haryana State Act - Minimum 6 months imprisonment and minimum fine of Rs.5000/-, Punjab State Act - Minimum 1 year imprisonment and minimum fine of Rs.5000/- has been contemplated].
The Dowry Prohibition Act is a piece of social legislation prohibiting the very demand of dowry made before or at the time or after the marriage where such demand is referable to the consideration of marriage. However, dowry as a *quid pro quo* for marriage is prohibited and not the giving of traditional presents to the bride or the bridegroom by friends and relatives. Thus, voluntary presents of traditional nature given at or before or after the marriage to the bride or the bridegroom, which are given not as a consideration for marriage but out of love, affection or regard, would not fall with in the mischief of the expression 'dowry'\(^\text{225}\). Additional demand of dowry is also covered under

\(^{224}\) *Ibid.*, Section 4. [Substituted by the Dowry Prohibition (Amendment) Act, 1984 - Imprisonment for a term of minimum 6 months upto the maximum of 2 years and maximum fine of Rs.10,000/-]. Under Haryana State Act - Imprisonment for a term of maximum 6 months and maximum fine of Rs.5000/-; Punjab State Act - Imprisonment for a maximum term of 1 year and maximum fine of Rs. 5000/-.

\(^{225}\) *S. Gopal Reddy v. State of A.P.*, AIR 1996 SC 2184. Also see, *Pawan Kumar v. State of Haryana*, AIR 1998 SC 958, the Supreme Court held that conviction can only be if there is an agreement for 'dowry'. The definition of 'dowry' is to be interpreted with the other provisions of the Act including Section 3, which refers to giving or taking dowry; Section 4 which deals with penalty for demanding dowry under the Act. This makes it clear that even on other ingredients being satisfied, the demand of dowry is punishable.
Section 2 of the Act\textsuperscript{226}.

Under Section 4A, any kind of advertisement of any property or asset as consideration for marriage is punishable with imprisonment for a term which shall not be less than 6 months, but which may extend to 5 years or with fine which may extend to Rs. 15,000\textsuperscript{227}. Restrictions regarding exhibition of presents, the maximum amount payable at different ceremonies during or before marriage, maximum number of persons in marriage party and serving of two principal meals are the regulatory measures adopted by the State Acts\textsuperscript{228}. Any agreement for giving or taking dowry shall be void\textsuperscript{229}.

Moreover, it is obligatory on the part of the person who has received dowry to transfer it to the woman\textsuperscript{230}. If he fails to do so, the woman gets cause of action for filing complaint. As per the decision of Punjab and Haryana High Court,\textsuperscript{231} non return of dowry articles is a continuing offence, however, Delhi High

\textsuperscript{227} Section 4A [Inserted by the Dowry Prohibition (Amendment) Act, 1986]. Under Haryana State Act, 1976 - Section 4A (i) (ii) & (iii) - Imprisonment for a term of maximum 6 months or fine of maximum Rs. 5000/- or both; Punjab State Act, 1978 - Section 4A (i) (iii) & (iv) - Imprisonment for a term of maximum 6 months or fine of maximum Rs. 5000/- or both, has been contemplated.
\textsuperscript{228} Punjab State Act, 1976. Section 4A (ii) & (v)
\textsuperscript{229} Dowry Prohibition Act, 1961, Section 5.
\textsuperscript{230} Ibid., Section 6.
Court\textsuperscript{222} has held it to be not a continuing offence under Section 6 of the Act.

Every offence under the Act has been made cognizable, non-bailable and non-compoundable. \textsuperscript{233} New Section ‘304B’ has also been inserted relating to ‘dowry death’ in Indian Penal Code, which considers it a non bailable offence carrying punishment of minimum 7 years imprisonment, which may be extended to life imprisonment\textsuperscript{234}. Moreover, if the woman dies due to cruelty, harassment for or in connection with any demand for dowry within seven years of marriage, the court shall presume and take this as ‘dowry death’ as contemplated under Section 304B of IPC\textsuperscript{235}.

2. Commission of Sati (Prevention) Act, 1987

According to Oxford Dictionary the expression ‘Sati’ means, a Hindu widow, who immolates herself on her husband's funeral pyre. Sati is merely a custom and not a part of religion. Any customary practice, although it may have been in existence from time immemorial may be interfered with by a suitable legislative

\textsuperscript{222} Gurcharan Singh v. Gurcharan Kaur, 1990 Cri. LJ 2469.  
\textsuperscript{233} Dowry Prohibition Act, 1961, Section 8 [Substituted by the Dowry Prohibition (Amendment) Acts, 1984 and 1986]  
\textsuperscript{234} Indian Penal Code, 1860, Section 304-B [Inserted vide Dowry Prohibition (Amendment) Act, 1986].  
\textsuperscript{235} Indian Evidence Act, 1872, Section 113-B [Inserted vide Dowry Prohibition (Amendment) Act, 1986].
The Commission of Sati (Prevention) Act, 1987 has been enacted for the effective prevention of commission of Sati and its glorification as this practice of Sati is revolting to the feelings of human nature. Punishment for offences relating to Sati, such as attempt to commit Sati, abetment or glorification of Sati, is dealt with under the Act. Powers to prevent offences relating to Sati; such as prohibiting certain acts, removal of certain temples or other structures, seizure of certain properties has been granted to collector or District Magistrate. Special courts and special public prosecutor have also been provided under the Act to try the offences under this Act.

3. Immoral Traffic (Prevention) Act, 1956

Under Article 23 of the Constitution of India traffic in human beings is prohibited and any contravention of this prohibition is an offence punishable by law.

238. Section 3 (Imprisonment upto 6 months or fine or both can be imposed).
239. Section 4 (Death penalty or imprisonment for life with fine can be there).
240. Section 5 (Imprisonment ranging from 1 year to 7 years with fine upto Rs. 30,000 can be levied).
241. Ibid., Sections 6-8.
242. Ibid., Sections 9-14.
The Suppression of Immoral Traffic in Women and Girls Act, 1956 was enacted in pursuance of an International Convention for Suppression of the Traffic in Persons and of the Exploitation of the Prostitution signed at New York in 1950. The principal object is to prevent commercialisation of the vice and trafficking among women and girls. This Act was amended in 1978 and in 1986 to make good some inadequacies in the implementation of the Act in the light of experience gained in its implementation and to cover all persons whether male or female, who are exploited sexually for commercial purposes. Sections 3 to 10 and 18 of the the Act impose reasonable restrictions upon the trade, profession or calling of a prostitute and hence are not void as being inconsistent with Article 19 (1) (g) of the Constitution. Even otherwise also, these Sections have been validly enacted under Arts. 23 and 35 of the Constitution\textsuperscript{243}.

\textsuperscript{243} Immoral Traffic (Prevention) Act, 1956, Section 3 deals with punishment for keeping a brothel or allowing premises to be used as a brothel; Section 4 - punishment for living on the earning of prostitution; Section 5 - Procuring, inducing or taking person [Substituted for the words ‘woman or girl’ by Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1986] for the sake of prostitution. Section 6 - detaining a person in premises where prostitution is carried on; Section 7 - prostitution in or in the vicinity of public places; Section 8 - seducing or soliciting for purpose of prostitution; Section 9 - seducing a person in custody; Section 10 - release on probation of good conduct or after due admonition; Section 18 - closure of brothels and eviction of offenders from the premises.
A new welfare measure under Section 10A regarding detention in a corrective institution was introduced. The State Government may establish and maintain as many protective homes and corrective institutions, as it think fit. Any person made to carry on prostitution may make an application to the court that either he or she may be kept in a protective home or provided care and protection by the court.

4. Indecent Representation of Women (Prohibition) Act, 1986

The Act was enacted to prohibit indecent representation of women through advertisements or in publication, writings or even sending by post of books, pamphlets, paintings, figures etc. Powers to enter, search and seize any material in violation of the Act and to examine and register to furnish it as evidence for the offence committed under the Act has been granted to Gazetted officer authorised by the State Government. Penalties for violating the provisions of the Act for first and subsequent times

244. Ibid., Section 10-A [Substituted for Section 10 by the Suppression of Immoral Traffic in Women and Girls (Amendment) Act, 1978].
245. Ibid., Section 21.
246. Ibid., Section 19.
248 Ibid., Section 5.
have been given under Section 6 of the Act. 249

5. Hindu Marriage Act, 1955

The Act prescribes essential moral and social requisites for a Hindu marriage like monogamy 250 and also provides the punishment for bigamy. 251 A valid marriage solemnised under the Act can be performed only between the parties who have attained the requisite age as prescribed by law. 252 Under Section 24 of the Act, maintenance pendente lite has been contemplated for a party in matrimonial proceedings to provide financial assistance to the indigent spouse to maintain herself or himself during the pendency of the proceedings and also to have sufficient funds to carry on the litigation so that the spouse does not unduly suffer in the conduct of the case for want of funds. Permanent alimony and maintenance has also been highlighted the justice oriented

249. First conviction can be for the imprisonment extending upto 2 years and with fine upto Rs. 2000, but for second or subsequent conviction imprisonment may extend upto 5 years and fine may range between Rs. 10,000 to Rs. 1,00,000.

250. Hindu Marriage Act, 1955, Section 5 (i).

251. Ibid., Section 17.

252. Ibid., Section 5 (iii) prescribes age of 21 years for boy and 18 years for girl for a valid marriage [Substituted for 18 years and 15 years respectively by Child Marriage Restraint (Amendment) Act, 1978].
approach of the legislation\textsuperscript{253}.

6. Hindu Adoption And Maintenance Act, 1956

The Act was enacting for amending and codifying the law relating to adoptions and maintenance among Hindus.

Requisites of a valid adoption\textsuperscript{254} and other conditions thereof including statutory disparity of age between the person adopting and person adopted\textsuperscript{255} vesting of property to continue with the child even after adoption\textsuperscript{256} are some of the provisions highlighting the basic scheme of the Act which protects and promotes the interests of adopted children. Under the Act, even female Hindus have been empowered to adopt a son or daughter if she is unmarried and is not a minor.\textsuperscript{257} Male Hindus have also been given similar powers but cannot adopt without the consent of his wife.\textsuperscript{258} Penal provision is provided for giving or taking or

\begin{itemize}
\item \textsuperscript{253} \textit{Ibid.}, Section 25. Also see, Section 125 of the Code of Criminal Procedure, 1973, whereunder, besides wife or husband, other persons like aged parents can also apply for maintenance.
\item \textsuperscript{254} Hindu Adoption and Maintenance Act, 1956, Sections 6-10 deals with capacity of male or female Hindu to take in adoption, persons who may be adopted and who are capable of giving in adoption.
\item \textsuperscript{255} \textit{Ibid.}, Section 11. (Disparity between age has to be atleast 21 years in any case of adoption).
\item \textsuperscript{256} \textit{Ibid.}, Section 12.
\item \textsuperscript{257} \textit{Ibid.}, Section 8.
\item \textsuperscript{258} \textit{Ibid.}, Section 7.
\end{itemize}
making any such agreement thereof for certain payments in
consideration of adoption\textsuperscript{259}. Therefore, all these provisions are
for the betterment and welfare of the adopted child and can not
take the shape of commercial transaction which is prohibited by
law and against Constitutional provisions.

Entitlement to claim maintenance by wife,\textsuperscript{260} daughter in
law under specified circumstances\textsuperscript{261}, maintenance of children
and aged parents including childless stepmother\textsuperscript{262}, and of
dependents\textsuperscript{263} and amount of maintenance will be fixed depending
upon position and status of parties\textsuperscript{264} etc. are some of the
provisions giving relief to the relatives of a Hindu under the Act,
thereby protecting family ties, bond and social ethos and
promoting social justice.

7. Hindu Succession Act, 1956

The Hindu Succession Act, 1956 was codified to establish
complete equality between male and female with regard to

\begin{itemize}
  \item \textsuperscript{259} \textit{Ibid.}, Section 17. (Imprisonment upto 6 months or fine or
both can be imposed).
  \item \textsuperscript{260} \textit{Ibid.}, Section 18.
  \item \textsuperscript{261} \textit{Ibid.}, Section 19.
  \item \textsuperscript{262} \textit{Ibid.}, Section 20
  \item \textsuperscript{263} \textit{Ibid.}, Sections 21-22.
  \item \textsuperscript{264} \textit{Ibid.}, Sections 23-28.
\end{itemize}
property rights. Rights of females were protected under Section 6 of the Act which deals with the devolution or interest in a coparcenary property, but reserves the right to have property by intestate or testamentary succession by any surviving female relative of Class I of the Schedule or a male relative claiming through her. General rules of succession in the case of males or females dying intestate has been provided under the Act in detail by describing Class I & II heirs in the annexed Schedule. Hindu female were given rights to hold property as their 'absolute estate' abolishing the previous concept of limited ownership or Hindu Women's estate. Remarriage of widow cannot therefore become a ground for divesting the estate inherited by her from her husband.

C. LAWS RELATING TO CHILDREN

1. Juvenile Justice (Care and Protection of Children) Act, 2000

To meet the international standards on the law relating to the rights of children and administration of juvenile justice, the

265. Son, daughter, widow, mother, son and daughter of pre-deceased son or of daughter, widow of pre-deceased son, son, daughter and widow of pre-deceased son of a pre-deceased son are the Class I heirs of the Schedule.
267. Ibid., Sections 15-16.
268. Ibid., Section 14.
269. Ibid., for exceptions to the general rule, see, Section 24.
Juvenile Justice (Care and Protection of Children) Act, 2000 was passed, which provides for the care, protection, treatment by catering to their development needs, by adopting a child-friendly approach in the adjudication and disposition of matters in the best interests of children and for their proper ultimate rehabilitation, through various institutions established under the Act. The basic approach is to be curative instead of punitive. Object of the Act is to provide extraordinary procedure for enquiring offences alleged to have committed by child/juvenile and punishment thereof.

270. *Krishna Bhagwan v. State of Bihar*, AIR 1989 Patna 217 at 224, para 8 per N.P. Singh J. [The Act is a complete code in itself and has sweeping overriding effect on other enactments of State legislature or Parliament *viz.* Criminal Procedure Code regarding inquiry/proceedings on trial against delinquent juvenile on any criminal charge. Similar provisions can also be studied under the Children Act, 1960 which was only applicable to Union Territories and in other cognate Acts working in different States. To provide uniformity regarding laws relating to children, all these Acts were repealed in 1986 and recently in 2000.]

271. The Juvenile Justice Act, 2000, Section 2(k) defines ‘juvenile’ or child as a person who has not completed eighteenth year of age. The present Act is not distinguishing between the age of boy or girl unlike the previous Act, the Juvenile Justice Act, 1986. The recent Act also defines ‘child in need of care and protection’ under Sec. 2 (d) (c.f. Neglected juvenile under Sec. 2 (1) of the Juvenile Justice Act, 1986) and ‘juvenile in conflict with laws’ under Sec 2 (1) (c.f. Delinquent juvenile under Sec 2 (e) of the Act of 1986).
The Juvenile Justice Act not only have provisions for investigation and trial of offences against juveniles but also contains mandatory provisions for ensuring social, economic and psychological rehabilitation of the juveniles, who are either accused of offences are abandoned or destitute or lost²⁷².

Under Chapter II of the Act dealing with juveniles in conflict with law, Competent authorities and institutions for juveniles are constituted which includes Juvenile justice Boards²⁷³, Special homes²⁷⁴ and observation homes²⁷⁵.

Observation homes are intended for temporary reception of juveniles during the pendency of any inquiry regarding them under the Act. Every observation home to which a child is sent under this Act will provide him with facilities for useful occupation coupled with other facilities such as accommodation, maintenance and medical examination and treatment²⁷⁶.

In the scheme of the Act, there is no scope for conviction or sentencing the child²⁷⁷. Various provisions and

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²⁷³. The Juvenile Justice (Care and Protection of Children) Act, 2000, Section 4. Juvenile Courts have been abolished constituted under Sec. 5 of the Act of 1986.
²⁷⁴. Ibid., Section 9.
²⁷⁵. Ibid., Section 8.
²⁷⁶. Ibid.
²⁷⁷. Ibid., Sections 22-28.
punishments have been provided for cruelty or assaulting juveniles, their employment for begging, giving them intoxicating liquor or narcotic drugs of psychotropic substance, exploitation of juvenile employees. Alternative punishments are also provided under the Act for the greater offences wherever contained whether in Central or State Act. Provisions regarding discharge and transfer of juveniles between Children's and juvenile homes etc. in different parts of India including juveniles of unsound mind or suffering from leprosy or addicted to drugs and in respect of escaped juveniles have been provided in detail under the Act. New provisions have been added for the children in need of care and protection under Chapters III & IV of the Act dealing with the establishment of new Child Welfare Committees, Children's homes and Shelter homes etc.

278. Ibid., Section 23 (6 months imprisonment or fine or both can be levied).
279. Ibid., Section 24 (Imprisonment ranging from 1 year to 3 years alongwith fine can be imposed).
280. Ibid., Section 25 (Imprisonment extending upto 3 years and fine is the punishment mentioned).
281. Ibid., Section 26. (Imprisonment extending upto 3 years and fine is the punishment mentioned).
282. Ibid., Section 28.
283. Ibid., Sections 56-59.
284. Ibid., Section 29.
285. Ibid., Section 34.
286. Ibid., Section 37.
For rehabilitation and social reintegration of the children various provisions regarding adoption, foster care and sponsorship programmes after-care organisations linkages and co-ordination between various governmental, non-governmental corporate and other community agencies have been added recently in the present Act. For proper rehabilitation and welfare of juveniles, creation of fund by states, constitution of Advisory Boards, special juvenile police unit and contribution of their parents are the other welcome measures envisaged under the Act.


The Child Labour (Prohibition and Regulation) Act 1986 is enacted to prohibit the engagement or employment of children in the occupations set forth specifically in Part A of the Schedule or in any workshop wherein any of the processes set forth in Part B of the Schedule is carried on; except where the process is carried on by the occupier of any workshop with the aid of his family or

287. Ibid., Section 41.
288. Ibid., Sections 42-43.
289. Ibid., Section 44.
290. Ibid., Section 45.
291. Ibid., Section 61.
292. Ibid., Section 62.
293. Ibid., Section 63.
294. Ibid., Section 60.
to any school established by or receiving assistance or recognition from Government. Child Labour Technical Advisory Committees to advise the Central Government in relation to occupations and processes safe for children has also been contemplated under the Act.

The Act deals with regulation of conditions of work, such as, working hours, holidays, health and safety. The Act also stipulates sending written notice to Inspector by occupier of establishment regarding the full detail of establishment and its employees, and the maintenance of register etc.

Penalties have also been imposed for employment of children in violation of the provisions of Act and also for other

295. The Child Labour (Prohibition And Regulation) Act, 1986, Section 3. According to Section 4, the Schedule annexed with the Act can be modified or amended by notification in the official Gazette by giving not less than three month's notice of its intention to do so. Part A of the Schedule specifies 'occupations' such as transport of passengers, goods or mails by railway station, construction or any other connected work of a railway station or between the railway lines, and occupations connected with port. Part B of the Schedule mentions prohibited processes for children such as bidi-making, carpet weaving, manufacture of matches, soaps, cement etc. wool- cleaning, tanning, cloth printing, dyeing and weaving, building and construction industry.

296. Ibid., Section 5.
297. Ibid., Sections 6-13.
Acts which forbid the employment of children.  

3. Children (Pledging of Labour) Act, 1933

Pledging of labour of children by parents or guardians on agreements, written or oral were practised in some parts of India, whereby the children so pledged were subjected to particularly unsatisfactory working conditions. The Children (Pledging of labour) Act, 1933 was enacted to prohibit and eradicate this evil practice by adopting strong measures and to impose penalties on parents or guardians for pledging the labour of children and also on the person who knowingly employ children whose labour has been pledged. The penalty for an agreement to pledge the labour of the child has been provided under the Act for the parent or guardian of the child as well as whosoever makes such agreement or employs such pledged child to labour. An agreement to pledge the labour of a child is void under the Act.

298. Ibid., Sections 14-15 [Penalties range from 1 month imprisonment to the maximum of 2 years or fine extending from Rs. 1000/- to Rs. 2000/- or with both depending upon the extent of violation].
299. The Children (Pledging of labour) Act, 1933, Section 2. [Guardian includes any person having legal custody or control over a child].
300. Ibid., Section 4. (Fine extending upto Rs. 50 can be levied.)
301. Ibid., Section 5. (Fine upto Rs. 200 can be imposed.)
302. Ibid., Section 6. (Fine upto Rs. 200 can be imposed.)
303. Ibid., Section 3.
4. **Child Marriage Restraint Act, 1929**

The Act is enacted to prevent child marriages, i.e. to restrain the solemnisation of marriages, where the male adult is below 21 years of age and the female is below 18 years\(^{304}\). The Act does not affect the validity of the marriage even though it may be in contravention of the Act. In spite of the marriage being valid, the legislature disapproves of such marriages and makes the performance of such marriage punishable under the law\(^{305}\).

Therefore, this Act is a penal statute and is applicable to all

\(^{304}\) The Child Marriage Restraint Act, 1929, Section 2 (a) [Substituted by the Child Marriage Restraint (Amendment) Act, 1978-increased the age of marriage for males (from 18 years to 21 years) and for females (15 to 18 years) has been considered in the present context when there is an urgent need to check the growth of population in the country. Such increase of minimum age of marriage will result in lowering the total fertility rate on account of latter span of married life. It will also result in more responsible parenthood and in better health of the mother and child].

\(^{305}\) *Ibid.*, Sections 3, 4- Punishment for male adult below or above 21 years of age marrying a child - Simple imprisonment for a term of 5 days to 3 months or fine extending upto Rs. 1000 or with both; Section 5- Punishment to Purohit/ Priest/celebrant who performs, conducts or directs any child marriage-Simple imprisonment extending upto 3 months with fine. Section 6-Punishment for Parent or guardian concerned in a child marriage-Simple imprisonment extending upto 3 months with fine, but no woman would be punishable with imprisonment.
crimes committed under it in India. Injunctions can also be issued by the court to prevent child marriages from being performed which are in violation of the provisions of the Act.

III. CONSUMER LAWS

Right from the ancient times the law makers have tried to protect the innocent consumers. Even the much maligned common law maxim 'caveat emptor' or 'let the purchaser beware' was always subject to certain qualifications and reservations. The ultimate buyer of goods was given a right of action against the manufacturer of harmful goods even in the absence of privity of contract. With the proliferation and complexity in the products and services that have now come to be available, these legal provisions conceived in the halcyon days of yore came to be perceived as over simple and inadequate.

Consumer is sovereign in a socialist state. The economy, production and distribution of products revolves around the needs and demands of the consumer. Various types of laws

306. The fact that the accused are foreigners makes no difference even if such an Act is not an offence in the foreign place.
307. Ibid., Section 12 [Inserted by the Child Marriage Restraint (Second Amendment) Act, 1938].
310. Ibid.
have been made to safeguard the interest of consumers from time
to time. Latest is the Consumer Protection Act, 1986 - others
which have been studied in detail for the purpose of this study are
summarised as hereunder:

III. CONSUMER LAWS:

7. Drugs and Cosmetics Act, 1940.
8. Drugs and Magic Remedies (Objectionable Advertisements)
   Act, 1954.
11. Agricultural Produce (Grading and Marking) Act, 1937.

1. Consumer Protection Act, 1986

   The Act is a social welfare legislation. It seeks to provide
   for better protection of the interests of consumers and provides
   a mechanism for the simple, easy and inexpensive settlement of
   consumer disputes. The basic rights of the consumers specifically
   mentioned under the Act are, the right to be protected against
   marketing of hazardous goods and services, the right to have
   information about the quality, quantity, potency, purity, standard
   and price of goods and services, the right to be assured, the right
to be heard, the right to seek redressal and to have consumer education.  

'Consumer' as defined under the Act encompass almost every actual or intended buyer, hirer or availer of any goods or services whether paid for in full or in part.

For proper redressal of consumer disputes and for providing reliefs and remedies to the aggrieved consumers, a full fledged consumer dispute redressal mechanism has been provided under the Act which constitutes, a 'District Forum' in each district, 'the State Commission' in each State and a National Commission at the national level.

Some new reliefs have been added under Section 14 of the Act making it more beneficial for the consumers, whether they are victims of defective or hazardous goods, deficient services or unfair or restrictive trade practices. They are provided relief by

312. Ibid., Section 2 (1) (d). [Even the perspective consumers who have agreement to pay or have partly paid under hire purchase agreements have been given protection of the Act. (vide Consumer Protection (Amendment) Act, 1993)].
313. Ibid., Sections 10-15 [District forum-its composition, jurisdiction, procedure, findings and powers].
314. Ibid., Sections 16-19 [State Commission-its composition, jurisdiction etc].
315. Ibid., Sections 20-23 [ National Commission - its composition, jurisdiction etc].
the consumer fora in different forms *viz.* order for removal of defects in goods, their replacement, return of price paid and compensation etc.\(^{316}\)

The complaint which is frivolous or vexatious\(^{317}\) or has been filed after 2 years from the date of cause of action\(^{318}\) is not allowed and is dismissed.


Essential Commodities Act, 1955 provides in the interest of general public, for control of production, supply, distribution, trade and commerce in commodities which have been declared as essential under the Act\(^{319}\). The dominant object and intendment of the Act is to secure equitable distribution and availability at fair prices of essential commodities to general consuming public. To achieve these objectives, the Government has been vested with powers to issue orders for regulating production, storage, transport and distribution of such essential commodities and for controlling the prices etc.

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317. *Ibid.*, Section 26 [*Substituted by ibid*].
318. *Ibid.*, Section 24-A (Limitation Period) [*Inserted by ibid*.].
319. *Essential Commodities Act, 1955*, Section 2(a) (i)-(ix) specifically mentions Essential commodities which can also be added to by the Central Government order or by Parliament.
Confiscation of food grains or any other essential commodity, its seizure, disposal, licensing etc. has been provided in detail under the Act\textsuperscript{320}. Penalties for contravening any order made under Section 3 are provided in full detail depending upon the extent and nature of contravention of the order\textsuperscript{321}.

3. **Essential Services Maintenance Act, 1989.**

To provide for smooth and continuous supply of essential services like postal, telegraph, railway, water supply etc. to the consumer public, the Essential Services Maintenance Act, 1989 was enacted. Central Government may prohibit strikes\textsuperscript{322}, lock-out\textsuperscript{323} and lay off\textsuperscript{324} etc. to continue and maintain services and can also impose punishments by adopting summary procedures apart

\textsuperscript{320} Ibid., Sections 6 A-E. The purpose of conferring power under: Section 6 A(2) on the Collector to sell the seized commodity is to maintain the smooth supply of essential commodities to the consumer public, to avoid artificial shortages, to maintain the price line and to secure equitable distribution thereof through fair price shops. To ensure that this objective of maintaining the smooth supplies and securing equitable distribution of essential commodities is not defeated, the legislature has entrusted the task to the Collector in its entirety and has ruled out interference by the Courts, tribunals and other authorities by placing an embargo on their jurisdiction in this behalf under Section 6 E. For details see, *Shambu Dayal Agarwala v. State of West Bengal*, (1990)\textsuperscript{3} SCC 549.

\textsuperscript{321} Ibid., Section 7.

\textsuperscript{322} Essential Services Maintenance Act, 1989, Section 2 (1)(b).

\textsuperscript{323} Ibid., Section 8.

\textsuperscript{324} Ibid., Section 9.
from envisaging arrests without warrant in cases of contravention of the Act\textsuperscript{325}.


To deal with the menace of adulteration of food articles and for ensuring purity in articles of food, the Prevention of Food Adulteration Act was enacted. The Rules framed under the Act deal with diverse matters ranging from fixing standards of quality of numerous articles of food, manner of collection, fastening and despatch of samples, use of preservatives and flavouring agents, licensing procedures for packing and labelling of food and also for the appointment of public analysts and food inspectors\textsuperscript{326}. The import of adulterated or mis-branded food or otherwise than in accordance with the provisions of import licence or in derogation of the provisions of the Act is prohibited\textsuperscript{327}. Sale, storage, and distribution of any adulterated or misbranded food articles or sale of any food article in derogation of licence and is prohibited by Food (Health) Authority.\textsuperscript{328} Section 12 of the Act empowers a purchaser or a recognised consumer association to initiate proceedings against any person who commits an offence.

\begin{footnotesize}
\begin{enumerate}
\item[]\textsuperscript{325} \textit{Ibid.}, Section 5.
\item[]\textsuperscript{326} \textit{Prevention of Food Adulteration Act, 1954, Section 4.}
\item[]\textsuperscript{327} \textit{Ibid.}, Section 5.
\item[]\textsuperscript{328} \textit{Ibid.}, Section 7.
\end{enumerate}
\end{footnotesize}
under the Act. The Act also provides for stringent punishment of imprisonment for a minimum period of 6 months and fine apart from the forefeiture of articles of food in respect of which an offence, has been committed. Such articles cannot be set free for recirculation in the market for human consumption. Once the offence is proved, the minimum sentence has to be imposed and there can be no interference by the Supreme Court.

5. **Monopolies and Restrictive Trade Practices Act, 1969.**

For the regulation of capitalistic market and to prevent formulation of monopolistic and oligopolist business organisation detrimental to public interest, anti-trust legislation in the name of Monopolies and Restrictive Trade Practices Act, was enacted. It deals with trade practices seeking to restrict, distort or prevent competition inimical to public interest. It also stipulates redress against such trade practices by setting up an independent quasi-judicial authority i.e. Monopolies and Restrictive Trade Practices

332. The State monopolies have been excluded from the purview of this legislation on the assumption that a state monopoly would not act in a matter prejudicial to the public interest.
Commission.\textsuperscript{333} This Commission is vested with the powers of
civil court\textsuperscript{334} and has legislative, judicial, administrative and
advisory powers and functions,\textit{inter-alia}, for inquiring into
monopolistic, restrictive and unfair trade practices either upon
reference made to it by the Central Government or\textit{ suo moto}. It
can issue temporary\textsuperscript{335} or permanent injunctions, can award
compensation and enforce such orders thereof\textsuperscript{336}. It has also
powers to decide consumer complaints filed before it and to award
compensation for loss or damage suffered by the applicant. The
M.R.T P. Commission has been protecting the various rights of
consumers regarding quality, standard, composition, style of
goods and services against false claims of manufacturers and
dealers. The Commission is also empowered to issue cease and
desist orders\textsuperscript{337}. Orders can also be issued for discontinuation of
unfair trade practices and not to repeat the same. Fictitious
bargains, deceptive pricing methods by organising sales and

\begin{flushright}
\textsuperscript{333} The Monopolies and Restrictive Trade Practices Act, 1969,
Section 5.
\textsuperscript{334} \textit{Ibid.}, Section 12(1).
\textsuperscript{335} \textit{Ibid.}, Section 12A. [Inserted by The Monopolies and
Restrictive Trade Practices (Amendment) Act, 1984.] Also
see, Sachar Committee Report, 280, Para 22.14.
\textsuperscript{336} \textit{Ibid.}, Section 12B. [Inserted by \textit{ibid}.]
\textsuperscript{337} \textit{Ibid.}, Section 36D(1). [Inserted by The Monopolies and
\end{flushright}
rebates, false misleading statements, disparaging the goods, services or trade of another person, holding of promotional contest, prizes, lotteries etc. are purported to promote sales of product and creating the impression are unfair trade practices envisaged under the Act\textsuperscript{338}. Hoarding or destruction of goods is also an unfair trade practice.\textsuperscript{339} However, the intention of trader is quite significant in such cases where there is failure to observe safety standards.

Similarly detailed provisions regarding monopolistic\textsuperscript{340}, restrictive and unfair trade practices\textsuperscript{341} which are against the public interest have been provided under the Act. For contravening the provisions of the Act, offences and penalties have been provided under Chapter VIII of the Act\textsuperscript{342}.

Therefore the basic philosophy behind the Act is to ensure such growth which is channelized for the public good and is not instrumental in perpetuating concentration of economic power to the common detriment.\textsuperscript{343}

\begin{footnotesize}
\begin{itemize}
\item[338.] \textit{Ibid.}, Section 36A (1)(2)(3).
\item[339.] \textit{Ibid.}, Section 36A (4)(5).
\item[340.] \textit{Ibid.}, Sections 31-32.
\item[341.] \textit{Ibid.}, Sections 33-36E and 37-41.
\item[342.] \textit{Ibid.}, Sections 46-53.
\item[343.] \textit{Ibid.}, Sections 27, 27A, 27B. [Substituted by The Monopolies and Restrictive Trade Practices (Amendment) Act, 1991] deals with division or severance of undertakings to avoid concentration of economic power.
\end{itemize}
\end{footnotesize}
6. **Drugs (Control) Act, 1950.**

Drugs (Control) Act, 1950 was enacted to control, regulate and ensure the sale, supply and distribution of certain essential drugs and medicines at reasonable prices. Under the Act, the Chief Commissioner is to fix the maximum prices and quantities of the drugs to be sold or possessed at any one time. Therefore, no person is allowed or authorised to possess excess stock or to refuse to sell any drug within the prescribed limits. Dealers or producers are also directed to mark the prices and exhibit the list of prices and stocks to facilitate consumers.

There are also provisions contemplated under the Act regarding prohibition or regulation of the disposal of drugs and penalties for contravening the provisions of the Act.

7. **Drugs and Cosmetics Act, 1940.**

Drugs and Cosmetics Act, 1940 is a consumer welfare legislation which is mainly concerned with the standards and

344. Drugs (Control) Act, 1950, Section 3—drugs to which the Act applies are included in the official Gazette. (See S.R.O. 1379 dated the 4th August, 1952, the Gazette of India, Pt. II, S. 3, pg. 1216)
349. *Ibid.*, Section 13. [Imprisonment for a term extending up to 3 years or fine or both can be imposed as penalties under the Act].
purity of drugs and cosmetics manufactured in India. Under Section 9 of the Act, different types of drugs and cosmetics have been categorised\textsuperscript{350} for maintaining the standard quality\textsuperscript{351}. To ensure the standard of quality of drugs and cosmetics, their sale and distribution\textsuperscript{352}, prohibition on import of some drugs\textsuperscript{353} have been provided in detail under the Act. The Drugs Technical Advisory Board, Central Drugs Laboratory and Drugs Consultative Committee have been established to secure uniformity and proper administration of the Act throughout India.\textsuperscript{354} Inspectors have also been appointed under the Act to inspect any premises, examine and cease any record, report a document and to take samples of drugs or cosmetics for testing and analysis to be done by the Government Analyst.\textsuperscript{355} Any person or any recognised Consumer Association on application in the prescribed manner and on payment of prescribed fee is entitled

\begin{itemize}
  \item \textsuperscript{350} The Drugs and Cosmetics Act, 1940, Section 9 : Misbranded Drugs; Section 9A : Adulterated Drugs; Section 9B : Spurious Drugs; Section 9C : Misbranded Cosmetics; Section 9D : Spurious Cosmetics.
  \item \textsuperscript{351} The expression ‘standard quality’ means in relation to a drug, that complies with the standard set out in the Second Schedule and in relation to a cosmetic that complies with the prescribed standard.
  \item \textsuperscript{352} \textit{Ibid.}, Sections 16-19.
  \item \textsuperscript{353} \textit{Ibid.}, Section 10.
  \item \textsuperscript{354} \textit{Ibid.}, Sections 5-7, 7A. Sections 5-7 are not applicable to Ayurvedic, Siddha or Unani drugs.
  \item \textsuperscript{355} \textit{Ibid.}, Sections 21-25-deals with inspectors, their powers, procedures and reports.
\end{itemize}
to receive a report of test or analysis from a Government Analyst regarding any drug or cosmetic purchased by him. Penalties have also been provided for the offenders contravening the provisions of the Act.


The Act is to control and prohibit the objectionable advertisements published in newspapers or magazines etc. relating to alleged cures for venereal diseases, sexual stimulants and alleged cures for diseases and conditions peculiar to women. These advertisements tend to cause the ignorant and unwary to resort to self-medication with harmful drugs and appliances, or to resort to quacks who indulge in such advertisements for treatments which cause great harm. Therefore, in the interest of general public, specific prohibitions on advertisements of certain drugs or of magic remedies for treatment of certain diseases and disorders including misleading advertisements, their import into and export from India have been provided under the Act.

356. Ibid., Section 26.
357. Ibid., Sections 27-30.
358. Drugs and Magic Remedies (Objectionable Advertisement) Act, 1954, Section 3.
359. Ibid., Section 5.
360. Ibid., Section 4.
361. Ibid., Section 6.
Penalties are provided for contravening the provisions of the Act under Section 7 of the Act.\textsuperscript{362}


Since ancient times, standardisation of weights and measures has been one of the most important concerns of the community. The Standard of Weights and Measures Act was passed in 1976 to establish standards of weights and measures to regulate inter-state trade or commerce in weights, measures and other goods which are sold or distributed by weight, measure or number. The Act prohibits the use of non-standard weights and measures and provides for penalty for their manufacture. Penalties have also been prescribed for putting any inscription or indication on the weight, measure or number except in accordance with the standards or units to quote any price or charge, issue or exhibit a price list, invoice etc. Even mentioning any weight or measure in any advertisement etc. or indicating the weight or measure on the label of a package except in accordance with the standard weight or measure is unlawful under the Act.\textsuperscript{363} To manufacture, repair or

\textsuperscript{362} In case of first conviction, imprisonment may extend upto 6 months with or without fine, which may be increased upto 1 year with or without fine for the second conviction.

\textsuperscript{363} The Standard of Weights and Measures Act, 1976, Section 9.
sell any weight or measure without holding a licence issued by the controller is also an offence contemplated under the Act.  


The Act was enacted to provide for the establishment of a Bureau for the harmonious development of the activities regarding standardisation, marking and quality certification of goods to give a new thrust to standardisation and quality control, so as to help in inducing faster growth, increasing, exports and making available goods to the satisfaction of consumers.

Under Section 3 of the Act, Bureau of Indian Standards was established, which is a body corporate consisting many members from various fields of diverse nature and interests. It has a chain of laboratories in different parts of the country for testing of samples to have greater surveillance to ensure closer conformity of the marked goods to Indian Standard certified by the Act.

365. Indian Standard Institution (Certification Marks) Act, 1952 was repealed.
366. Indian Standard Institution registered as a society under the Societies Registration Act, 1860 was there to prepare and promote standards under the Act. 'Bureau of Indian Standards' was set up as a statutory institution. On and from the date of establishment of the Bureau, the assets, liabilities and employees of Indian Standards Institution would stand transferred to it. See Bureau of Indian Standards Act, 1986, Sections 9-10.
Improper use of standard marks, using the words 'Indian Standard' or 'Indian Standard Specification' or abbreviation thereof and their registration are prohibited by the Act and can also be punished. Compulsory use of standard marks for articles and processes of certain scheduled industries can also be notified in the public interest by the Central Government after consulting the Bureau.

11. Agricultural Produce (Grading And Marking) Act, 1937.

The Act provides for grading and marking of agricultural and other produce and allied commodities with the objective of making available good quality agricultural produce to the consumers.

Under this Act, the Central Government has been authorised to make rules fixing grade designation to indicate the quality of any scheduled article, defining the quality indicated by every grade designation, specifying grade designation mark to represent particular grade designation; authorising interested parties to grade specifying conditions regarding manner of marking.

367. Ibid., Sections 11-12.
368. Ibid., Section 33 (Penalty for improper use of Standard mark has been contemplated as imprisonment for a term which may extend to 1 year or fine extending upto Rs. 50,000 or both).
369. Ibid., Section 14.
packaging etc. and providing for the confiscation and disposal of produce marked otherwise than in accordance with the prescribed conditions with a grade designation mark. The insignia used for grading is 'AGMARK'. Grading under the Act is purely voluntary in nature.

In the interest of general public or for the protection of Consumers, the Central Government can also prescribe compulsory grade designation in respect of certain articles and the application of the Act can also be extended to include an article or agricultural produce not previously the Schedule of the Act. Penalties for unauthorised marking or counterfeiting with grade designation mark and for selling misgraded articles have been provided under the Act.

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370. The Agricultural Produce (Grading And Marking) Act, 1937, Section 3. [As amended by the Agricultural Produce (Grading and Marking) Amendment Act, 1986.]
371. ibid., Section 5B. [Inserted by the Agricultural Produce (Grading and Marking) Amendment Act, 1986.]
372. Ibid., Section 6.
373. Ibid., Section 4 (As substituted by the Agricultural Produce (Grading and Marking) Amendment Act, 1986.) (Imprisonment for a term not exceeding 6 months and fine upto Rs. 5000 can be imposed.)
374. Ibid., Section 5 (As substituted by ibid.) [Imprisonment for a term not exceeding 3 years and fine upto Rs. 5000 can be imposed].
375. Ibid., Section 5A. (Inserted by ibid.,) [Imprisonment for a term not exceeding 3 years and fine not exceeding Rs. 5000 have been envisaged].

The Act was to consolidate and to amend the law relating to the better regulation of the purchase, sale, storage and processing of agricultural produce and establishment of markets for agricultural produce in the state of Punjab. As Punjab is the richest agricultural state of India, to protect the producers of agricultural produce from being exploited by the middlemen and profiteers and to enable them to secure a fair return for their produce,376 State Agricultural Marketing Board has been constituted under the Act.377 Notification regarding exercise of control over purchase, sale, storage and processing of agricultural produce in specified areas and for inviting objections or suggestions within a period of thirty days is also made by the State Government378 to streamline and to achieve the main object of the Act. In pursuance thereof, declaration of notified market area,379 principal market yards and one or more sub-market

376. Punjab Agricultural Produce Markets Act, 1961, Section 2(a) defines agricultural produce.
377. Ibid., Section 3, 3A [Added by Punjab Agricultural Marketing Boards and Marketing Committees (Reconstitution and Re-organisation) Order, 1969- Powers of the Board were extended in respect of the transferred territory and the Union Territory of Chandigarh].
378. Ibid., Section 5.
379. Ibid., Section 6.
yards\textsuperscript{380} can also be made along with the provisions for the grant of licenses etc.\textsuperscript{381}

The new mandis have been established with a view to remove old mandis from the congested areas and with the object of providing better and modern facilities to the farmers and others connected with the sale and purchase of agricultural produce, and to provide for suitable convenient location to all concerned after taking into consideration the development of the town and city as a whole.\textsuperscript{382}

\textbf{IV. ENVIRONMENTAL LAWS}

Concern for the state of environment has grown world over since the sixties. The decline in environmental quality has been evidenced by increasing pollution, loss of vegetal cover and biological diversity, excessive concentration of harmful chemicals in the ambient atmosphere and in food chains, growing risks of environmental accidents and threats to life support system.

\begin{flushleft}
\textsuperscript{380} \textit{i}bid., Section 7.
\textsuperscript{381} \textit{i}bid., Sections 9-10.
\textsuperscript{382} \textit{Chint Ram Chand v. State of Punjab}, AIR 1996 SC 1406 (Neither the provisions of Sections 7 or 8 of the Act nor the restrictions imposed by the impugned notification violated the Fundamental Rights contained in Art. 19 (1) (g) and the restrictions imposed were reasonable).
\end{flushleft}
The modern concept of environmental pollution is very wide. It may be said that any sort of deviation of any substance from its original place and removal of its origin is called environmental pollution because such transferability may cause or tend to cause damage or injury to the nature. The vast use of energy and raw minerals, effluents, urbanisation and conjunction of pollutant elements are leading man as a course which can alter natural system of the planet jeopardising mere existence of human civilization. The problem of environmental pollution has been recognised as a world-wide disaster. Development without regard to the ecological equilibrium has led to an environmental crisis during the nineteenth and twentieth centuries causing ecological imbalance. The 'ecological balance' is being upset by misuse, abuse and extra ordinary use of resources of environment, there by endangering the very existence of human race. The changes

that men produce during this use affects his health, comfort, efficiency and capacity to attain a satisfactory social adjustment.  

The world community's resolve to protect and enhance the environmental quality found expression in the decision taken at the United Nations Conference on the Human Environment held in 1972. The term 'sustainable development' was used which means the integration of development and environmental imperatives.

The Earth Summit of 1992 at Rio de Janeiro put the world on the path of sustainable development by incorporating 27 principles in Rio-Declaration. In India also, various legislations

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387. *Stockholm Declaration on the Human Environment*, 1972. (Government of India also participated in the conference and strongly voiced its environmental concern. Several measures have been taken for environmental protection both before and after the conference).

388. The World Commission on Environment and Development, *Our common future*, p.43 (1987). [The Brundtland Commission defined ‘sustainable development’ in its report of 1987 as that development which "meets the needs of the present without compromising the ability of future generations to meet their own needs].

have been passed from time to time concerning protection and prevention of pollution relating to air, water and environment.

The Constitution (Forty-second Amendment) Act, 1976 has made it a fundamental duty of the State and citizens to protect and improve the environment. Pure water, fresh air and hygienic condition of life are the Fundamental Rights of every human being and it is the State’s duty to protect the environment to provide disease free and healthy life to its citizens. In the present work, need and adequacy of following Acts invented to safeguard the interests of common man from the environmental hazards has been discussed:

IV. ENVIRONMENTAL LAWS

6. Indian Penal Code, 1860.


This Act was one of the measures taken for the environmental protection and to implement the decision taken at the United Nations Conference on the Human Environment held at

\[\text{390. Articles 48-A, 51-A [Inserted by the Constitution (Forty-Second Amendment) Act, 1976].} \]

\[\text{391. Article 21.} \]
Stockholm in 1972.³⁹²

Environment has been defined under the Act as including water, air and land and the inter-relation which exists among and between water, air, land and human beings, other living creatures, plants, micro-organisms and property.³⁹³

Central Government has been empowered to take all necessary measures including planning execution of programmes for protection, prevention, control and abatement of pollution, laying down of quality standards, restrictions on polluting industries, establishments etc., investigations, research etc. with the co-ordination of State Governments³⁹⁴.

Articles 21, 47, 48-A and 51-A (g) of the Constitution of India give a clear mandate to the State and impose a duty on every citizen to protect and improve the environment and to safeguard the forests and wildlife of the country including forests, lakes, rivers and to have compassion for living creatures. The "Precautionary Principle" accepted as part of the law of the land by the courts in recent years also makes it mandatory for the State Government to anticipate, prevent and attack the causes of

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³⁹² Government of India participated in the Conference and voiced its environmental concern.
³⁹³ Environment (Protection) Act, 1986, Section 2 (a).
³⁹⁴ Ibid., Section 3.
environment degradation. In *M.C. Mehta v U.O.I.*\(^{395}\) the Supreme Court ordered to protect two lakes (Badkhal & Surajkund) from environmental degradation by imposing restrictions on the construction activity in the close vicinity of the lakes.\(^{396}\)

Similarly in *M.C. Mehta (Taj Trapezium Matter) v. U.O.I.*\(^{397}\), the Supreme Court applied ‘Sustainable Development Principle’ along with ‘Precautionary principle’ and held that industries operating in TTZ (Taj Trapezium Zone) must use natural gas as a substitute for coke or coal. If natural gas as a substitute is not acceptable or available to such industries, they must stop functioning and may relocate themselves as per directions of the Court.

The Central Government can also issue the directions for the closure, prohibition or regulation of any industry, operation or process or even the stoppage or regulation of supply of electricity or water or any other service to such industry or operation, which

\(^{395}\) (1997) 3 SCC 715.

\(^{396}\) Two expert opinions on the record - by the Central Pollution Control Board and by the National Environmental Engineering Research Institute (NEERI) make it clear that the large-scale construction activity in the close vicinity of the two lakes is bound to cause adverse impact on the local ecology. NEERI has recommended green belt at one km radius all around the two lakes.

\(^{397}\) AIR 1997 SC 734.
In *M.C. Mehta v. U.O.I.*[^399] the Supreme Court unconditionally directed to close down 246 brick kilns causing pollution, operating in Delhi and ordered the Central Pollution Control Board to relocate them in new industrial estates by giving them incentives and benefit to the workmen of the closing brick kilns.

Recently, in the case of *Sector 14 Residents' Welfare Association v. State of Delhi*[^400], the High Court appointed Committee on Status and Options for upgradation of city sewerage management system in trans-Yamuna and certain Noida sectors. The Supreme Court held, that it will be appropriate if the monitoring of the implementation of the Committee Report as per its action plan is undertaken by the Environment Pollution Control Board.

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[^398]: Environment (Protection) Act, 1986, Section 5 [Tanneries discharging effluents in Ganga and not setting up primary treatment plant in spite of being asked to do so for several years, not caring to put in appearance to express willingness to set up pre-treatment plant were ordered to stop working]. Also see, AIR 1988 SC 1037.

[^399]: (1998) 9 SCC 149.

[^400]: (1999) 1 SCC 161. Also see, *Research Foundation for Science v. U.O.I.*, AIR 1998 SC 3116—where High Powered Committee on Management of Hazardous Wastes, pursuant to Supreme Court's directions was constituted, to examine the quantum and nature of hazardous stock lying at the docks/ports/CDS and to recommend a mechanism for its safe disposal or to re-export to original exporter.
(Prevention and Control) Authority constituted under Section 3 of the Environment (Protection) Act, 1986 and the directions of Authority will be final and binding.\footnote{401}

2. Air (Prevention and Control of Pollution) Act, 1981

The presence in air of various air pollutants\footnote{402} discharged through industrial emissions and from certain human activities connected with traffic, heating, use of domestic fuel, refuse incinerations etc. has a detrimental effect on the health of the people as also on animal life, vegetation and property.

To implement the decisions taken in the United Nations Conference on the Human Environment held in Stockholm in 1972, in which India also participated, this Act was enacted. For prevention, control or abate of air pollution and to improve quality of air Central and State Pollution Control Boards\footnote{403} were constituted alongwith Committees\footnote{404} etc. The main objectives of the Boards are to plan and implement various types of programmes and schemes to control and minimise the pollution by

\footnote{401}{Principle of 'no-fault liability' and 'strict liability' for damages has also been introduced in environment cases relating to accident losses. For details see, The National Environment Tribunal Act, 1995; The National Environment Appellate Authority Act, 1997.}
\footnote{402}{The Air Prevention and Control of Pollution Act, 1981, Section 2(9) defines 'air pollutants'.}
\footnote{403}{\textit{Ibid.}, Sections 3-5 and 16-17.}
\footnote{404}{\textit{Ibid.}, Sections 11-12.}
declaring in pollution control areas\textsuperscript{405} and by giving instructions for ensuring standards for emissions from automobiles\textsuperscript{406}.

Restriction or prohibition may also be imposed on some industries, establishments or persons emitting air pollutants\textsuperscript{407}.

For instance, vehicular pollution and chaotic traffic conditions of Delhi were regulated by issuing directions on the basis of Bhure Lal Committee report to the effect that all commercial vehicles which are more than 15 years' old shall not be allowed to ply in the national capital territory of Delhi w.e.f 2-10-1998. Direction were modified for different categories of commercial and transport vehicles\textsuperscript{408}.

Supply of lead free petrol and increase in number of outlets for supply of unleaded petrol in four metros and in their periphery, new vehicles to be sold in the four metros only with catalytic converter, government agencies and bodies for equipping of the existing care with CNG kit- and as regards vehicles run on diesel, sulphur content reduction on the anvil etc. are the recent directions given by the Supreme Court in the case of \textit{M.C. Mehta}

\textsuperscript{405} \textit{Ibid.}, Section 19.
\textsuperscript{406} \textit{Ibid.}, Section 20.
\textsuperscript{407} \textit{Ibid.}, Sections 21, 22, 22A. [Substituted by Air Prevention and Control of Pollution (Amendment) Act, 1987].

3. **Water (Protection and Control of Pollution) Act, 1974.**

   For the prevention and control of water pollution and for maintaining or restoring the wholesomeness of water, Water (Protection and Control of Pollution) Act was enacted in 1974 and was applied in a number of States in all over India. Under the Act pollution means contamination of water, alteration of the physical, chemical or biological properties of water etc. to discharge of any sewage or any other liquid which is likely to create a nuisance or render it harmful to public health. Samples of water can be collected for analysis regarding its purity and wholesomeness. To collect and disseminate information, to inspect and evolve efficient methods of disposal of sewage and trade effluents and to lay down, modify or annul effluents standards for sewage and trade effluents etc. have also been provided under the Act. Central\(^4\) and State Boards\(^5\) are constituted to perform various powers and functions mentioned under the Act.

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410. Water (Protection and Control of Pollution) Act, 1974, Section 3.
411. *Ibid.*, Section 4 (After 1998 amendment State Boards are empowered to carry out emergency measures in case of any poisonous, noxious or polluting matter present in any stream, well or on land).
The Act lays down restrictions on outlets and discharge of sewage or trade effluent into a stream or well or sewer or on land etc. Direction regarding closure or stop of supply of electricity, water or any other service can be imposed. In M.C. Mehta v. U.O.I., the Supreme Court held that the financial capacity of the tanneries should be considered irrelevant while requiring them to establish primary treatment plants. Just like an industry which cannot pay minimum wages to its workers cannot be allowed to exist, a tannery which cannot set up a primary treatment plant cannot be permitted to continue to be in existence.

Similarly in case of M.C. Mehta v. Kamal Nath, the Himachal Pradesh pollution Control Board (State Board) did not permit the discharge of untreated effluent into River Beas and directed National Environment Engineering Research Institute (NEERI) through its Director to inspect the area and to give an assessment of the cost which is likely to be incurred for reversing the damage caused by discharge of industrial effluents/waste into

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412. Ibid., Section 25-26.
414. (1997) 1 SCC 388; M.C. Mehta v. U.O.I., AIR 1996 SC 1977; In Ajay Singh Rawat (Dr.) v. U.O.I., (1995) 3 SCC 266, Nainital Lake water was found to be full of human waste, horse dung and other waste and the court asked to take remedial measures on war footing so that this lake may regain its unsoiled beauty and attract tourists.
the river by all the hotels, institutions and factories in that area.

In a recent case of Water Saviors v I.O.I., the State Electricity Board denied electricity connection/augmentation to the industries which were not having 'no objection certificate' from the State Pollution Control Board. The Act also prescribes the penalties for violation of the provisions of the Act ranging from imprisonment for 3 months or fine upto Rs. 10,000 or both and also additional fine upto Rs. 5000/- per day.

4. Forest (Conservation) Act, 1980

Deforestation causes ecological imbalance and leads to environmental deterioration which causes serious threat to the existence of human beings and all other living beings. Deforestation had been taking place on a large scale in the country and it had caused widespread concern. Therefore, in order to check the further deforestation, the Forest Conservation Act, 1980 was enacted.

The Act applies to all forests irrespective of the nature of ownership or classification thereof. The word ‘forest’ must covers

416. Water Preventron and Control of Pollution Act, 1974, Sections 42-45A.
417. The object of the Act is to give overall power reserved to Central Government to supervise acts of State governments in respect of conservation of forest.
all statutorily recognised forests, whether designated as reserved, protected or otherwise for the purpose of Section 2(i) of the Forest Conservation Act. Conservation of forests include not only preservation and protection of existing forests but also re-afforestation. Forests have to be regularly cut to meet the needs of the country. At the same time, re-afforestation should go on to replace the vanishing forests. It is a continuous and integrated process. There are restrictions on the dereservation of forests or on the use of forest land for non-forest purposes which will apply to all forests.

Penalties for the violation of any of the provisions of the Act by any person or by authorities and Governments departments have also been provided for.

5. Slum Areas (Improvement and Clearance) Act, 1956

The rapid growth of population and overcrowding have created bad slums in many cities of India. Due to higher average density of population in slum areas, lack of civic amenities and

421. Ibid., Section 3A. [Inserted by the Forest (Conservation) Amendment Act, 1988]( Simple imprisonment extending upto 15 days can be there).
community facilities dilapidated conditions of tenements. slums are menace to the safety, health and morals of the inhabitants and it is of imperative necessity that improvements in and clearance of the slum areas have to be taken in hand immediately. The present Act was enacted to provide for the improvement and clearance of slum areas in certain Union Territories\(^{422}\) and the protection of tenants in such areas from eviction. Under the Act, the identification and declaration of any area as slum area, which is unfit for human habitation due to various reasons and conditions\(^{423}\) have been done. Previous permission is required to be taken from competent authority for the construction of any building or any addition or alteration in an old building in the areas declared as slum areas\(^{424}\). This prohibition or restriction under the Act imposed will facilitate planned improvement of slum areas. Building unfit for human habitation can be ordered to be demolished by the competent authority under the Act\(^{425}\). Power to redevelop any area or part thereof also lies with the authorities under the Act\(^{426}\). Acquisition of land by the Central Government

\(^{422}\) One of those Union Territories is Chandigarh.
\(^{423}\) Slum Areas (Improvement And Clearance) Act, 1956, Section 3.
\(^{424}\) Ibid., Section 6A.
\(^{425}\) Ibid., Sections 7-8.
\(^{426}\) Ibid., Section 11.
for execution of any work of improvement in a slum area\textsuperscript{427} and provision for the grant determination\textsuperscript{428}, apportionment\textsuperscript{429} and payment of compensation\textsuperscript{430} has been provided for under the Act.

Any offensive or dangerous trade being carried out in slum areas can be ordered to be removed by the competent authority\textsuperscript{431}. Penalties for the violation of any or all provisions of the Act has been given in detail\textsuperscript{432}.

6. Indian Penal Code, 1860.

Under Chapter XIV of Indian Penal Code, offences affecting public health, safety, convenience, decency and morals, the adulteration of food\textsuperscript{433}, sale of noxious food or drink\textsuperscript{434}, adulteration of drugs and their sale\textsuperscript{435} etc. and their punishments have been stipulated. Offences relating to water pollution\textsuperscript{436}, environment and atmospheric pollution\textsuperscript{437} and their punishment also find place in Chapter XVI related to offences against public

\begin{itemize}
\item \textsuperscript{427} \textit{ibid.}, Sections 12-13.
\item \textsuperscript{428} \textit{ibid.}, Sections 15,18.
\item \textsuperscript{429} \textit{ibid.}, Section 16.
\item \textsuperscript{430} \textit{ibid.}, Section 17.
\item \textsuperscript{431} \textit{ibid.}, Section 29.
\item \textsuperscript{432} \textit{ibid.}, Section 32. [Imprisonment upto 3 months or fine upto Rs. 1000 or both can be imposed].
\item \textsuperscript{433} Indian Penal Code, 1860, Section 272.
\item \textsuperscript{434} \textit{Ibid.}, Section 273.
\item \textsuperscript{435} \textit{Ibid.}, Sections 274-275.
\item \textsuperscript{436} \textit{Ibid.}, Section 277.
\item \textsuperscript{437} \textit{Ibid.}, Section 278.
\end{itemize}
health and safety. Negligent handling of poisonous substances, combustible materials and explosive substances have been covered as instances of environmental pollution. Sections 269-271 make negligent act likely to spread infection of diseases dangerous to life punishable. To sell goods marked with counterfeit property mark is also a punishable offence.


The Code of Criminal Procedure also provides for prevention of pollution of all kinds. Under Chapter X, Part B and Part C of the Code provide most effective and speedy remedy for prevention and control of public nuisance causing air, water and noise pollution.

V. LAND REFORM LAWS

According to the Seventh Plan document about 40% of the total population of the country lives below the poverty line. To

438. Ibid., Sections 284-286.
439. Ibid., Section 486.
440. The Code of Criminal Procedure, 1973, Part B, Sections 133-143 and Part C, Section 144 [Section 133 can be used even against statutory bodies like municipalities, corporations and other Government bodies, if they do any act or omission which causes public nuisance and environmental pollution.] Also see, Ratlam Municipality v. Vardichand, AIR 1980 SC 1622; Ajit Mehta v. State of Rajasthan, (1990) CrLJ 1596.
provide minimum basic requirements for a dignified human life for every Indian has been a cherished dream of our Constitution makers. Under the Constitution, State is duty bound to secure a social order for the promotion of welfare of the people and to minimise the inequalities in income and to eliminate disparities in status, facilities and opportunities. Concentration of economic wealth and material resources should be curtailed by the State to remove the gaps between the different sections of society. A number of legislative attempts were made from time to time to reduce and remove poverty and to redistribute the economic and material wealth amongst the unprivileged sections of society. Many agrarian laws were made to provide security of land to small tenants and land tillers, and to protect share-croppers, land - ceilings and land consolidation. Surplus area was demarcated and allotted to the tenants, workers and biswedari ex-tenants to provide them security of work. The main object to the said reforms was to abolish inter-mediaries, fix ceilings on land holdings, and to regulate the shares of landlord and tenants. The land reforms were also to put a reasonable and economic ceiling on holdings, to fix a fair rent payable to the landlord, to give

442. Article 38.
443. Article 39 (b) & (c)
permanent rights to the tenants.\textsuperscript{444} Some legislations dealing with land reforms studied in detail for the purpose of this study are as follows:

\textbf{V. LAND REFORM LAWS:}


\textbf{1. Punjab Land Reforms Act, 1972}

Punjab Land Reforms Act, 1972 is a single unified law for the entire State of Punjab for imposition of land ceilings, acquisition of proprietary rights by tenants and to deal with transfers of surplus areas etc.\textsuperscript{445} Under Section 2 of the Act, it has been specifically mentioned that the Act is to give effect to the policy of the State towards securing the principles specified in

\textsuperscript{445} The enactments namely, the Punjab Security of Land Tenures Act, 1953 and the Pepsu Tenancy and Agricultural Lands Act, 1955 are also in force in the State of Punjab. While the former Act applies to those parts of the State which were comprised in the State of Punjab immediately before the 1 Nov. 1965 and the latter applies to those territories of the erstwhile State of Pepsu which now forms part of the State of Punjab. These Acts stand repealed in so far as these are inconsistent with the provisions of this Act, see, the Punjab Land Reforms Act, 1972, Section 28.
Art. 35 (b) and (c) of the Constitution of India. After giving careful consideration to the various aspects of land reform measures, which are necessary in the interest of social justice as also for agricultural production, it has been decided that the ceiling limits be suitably reduced, that the entire surplus area should vest in the State Government and that the criteria of eligibility for allotment of such areas should be made broad based. Therefore, on the Punjab law coming into operation on April 15, 1973 ceiling was imposed on the owning and holding of land beyond the permissible area as contemplated under Section 4 of the Act. The State Govt. has been authorised to select permissible area, declare any surplus unutilised area (voluntary by land owner or involuntary acquisition by State) and its

446 Under Arts. 39 (b) & (c) the State is to direct its policy towards securing that ownership and control of material resources of the community are so distributed as best to subserve the common good, and that the operation of the economic system does not result in concentration of wealth and means of production to the common detriment. The Act has been included under Ninth Schedule of the Constitution of India and falls under Art. 31A of the Constitution. Also discussed, Haryana Ceiling on Land Holdings Act, 1973 (This legislation contains similar provisions as that of this Punjab Act).

447 Punjab Land Reforms Act, 1972, Section 4 (2) mentions the conditions under which the ceiling can be exceeded.

448 Ibid., Section 5.
determination,\textsuperscript{449} to vest and possess unutilised surplus area in the State\textsuperscript{450} by the collector. Then, the Collector or officer authorised by the State Government determines the amount to be paid for the land vested in State Govt. in accordance with the principles given under the Act.\textsuperscript{451}

Therefore, the Punjab Land Reforms Act extinguishes the rights of the landholder in the area declared surplus and enjoins upon the Government to dispose of that land in the manner provided in the Act.\textsuperscript{452}

2. \textbf{Punjab Bhudan Yagna Act, 1955}

Bhudan started by Acharya Vinobha Bhave caught the imagination of the people and in its essential particulars was being implemented in some states in Indian territory by legislation. The object of the movement was to settle the landless workers on the land through voluntary donations. The movement aims at laudable results and though the circumstances in different states in the India for the propagation of the movement are not

\begin{flushleft}
\textsuperscript{449} \textit{Ibid.}, Section 7. [Surplus Area means the area in excess of the permissible area as defined under Section 3 (15) of the Act].
\textsuperscript{450} \textit{Ibid.}, Sections 8, 9.
\textsuperscript{451} \textit{Ibid.}, Section 10.
\textsuperscript{452} \textit{Ibid.}, Section 11.
\end{flushleft}
similar, legislating for convenience and for better results is justified in the matter.

For the State of Punjab, this Act was enacted to facilitate activities in connection with Bhudan Yagna\(^{453}\) initiated by Acharya Vinobha Bhave, to provide for the constitution of Bhudan Yogna Board\(^{454}\), the donations of lands to the said Board, the distribution of land\(^{455}\) received in donations to landless persons\(^{456}\) and also their utilisation for community and other purposes\(^{457}\).

Voluntary donations of land under the Act are taken as gifts which are irrevocable\(^{458}\) and any other grant made or deemed to be made under this Act shall be and always exempt from payment of stamp duty and registration or attestation under the law\(^{459}\).

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453. Punjab Bhudan Yagna Act, 1955, Section 2 (b) [Bhudan Yagna means movement initiated by Acharya Vinobha Bhave for the acquisition of lands through voluntary gifts in favour of the Board].
454. Ibid., Section 2 (c).
455. Ibid., Section 2 (e) [Land means land which is occupied or let for agricultural purposes or for purposes subservient to agriculture or for pasture].
456. Ibid., Section 2 (f) [Landless Person means a person holding no land or landless than the area which may be prescribed in this behalf].
457. Ibid., Section 2 (d) [Community Purpose means any purpose which is for the good of the community of the village in general].
458. Ibid., Section 19.
459. Ibid., Section 28.
3. **Haryana Ceiling on Land Holdings Act, 1973.**

The Act was to consolidate the law relating to ceiling on land holdings in the State of Haryana and for giving effect to the policy of the State towards securing the principles, specified in Art. 39 (b) and (c) of the Constitution of India.  

The Act provides for ceiling on land acquisition and disposal of surplus area. Under Section 7 of the Act, no person would be entitled to hold, whether as landowner or tenant or as a mortgagee with possession or partly in one capacity or partly in another, land within the State of Haryana exceeding the permissible area on or after the appointed day. Certain transfers or dispossession not to affect surplus area are to be made by Union or State government as specified under Section 8 of the Act. Selection of permissible area and persons required to furnish declaration in regard thereto or selection of permissible area and statement of

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460. Haryana Ceiling on Land Holdings Act, 1973, Section 2. [Government of India appointed a Central Committee on land reforms which evolved a national policy with a view to making available additional land for distribution to landless persons and thereby securing more equitable distribution of land for removing economic disparities.]

461. *Ibid.*, Section 3(r) defines 'surplus area' as the area in excess of the permissible area.


permissible and surplus area by prescribed authority\textsuperscript{464} are to be made under the provisions of the Act.

Vesting of surplus area in the State Government\textsuperscript{465} and power to take possession thereof by prescribed authority even by use of necessary force\textsuperscript{466} have also been contemplated under the Act. Powers to separate shares of landowners or separate surplus area of such persons out of the area of land obtained after consolidation are also provided to the officers under the Act.\textsuperscript{467}

Disposal of surplus area acquired or vested under Section 12 at the disposal of State Government is done by framing schemes for utilising that area for allotment of land to the members of Scheduled Castes and Backward Classes, landless persons, agricultural workers, tenants etc. in accordance with the provisions of the Act.\textsuperscript{468}


The Act is to vest proprietary rights in occupancy tenants and provide for payment of compensation to landlords. Occupancy

\textsuperscript{464} Ibid., Section 11.
\textsuperscript{465} Ibid., Section 12.
\textsuperscript{466} Ibid., Section 13.
\textsuperscript{467} Ibid., Section 14.
\textsuperscript{468} Ibid., Section 15.
tenant becomes full owner of land for the first time from the date of enforcement of the Act and land becomes his self-acquired property. Liability of occupancy tenant for payment of compensation to the landlord arises, which he would deposit with the collector and compensation would be paid by the Government also according to the Sections 4 and 5.


470. Ibid., Section 7.

471. Ibid., Section 8.

472. Ibid., Section 4: Determination of compensation payable to the landlord; Section 5: Principles of compensation.