

Collective Violence
And
Criminal Justice System

LL.M IIInd Year

First Semester

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DCLL

PAPER – VI : COLLECTIVE VIOLENCE AND CRIMINAL JUSTICE SYSTEM

1. Introductory

- 1.1. Notions of "force", "coercion", "violence"
- 1.2. Distinctions: "symbolic" violence, "institutionalised" violence, "structural violence"
- 1.3. Legal order as a coercive normative order
- 1.4. Force-monopoly of modern law
- 1.5. "Constitutional" and "criminal" speech: Speech as incitement to violence
- 1.6. "Collective political violence" and legal order
- 1.7. Notion of legal and extra-legal "repression"

2. Approaches to Violence in India

- 2.1. Religiously sanctioned structural violence: Caste and gender based
- 2.2. Ahimsa in Hindu, Jain, Buddhist, Christian, and Islamic traditions in India
- 2.3. Gandhiji's approach to non-violence
- 2.4. Discourse on political violence and terrorism during colonial struggle

2.5. Attitudes towards legal order as possessed of legitimate monopoly over violence during the colonial period

3. Agrarian Violence and Repression

3.1. The nature and scope of agrarian violence in the 18-19 centuries India

3.2. Colonial legal order as a causative factor of collective political (agrarian) violence

3.3. The Telangana struggle and the legal order

3.4. The Report of the Indian Human Rights Commission on Arwal Massacre

4. Violence against the Scheduled Castes

4.1. Notion of Atrocities

4.2. Incidence of Atrocities

4.3. Uses of Criminal Law to combat Atrocities or contain aftermath of Atrocities

4.4. Violence Against Women

5. Communal Violence

5.1. Incidence and courses of "communal" violence

5.2. Findings of various commissions of enquiry

5.3. The role of police and para-military systems in dealing with communal violence

5.4. Operation of criminal justice system tiring, and in relation to, communal violence

Collective violence and criminal justice system

After completion of the course the student will be able to:

1. Describe various approaches to violence in India.

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2. Discuss agrarian violence, Repression, Telangana struggle and Arwal Massacre

2

3. List violence against schedule caste, violence against women and other atrocities.

1

4. Distinguish between symbolic, institutionalize and structural violence.

3

5. Summarized role of police and para military system in dealing with communal violence

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- **Objective Of Study :**

- Over all understanding of the problems and the responses to meet this problem.
- Prevention is ALWAYS better than **CURE**.
- Peaceful Society ALWAYS Contributes towards the DEVELOPMENT of the Nation.
- To study and understand various enactments in India to combat such kind of violences.
- To understand various government machinaries and mechanisms to deal with such situations.

- To study in detail the origin/source of such problems and the methods to overcome such situations.
- To study the reasons behind each such violent incidence and suggestions to prevent such incidences in future through appointment of enquiry commission.
- To create awareness among people that such violent events leads only to destruction and hence, should not indulge in such activities.
- ***Outcome Of Study :-***
- Acquiring knowledge about various collective violences in the society.

- Acquiring knowledge about various enactments in India to deal with such situations.
- Acquiring knowledge about various government machinaries and mechanisms to deal with such situations.
- Be a responsible citizen of India and work for the peaceful society.
- If selected as member of Law Commission, suggest remedies and preventive measures for the reformation of the society.

- Violence Defined By WHO : Intentional use of physical force or power threatened or actual against oneself, another person or against a group or community, which either results or has a high likelihood of resulting in injury, death, psychological harm, etc.

- **Definition Of Violence** : Violence means use of physical force intended and results in damage or destruction of property or injury or death of a person.
- **Definition Of Individual Violence** : Violence by one person against another or self harm (Suicide).

- **Definition Of Collective Violence** : Collective Violence means where violence is committed by more than one person or by a group of people.
- ▣ **Meaning of Collective Violence:**
- ▣ Collective violence receives a high degree of public attention. Violent conflicts between nations and groups, state and group terrorism, rape as a weapon of war, the movement of large numbers of people displaced from their homes, and gang warfare

- ▣ – all these occur on a daily basis in many parts of the world. The effects of these different types of event on health in terms of deaths, physical illness, disabilities and mental anguish are vast.

Collective violence may be defined as: The instrumental use of violence by people, who identify themselves as members of a group – whether this group is transitory or has a more permanent identity – against another group or set of individuals, in order to achieve political, economic or social objectives.

▣ **Types of Collective Violence:**

- ▣ The major forms of collective violence are riots, revolutions, terrorism, cult, militia, and hate groups. And they have born in different type of situations according to the factors behind them.

Police action during Arson.



DOMESTIC VIOLENCE



RIOTS AND ARSON



ANOTHER INCIDENT OF ARSON



STONE PELTING AND ARSON



AGRARIAN VIOLENCE



COMMUNAL VIOLENCE



POLITICAL VIOLENCE IN USA



- **Types Of Violence :**
 - 1)Self-Directed Violence.
 - 2)Inter-Personal Violence.
 - 3)Collective Violence.
- **1)Self-Directed Violence:**
 - ->Self-Abuse/Self-Mutation.
 - ->Attempt to commit suicide.

▣ 2) Inter-Personal Violence :

1. Violence between family members.
2. Violence between classmates, schoolmates in schools and colleges.
3. Rape and sexual assaults.

3) Collective Violence :

- ▣ It can be basically divided into two parts.

A) Situational Collective Violence (Impulsive)

Such As: Spontaneous, Unplanned, Sudden Provocation, Verbal Arguments turning into Big fights.

▣ - B) Organised Collective Violence

Such As :

1. Planned Activities like : Mob lynching, Riots, Terrorism, Underworld Shooting, Rebellion, etc.
2. Communal Violence : Between two communities as hate crimes.

▣ - **Political Violence :**

1. Conflicts and war between two or more countries.
2. Politically motivated violence within the country instigated by political parties.

• **Purpose Of Study**

- - To study the reasons and causes of Collective Violence : **To Prevent or Stop The Violence.**
- - To control the Collective Violence : Provide Medical Help, Rehabilitation and Reintegration.

- ▣ - **To Prevent the Collective Violence like :**
- ▣ Conflicts and Wars.
- ▣ Establishment of UNO after Second World War.

- **To Punish the Culprits :** To study the procedures to bring the Culprits into Justice.
- **To Reform the Offenders :** To Prevent Chaos in the Society and to bring Peace in the the Society.
- Prevention of Violation of Human Rights because of Violence.

Such As:

- **Right to life-** Innocent People are **KILLED** during Riots, Group Wars, etc. Civilians are **KILLED** during War.
- **Rights to Liberty** - Personal Movement is **RESTRICTED** during Collective Violence.
- **Right To Dignity** - Self Respect and Dignity is **VIOLATED** during such Violences.

- **Right To Security** - No Guarantee Of Personal Security During Violences.
- **Right To Equality** - Only PARTICULAR SECTIONS Of Society are targetted (Communal Violence).
- **Right To Free From Torture** - During Violences Innocent People Are Subjected To TORTURE.

- Therefore, to ensure that these RIGHTS are not Violated, it is very ESSENTIAL that you study the cause of such Violences and find PREVENTIVE MEASURES to such Violences, so that there is PEACE in the Society.
- Peaceful mind and peaceful society CONTRIBUTES to the OVERALL DEVELOPMENT of the COUNTRY.

• Instances Of Violence

- 1. First World War(1914-1918), MILLIONS OF SOLDIERS And CIVILLIANS were KILLED. (political violence)
- 2. Second World War(1939-1945), AGAIN MILLIONS Of SOLDIERS And CIVILLIANS were KILLED. (political violence)
- 3. Partition Of India-Pakistan, THOUSANDS Of People KILLED. (political violence)

- Indo-Pak War(1965) and (1971), THOUSANDS Of People KILLED.
- Indo-China War(1962), THOUSANDS Of People KILLED.
- Many Incidents Of Communal Violence, where THOUSANDS were KILLED.

- British Atrocities during Colonial Rule, where THOUSANDS were KILLED.
- Incidents Of Agrarian Violence during British Period and Independent India, where THOUSANDS were KILLED.
- Incidences Of Riots, Underworld shootings, etc.

- Notions Of “Force”, “Coercion” and “Violence.”

Section 349 Of IPC-Force :

A person is said to use Force to another if he causes Motion, change of Motion or cessation of Motion to that other, or if he causes to any substance such Motion or change of Motion or cessation of Motion as brings that Substance into contact with any part of that other body or with anything which that other is wearing or carrying or with anything so situated that such contact affects that others sense of feeling.

- ▣ Provided that the person causing the Motion or change of Motion or cessation of Motion, causes that Motion, change of Motion or cessation of Motion in one of the three ways here in after described -

First : By his own bodily power.

Secondly : By disposing any Substance in such manner that the Motion or change or Cessation Of Motion takes place without any further act on his part or on the part of any other person.

▣ Thirdly : By inducing any animal to move, to change its Motion or cease to move.

• Section 350 – Criminal Force :

Whoever, intentionally uses force to any person, without that person's consent, in order to the committing of any offence or intending by the use of such force to cause or knowing it to be likely that by the use of such force he will cause injury, fear or annoyance to the person to whom the force is used is said to use criminal force to that other person.

- Coercion : (Section 15 Of Indian Contract Act) :

Coercion is the committing or threatening to commit any act forbidden by the Indian Penal Code, or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.

- Symbolic Violence

Symbolic meaning referring to something with an implicit meaning.

The violence which is exercised upon a social agent with his or her complicity is known as symbolic violence.

Eg – Gender Relation in which both men and women have an understanding that women are weaker, less intelligent and more unreliable, etc.

- OR

- ▣ In case of class relations, where in both working class and middle class people agree that middle class people are more intelligent, or more capable of running the country.

This type of violence is an indirect form of violence and does not focus on immediate results. It relies on the participant and share a common understanding and belief. The essential feature of the Symbolic Violence is the use of proxy victim, that is the target is someone else and the harm is given to a proxy victim or another easy target to Symbolize the Violence or

- ▣ Pass the message to the original target.

Eg –

(1) Terrorist Act where proxy victim is innocent citizens and target is Government.

(2) Honour killing where the proxy victim is the boy or the girl, but the target is Society and the Community.

- ▣ Symbolic Violence can also be in the form of speeches, media or other behavioural pattern of the Society, that create the Symbol for the rest of the people to follow the rules.
- ▣ A method seems to express an intention or feeling.

- ▣ Eg – The Protests and Hartals also Symbolize a particular demand which is indirect and is a form of Violence. This type of Violence does not cause a physical direct harm, but there is indirect Violence, that is Evident.
- ▣ The dove is symbolic of peace. Red rose symbolises love and romance, wedding ring – symbolises commitment and matrimonial status. Green – go or proceed.
- **Structural Violence(Man-Made Social Structure – Set Behavioural Pattern) :**
- Social Structure – Harms people by preventing them from meeting their basic needs.

- Structural Violence refers to systematic ways in which Social Structure harm or otherwise disadvantage individuals.
- Structural Violence is often invisible, no specific person is held responsible.
- Difficult to identify the culprit.
Eg –
(1) When baby dies of malnutrition or from a vaccine preventable disease, who should be blamed?

▣ (2) In an emergency in a hospital, it is likely that a rich person gets quick and better treatment than the poor person.

(3) Death Rate is higher in poor sections in the Society than richer sections because of deprivation of basic medical facility.

(4) In case of accident, victims are not treated until the Police record the case, which may cause death due to delay.

- ▣ (5) Civilians death in Police action , conflicts, Wars, etc. , is also Structural Violence.

(6) Discrimination on the basis of Racism, Apartheid, Gender, Oppression/Suppression.

- **Institutionalized Violence**
- – This is the kind of Violence perpetrated by Institutions like Companies, Organisations, Universities and not by Individuals.

▣ Eg –

(1) Discriminatory Practices at Work Places.

(2) Custodial Crimes.

(3) Oppression/Suppression by Superiors.

▣ -) Schools, Courts, Offices, Police are examples of Institutions.

Structural, Institutional Violence causes direct Violence.

- **Legal Order As Coercive Normative Orders :**

Legal Orders means Legal Rules produced by the state organs namely Legislature, Executive and Judiciary.

Normative Order means Ideal Standard or Model or Correct Way of doing something.

Eg –

(1)IPC 1860, CRPc(Public Order), Police Act.

Therefore it can be said, Standardized Legal Rules are Normative Orders.

- Eg : In criminal law, normative order may be to repress some criminals and while reform some and also prevent wrongful conviction.
- A normative order is thus a prescription regarding compliance to some laws.
- Coercion as we know is to compel a particular person or a group of persons or manipulate them to behave in an involuntary way by use of threats, intimidation or some other form of force.

- The victim does not have an option but has to abide or do what the person using the coercion wants.

- Eg –

Taking human life is considered as unlawful as per IPC and provides Punishment for that.

But, Capital punishment which is also taking away life is considered as normative legal order for specific crimes.

▣ Force Monopoly Of Modern Law

- A right granted by a Government, giving exclusive control over something is called Monopoly.
- Force Monopoly means when the control of Force is completely in the hands of one Person or Organisation, who has control over all others by controlling the power.

- Providing power or force to the Acting Government is called Force Monopoly.
- The Government is an Institution that has Monopoly over the use of legitimate force.
- This 'Force Monopoly' is needed for smooth working of a state and keep law in order.

- The Monopoly of the Force by a way of Police, Military, etc in the hands of the state definitely works in favour of maintaining law and order in the Society or otherwise anarchy and chaos would become inevitable.
- Some people feel or argue that such Force Monopoly violates Human Rights by use of Force. Eg – Encounter Shooting, Torture by Police in Custody, etc.

- But it is necessary to use Force during investigation or to contain Mob Violence to restore law and order.
- The state entrusted with welfare and protection of its citizens, it can be done only with the legitimate use of Force.
- But we know that unlimited power comes its abuse and misuse and therefore great caution is required by the state while exercising this powers.
- The Modern Law is more reformatory rather than punishitive, the belief that treatment is more useful than punishment is the foundation of Modern Law.

▣ Constitutional And Criminal Speech (Speech As And Incitement To Violence)

- The Constitution Of India in part III provides us the 'Fundamental Rights.'
- One of the 'Fundamental Rights' under Article 19 is 'Six Classical Freedoms', where the 1st Freedom is 'Freedom Of Speech And Expression.'

- Freedom of speech and expression means 'The Right to express one's own convictions and opinions freely by words of mouth, writing, printing, pictures or any other mode.'
- This Right is given for the following Purposes :
 - 1) It helps an Individual to attain Self – Fulfilment and Self – Development.
 - 2) It assists in discovery of truth.
 - 3) It strengthens the capacity of an Individual in Participating in Decision Making.

- ▣ 4) All Members of the Society, would be able to form their own beliefs and communicate them freely to others.
- These Freedoms are not absolute, there are certain reasonable restrictions under **Art. - 19(2)**.
 - 1) Security of the state.
 - 2) Friendly relations with neighbouring states.
 - 3) Public Order.
 - 4) Decency.
 - 5) Morality.

- 6) contempt of court.
- 7) Defamation
- 8) Incitement to offence .
- 9) Integrity and sovereignty of nation.

- If your speech is in violation of such reasonable restrictions it will not be considered as your fundamental right any more but will be considered as an offence and will be treated as hate speech. The offender will be tried and if convicted will be punished according to the provisions of law.

- Hate speeches are totally against the main objective of the fundamental right. They incite hatred in the society.

• **CASE LAWS**

- **Romesh Thapar v/s state of Madras SC AIR 1950**

Journal - *Cross Road* published in Bombay, was Barred Entry and Circulation in Madras.

Held that Freedom Of Speech and Expression of the Press lay at the Foundation Of All Democratic Organisations, for without Free Political

▣ Discussion, No Public Education, so Essential for the Proper Functioning of the Process of the Government is possible. Hence, the ban was termed as **ILLEGAL**.

• **Sheela Barse V/S State Of Maharashtra 1997 S.C. 373.**

• Sheela Barse, a FreeLance Journalist obtained permission from Jail Authorities to interview women inmates of Prision at Bombay, Pune and Kolhapur.

- Started taping conversations but, ordered to take notes only, later on the permission was withdrawn.
- She filed a petition with S.C.
- **HELD** that the right to know the News and Information regarding Administration Of The Government Controlled Organisations included in the Freedom Of Press, with reasonable restrictions.

- **Bijoe emmanuel V/S State Of Kerala 1986 S.C.**
(National Anthem Case).
- In July 1985, 3 school children were expelled for refusing to sing National Anthem of India. While they silently stood during the singing of the Anthem. The Reason of refusing was it was against their religious faith of Jehovah's Witness.
Their father filed a Petition in Kerala **H.C.**
Contending that expulsion violated their Freedom Of Expression and Freedom Of Religion under Article – 19 and Article – 25 of Indian Constitution. The Court dismissed the case.

- The case was filed in supreme court U/A 136 SLP.
- THE court observed that U/A 19 there is no express provision obligating individuals to sing the national anthem, nor it is disrespectful to stay silent when national anthem is sung.
- The SC held that the expulsion from school violated their fundamental right of freedom of speech and expression and also of religion. It also observed that remaining silent is also a right available under freedom of expression.

- **Kanhaiya kumar vs state of Delhi**
- On 9th feb 2016 a programme was organised at JNU
- AS ' POETRY READING ', permission was granted.
- But it is alleged that Kanhaiya kumar during this programme raised Anti national slogans and was charged U/S 124-A of IPC i.e sedition/120-B/34/ etc.
- The accused filed a petition for bail to S.C which was transferred to delhi H.C . the petitioner argued that he did not utter any anti national slogans and did not misuse his right under art. 19 and did not commit any offence and be released on Bail.

- Petitioner was granted Bail . Case is still pending.
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- **The Indian Express VS union of India SC 1985**
- Facts : during the period news print items were being imported and the government increased the customs duty on the basis of size of the organisation as small, medium and large. Indian express being a large establishment was charged custom tax at a higher rate and it is alleged that due to excess tax ,

- ▣ papers circulation decreased resulting in violation of right of freedom of speech and expression, right carry on any business and profession under art 19 (1) (g) and violation of right to equality under art 14.
- The apex court observed that there is no violation of any fundamental rights as alleged but the government was ordered to review the new taxes.

- **Sakal papers VS union of India 1962 SC**

- Government sought to restrict the no.of pages of a news paper. If the pages are to be increased they

- ▣ had to Increase the price of news paper.
- Sakal contended that increase in price will reduce the circulation and if the pages are curtailed the news will also be curtailed and hence violation of freedom of speech and expression.
- The government contended that it is a reasonable restriction on the basis of public interest. However the court held that it cannot be a reasonable restriction and hence restriction on number of pages is an invalid restriction and violation of fundamental freedom of speech and expression.

▣ **K.A. Abbas V/S Union Of India (1970 S.C.)**

- ▣ Petitioner Abbas, made a documentary film which had adult contents and applied to the Censor Board For 'U' Certificate but, the Board issued 'A' Certificate. The Government said, “ 'U' Certificate can be granted only if, the Adult Content is deleted.”

Aggrieved by the decision of the Government, Abbas filed the Petition before the Supreme Court that, his Freedom Of Speech and Expression is Violated.

- ▣ Held that, The Film Censor Ship Was Valid under Article – 19(2) on the ground that films had the ability to move the Public deeply and therefore, in the Public Interest, such restrictions is neccessary under the provision of Reasonable Restrictions of Decency.

- ▣ **Shreya Singhal V/S Union Of India – 2015 S.C**

- ▣ Police arrested two women for posting allegedly offensive and objectionable comments on Facebook about the propriety of shutting down the city of Mumbai after the death of a political leader.

- ▣ The police made the arrests under Section 66A of the Information Technology Act of 2000 (ITA), which punishes any person who sends through a computer resource or communication device any information that is grossly offensive, or with the knowledge of its falsity, the information is transmitted for the purpose of causing annoyance, inconvenience, danger, insult, injury, hatred, or ill will.
- ▣ The women then filed a petition, challenging the constitutional validity of Section 66A on the ground that it violates the right to freedom of expression.

- The Court first discussed three fundamental concepts in understanding the freedom of expression: Discussion, advocacy, and incitement. According to the Court, “Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart” of the right.
- And, the law may curtail the freedom only when a discussion or advocacy amounts to incitement.
Hence, Section 66 A Of The Information Technology Act was struck down as unconstitutional.



Sedition :

- One of the heads of restrictions on the freedom of speech and expression in the draft constitution was “sedition” . The Indian penal code in sec 124 -A defines sedition as follows:

▣ “ Whoever by words either spoken or written ,or by signs , or by visible representation or otherwise brings into hatred or contempt or exite or attempt to excite disaffection towards the government established by law in India shall be punished “. However ,sedition is not included in restriction mentioned in art 19 (2).

- In Niharendra vs Emperor 1942 Federal Court held that mere criticism or even ridiclue of the government was no offence.

- ▣ Unless it was calculated to undermine respect for the government in such a way as to make people cease to obey the law and anarchy follows. Public disorder is the gist of the offence.
- In *Kedarnath vs State of Bihar* 1952 SC
- the constitutional validity of sec 124-A was considered by SC which upheld the view taken by *Niharendra* case and held that the section was constitutionally valid.

- **Hate Speech or Criminal Speech** has not been defined under any laws of the Country, only prohibitions for using certain forms speeches and expressions are stated.

Hate Speech can be defined as an incitement to **HATRED**, primarily against a group of persons defined in term of *RACE*, Ethnicity, Gender, , Religious Belief and The Like.

In other words it means, “Any word, written or spoken, signs, visible representation within the

- ▣ hearing or sight of a person with the intention to cause fear or alarm, or insightment to Violence.

There are various legislations and self regulatory mechanisms under which **Hate Speech** is prohibited:

1)The Indian Penal Code, 1860:

Section 124A : Sedition.

- ▣ Section 153A: Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc . Doing acts prejudicial to maintenance of harmony.

Section 295A: Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.

Section 296: Disturbing religious assembly.

Section 297: Trespassing on Burial Places, etc.

Section 298: Uttering words, etc with deliberate intent to wound religious feelings of any person.



Section 505: Statements creating or promoting enmity, hatred or ill-will between classes.

▣ **IMPORTANT CASES!**

▣ No. 1) Maneka Gandhi **V/S** Union Of India 1978 **S.C.***(Freedom Of Speech and Expression)*

No. 2) Prabha Datta **V/S** Union Of India 1981 **S.C.**
(Freedom Of Speech And Expression)

- ▣ Permission to Interview the **DEATH CONVICTS**, Billa And Ranga in Thihar Jail. Sc allowed interview.

No. 3) **R.E. - Arundati Roy 2002**(Contempt Of Court Case) . One day simple symbolic imprisonment and Rs.2000 fine.

▣ Political Violence

Political Violence perpetrated by people or governments to achieve Political Goals. It can describe Violence used by a state against other states(War) or against non-state actor(most notably police brutality or genocide).

- ▣ In the modern civilization it is unfortunate that the politician still resort to violence to gain power but they fail to understand that such power is temporary.
- ▣ Violence will beget only violence there cannot be any political ,social or economic stability.

- The state is entitled to use force for genuine reason, like to put down rebellion attacks, insurgency or riots. In such cases use of such force is justified.
- They can also use force or power for defence purpose.
- Such action is justified because it is necessary for restoring peace and harmony in the society.
- It is alleged that :
- Current politics is more of exploitation of the poor and the ignorant rather than symbol of leadership.

- Eg: 1) communal clashes—state backed.
- 2) booth capturing during election.--- with the help of anti social elements.
- 3) applying fear tactics – using goonda elements
- Terrorism : calculated use of force or unlawful violence to terrorise or put fear in the minds of people to intimidate respective government.
- These are usually done by small groups who are not capable of fighting a full scale war to meet their demand.

- Eg:
 - 1) LTTE SriLanka.
 - 2) 1993 – Bombay Bomb Blast killed 257 people.
 - 3) 9/11/2001 Plane Attack on 'Twin Towers, USA'
 - 4) 26/11/2008 Mumbai Attack.
- Genocide – Deliberate Killing of People Belonging to particular Race, religion or Nation or group.

Eg -

- 1) German Dictator – Hitler killed Jews, Poles and Romans in Gas Chambers.

- ▣ 2) Jallian Wala Bagh Massacre – 13th April 1919.
- ▣ around 400 people were killed and thousand were injured by a police firing during british rule. Ordered by general Dyer.

- ▣
- TORTURE :
- Causing of physical pain to extract truth , usually by police or military.

-

- **ENCOUNTER KILLING:**

- When the police are not able to apprehend the real culprits or criminals.
- To gain political mileage.

- **REBELLION :**

- Against the elected government backed by political parties to bring down the government.

RIOTING : politically motivated, by people in power

- or in opposition for their own political gain.

- **WAR :**
- Between states for different reasons
- eg: world wars, India pakistan, India china etc
- **FAMINE :** government inaction to provide food.
- **GOVERNMENT INACTION :** during protests ,
morchas etc.

- **Notion Of Legal and Extra Legal Repression.**

Political Repression is the Persecution of Individual or Group for Political Reasons, particularly for the purpose of restricting or preventing their ability to take part in the Political Life.

Where Political Repression is sanctioned and organised by the state, it may constitute State Terrorism --- Genocide.

- ▣ Systematic and Violent Political Repression is a typical feature of Dictatorship, Totalitarian States.

The Repression is thus, done by the states in both manners either Legal or Extra Legal, the people may try to Revolt against such Repression but, the State applies strict measures of Repression to curb this Revolts. The State may use Legal or Extra Legal methods for Repression.

▣ NGO as target.

NGO means Non Governmental Organisations which works for the betterment of the Society and with a Particular Object. It is a Non Profit Organisations. These NGO's address Social or Political Issues, they work within a Country and also Internationally.

They are active in Educational, Health Care and Public Policy, Social, Human Rights, Environment, etc.

- ▣ These NGO's connect People and Government and enjoy high degree of Public Trust.

Since, there is a likely hood of this NGO's becoming Popular with the People, they might become an Obstacle to the Government in it's Ambitions.

The Government might take the following measures to Restrain/Repress the NGOs'.

▣ 1) Legal Measures :

- Registration Limitation.
- Funding Restrictions.
- Government Monitoring.
- Legal Restrictions on NGO Activities.

2) Extra Legal Measures :

- State Control of Media Outlets.
- Suppression Of Key Leaders.

- Threats Of Armed Force.
This Methods have been used by Countries like – China, Russia, Venezuela, Zimbabwe and Egypt.
- 1) China : China uses them most.
- Limited Rights to Freedom Of Press.
- Loose Adherence to Rule Of Law.
- Encourage NGOs' in the field of Social Welfare and Environment but, they Suppress NGOs' who are critics of the Government and Leaders of such NGOs'

▣ are Suppressed using Extra Legal Methods.

2) Russia :

- New Laws are made to Restrict the Activity Of NGOs'.
- NGO's participating in a Conference in the Year 2006 where, improperly Detained.

▣ Repressive Laws In India.

- ▣ A Repressive Law System is one in which any Law Breaker is Severely Punished for their Crimes.

There is a Rapid Rise in the Terrorist Activities in India disrupting the Social Life and Economy of the Country so, we had to bring in some **Anti – Terrorism Laws.**

- ▣ Since 1980 there has been a Constant Increase in Terrorism Activities killing and injuring **Thousands Of PEOPLE** and Damaging the Property of Common man and the Government and also damaging the National Economy.

Although the killed People were not the Real Targets through whom the Offender wants to send a Message to the Government through such Proxy Victims.

- ▣ The Main Purpose of such Activities is creating Fear and Destabilize the Government.

To Destabilize the Economy and the Restrain the Development of the Country.

TO Show a Decent against Country/Government Policies(Rajiv Gandhi Killing).

Whatever be the Reason, the sufferer is the Common Man, to restrain such Activities, we had to bring in some Harsh Laws.

- ▣ A Majority Of Legislations were aimed at breaking the Back of the Revolutionary Moments by Curbing meetings, Printing and Circulation of Seditious Materials, Propoganda and Detaining Suspects.

Anti – Terrorism Laws in India have always been a Subject of much Controversy.

One of the Arguements is that, it's stands in the way of Fundamental Rights(Suspects are arrested, Survillance, Torture in Custody).

- ▣ The Intention was to enact these statues and bring them to Force till the Situation improves.

Intention is not to make this acts permanent but, since the situation did not improve they were kept in Force with required amendment.

1st Act – UnLawfull Activities (Prevention) Act 1967 (UAPA).

- ▣ **2nd Act** – Terrorist and Disruptive Activities (Prevention) Act 1987 (TADA).

This was a more Stringent Act, it was challenged before **S.C.** As UnConstitutional. In 1994, **The S.C.** In Kartar Singh **V/S** State Of Punjab upheld the Constitution Validity of the Act (TADA). It was Alleged that the Act was Misused and it lapsed in 1995.

▣ **3rd Act** – Maharashtra Control Of Organised Crime Act 1999(MCOCA) Enacted to deal with Organised Crime which was Very Similar to Terrorism Activities. This Act had a high Conviction Rate.

4th Act – POTA 2002 – Prevention Of Terrorist Activity's Act. This Act was considered as Draconian(Athens Greece) Law, it curtailed Various Rights and against Article 21 of the Constitution. It was Repealed in 2004.

▣ Approaches To Violence In India

- **Religiously Sanctioned Structural Violence : Cast And Gender Based**

According to Galtung(Prof. Of Peace Studies).

1) Structural Violence is a form of Violence where some Social Structure or Social Institution may harm People by preventing them from meeting their basic needs.

- ▣ 2) There is some Restrictions imposed upon an individual by virtue of his/her being part of a group.
- 3) In case of a gender based Violence, the Restriction placed on women is a form of Structural Violence.
- 4) Therefore, in the context of Gender and Caste, where the Violence is done as being Part of a Particular Religious Group in a Particular Social Structure, it can be linked to Social Injustice.

▣ 5) Structural Violence is a form of Indirect Violence, **MISERY**, Hunger, Poverty, etc, which gradually erodes Human Values and Lives.

6) In India, a good amount of People are still living in **DEVASTING** Poverty. Poverty in this form of Social Setup is a form of Indirect Violence or Structural Violence.

7) Religious Violence is a Violence motivated by or in relation Religious Beliefs and Doctrines, this may include Violent Attack against Religious.

- ▣ In the Indian Society, Religion has Great Impact on the People. The Lives of People revolve around Religion and on that Basis they decide what is right what is wrong.

Therefore, Religions seem to Sanction some form of Violence in the Society.

- ▣ **Structural Violence – Gender.**

- A Particular Gender is targetted as Victims of Violence(Women).
- Violence Against Women across **GLOBE** and Particularly India & China are covered under Gender Based Violence.

This could be :

- 1) Inter Personal Violence.
- 2) Structural Violence.

Eg –

(a) Forced Marriage.

- ▣ (b) Trafficking.
- (c) Female Infanticide.
- (d) Sexual Violence.

These are all Violation Of Human Rights of Women.

Female Foeticide and Infanticide.

This is a Extreme Form of **GBV**. This is Practiced because of Presumption that only Male Child can carry forward the name of the Family and Girl Childs Are considered as burdens



Traditional Practices :

- 1) Child Marriage.
 - 2) Sati System.
 - 3) Dowry System.
 - 4) Restriction on Girl Child.
 - 5) Educational Preference to Boys.
 - 6) Less Participation of Girls in Social Activities.
- These are all violences against Women.

- ▣ Domestic Violence
- ▣ Women are subjected to various kinds of violence by men at home, which could be ,Physical, mental, sexual, emotional, financial, Psychological, etc by family members (Husband, Mother-in-law, Father-in-law).
- ▣ Sexual Violence
- ▣ It is a most prevalent form of gender based violence. It includes Rape, Marital Rape, Sexual Harassment, Forced Prostitution, Sexual assault.

- ▣ Human Trafficking
- ▣ Transportation, transfer, recruitment etc. Of any person by means of threat, use of force, coercion, abduction, fraud, deception, abuse of power, in exchange of money for further exploitation.
- ▣ The most crucial consequences of violence against women is the denial of fundamental rights to them.

Such violence usually results in

1. Physical Health Consequences : Injury.
2. Unwanted Pregnancy, Miscarriage, Deceases like HIV and AIDS.

- ▣ 3.) Mental Health Consequences – Depression, Fear Anxiety.

Structural Violence – Caste Based

The Constitution prohibits Discrimination and Caste System. But, the People out rightly defies it. This is a Violence that has been in existence in the Society since long.

Naxalism originated due to this Caste Disparity and Exploitation.

- ▣ A Particular Class has Dominance and the Lowest Strata is subjected to Atrocities and Exploitation. Due to this Exploitation, there is Frustration, Depression and Anger amongst the Victims which in Future might give Rise To Violent Revolt against the Perpetrator.

The Issues Are :

1) Untouchability And Discrimination.

This Practice is followed through Various Acts where

▣ People of Certain Class are subjected to :

a) Prohibition From Eating with Other Caste Members.

b) Provision Of Separate Cups in Village Tea Stalls

c) Separate Seating Arrangements and Utensils In Restaurants and Village Functions.

d) Prohibition Of Entering into Village Temples.

e) Prohibition Of Using Common Wells.

f) Separate Graves.

g) Segregation Of Children In Schools.

▣ h) Bonded Labour.

Honour Killings

The Caste Factor is Very Strong, In India even in the 21st Century, *Honour Killing* is the act of vengeance, usually **Death** for having brought dishonour upon the Family.

khap Panchayat usually found in UP and Haryana, follow this Method of Punishing usually the girl or female member of the Family who enter into

- ▣ Alliance with a boy from another Community.

Violence in any Form is not Good for the Society the Structural Violence, which is an Indirect Form Of Violence also has, a larger Impact on the Society based on Religion, Caste and Gender.

▣ **Ahimsa (Non – Violence)**

- ▣ The Beginning of 20th Century, saw the world Advancing Greatly in Science and Technology. With such advancement in Science And Technology there were inventions of Modern Weapons and Explosives of Mass Destruction.

Such type of inventions resulted in increase in the Magnitude Of Violence and contributed towards Destruction in Mass Scale.

Eg – Hiroshima And Nagasaki in Japan where, Nuclear Bombs were dropped during IInd World War which caused Mass Destruction, was the Result of

- ▣ such Technological Advancement and Inventions.

The U.N.O. was born in the Year 1945 to ensure that such **DESTRUCTION** does not happen in the Future and Peace And Harmony Prevail in the Society, this is called as Practicing Non – Violence.

- ▣ During our freedom struggle we noticed that what cannot be achieved through violent movements, could be achieved through Non–Violent Movements.
- India got it's Independence through Non – Violent Movements followed by Mahatma Gandhi & his followers.

- Shubash Chandra Bose.
- Bhagat Singh.
- Bhaga Jatin.

All Of Them Preached And Practiced Armed Revolution, where as Shubash Chandra Bose raised an Army to fight the British to free India.

Mahatma Gandhi – Preached and Practiced Non – Violence & Civil Disobedience.

- Subramanya Bharati
- Rabindra Nath Tagore.
- Muhammad Iqbal.
- Bankim Chandra Chattopadhaya.
- They all used Literature and Poetry to drive away the Britishers.

According to Gandhiji, Violence triggers further Chain Reaction of Violence. Contrary to that Non – Violence tends to eliminate Violence at the Very Beginning.

- ▣ The Beliefs of Ahimsa lies on the concept of 'Cause No Injury in Any Form, be it in deeds, words or thoughts.'

Non – Violence in Hinduism ; Hinduism Preaches that all living beings have the **SPARK** of Divine Energy, therefore to hurt another being is to hurt oneself.

AHIMSA has also been related to the Notion that any Violence has Karmic Consequences, Karmic Means Karma, that is our Deeds, Work or Actions.

- ▣ Good Karma results in Good Effects in Future or Rebirth, Whereas, Bad Karma results in Bad Effects in Future or Rebirth & causes **SUFFERING & MISERY**.
- ▣
Hinduism believes in Rebirth & we might suffer bad fate in Rebirth due to our wrong deeds in this birth.
- ▣ Vedas – The Sacred Text also Preach Ahimsa (**VEDIC ERA**).
- ▣ The Epic, **MAHABHARATH** : There is a misconception that **MAHABHARATH** teaches

▣ Violence, infact the **MAHABHARATH**, One of the Epics of Hinduism has Multiple Mentions of the Phrase, “Ahimsa Paramo Dharma”, which means Non – Violence is the highest Moral Virtue.

- Ahimsa is the Highest Self Control.
- Ahimsa is the Greatest Gift.
- Ahimsa is the Highest Sacrifice.
- Ahimsa is the Finest Strength.
- Ahimsa is the Greatest Happiness.

- Ahimsa is the Greatest Teaching.

Bhagavad Gita, in 'Chapter 16', in Sloka 2 and 3, where Violence and Negative Attributes(Anger, Jealousy, Arrogance) were Condemned by Lord Shri Krishna. Violence is the Last Resort. Lord Krishna and Pandavas tried their Best to Avoid the War.

Self Defence, Criminal Law & War.

Now the Question arises, What People who practice the Virtue of Ahimsa can do and must do when they

▣ are faced with war, Violent Threat or need to Sentence someone Convicted of a Crime, this Discussions have led to the Theories of 'Just War' and Theories of Reasonable Self Defense and Theories Of Proportionate Punishment, Kautilya / Chanakya also discusses these things in Artha Shastra.

The Percepts of Ahimsa under Hinduism Require that War must be avoided, with Sincere and TruthFul Dialogues. Force Must be the Last Resort.

- ▣ If War becomes necessary it's cause must be Just. It's Objective to Restrain the Wicked, it's Aim Peace and it's method LawFul. Purpose must be to defeat the enemy but, not cause Misery.
- Use of Arrows is allowed but, use of Poison in the Arrow is not allowed.
- Wounded, UnArmed Opponent Warriors must not be attacked nor Killed, they should be given Medical Treatment.

- Children, Women And Civilians must not be injured.
- While the War is in Progress, Sincere Dialogue for Peace must Continue.

Self Defence

Self Defence is Appropriate but, the aim must be to Neutralize the Aggression of the Attacker and Avoid the Conflict.

▣ *Criminal Law*

Some Preach that Evil Doers who deserve death should be killed and the King who is Obligated to Punish Criminals should not Hesitate to Kill the Offender. This is Acceptable in Practice of Non – Violence.

Ahimsa In Jainism

The Hand with the wheel on the palm symbolises Ahimsa in Jainism.

▣ Ahimsa – Written in the Middle.

Wheel – Dharma Chakra.

According to Non – Violence in Jainism, killing of any living things is considered as Himsa and if you Abstain from such things it is considered as Ahimsa.

The Vow of Ahimsa is considered as the Foremost Amongst the Five Vows Of Jainism.

Ahimsa Paramo Dharma is often Found inscribed on

▣ the walls of Jain Temples.

The Aim is to Prevent the Accumulation of Harmful Karma.

According to Jain Tradition, either Lacto Vegetarianism or Veganism is Mandatory.

Jainism Concept of Ahimsa Preaches that :

- It Prohibits Ritual Sacrifices.
- Killing Of Animals for food is absolutely ruled out.

- Not to injure Plants in everyday Life as far as Possible.
- Not to hurt even small insects/organisms.
- Going out in the Night is prohibited because of Liklyhood of Stepping on an insect.
- It is believed that injury caused by carelessness is like Deliberate causing of injury.
- Eating of Honey is out lawed because it is considered as Violence against Bees.
- Non – Violence or Ahimsa is the Central Doctrine of

- ▣ Jainism and all actions are directed towards avoiding harm to other living beings whether Through Physical, Verbal or Mental Violence.

Non – Violence in Buddhism.

Buddha means 'The Enlightened One.'

When Gautam Buddha was born the Indian Society was undergoing suffering from Rigid Caste System.

- The social order was suppressive and repressive.
- Buddha preached Ahimsa as a way to bring

- Communal harmony and social progress.
- According to buddhism there are five principles that govern life. These are called PANCHSHEEL which are as follows :
- Not to kill
- Not to steal
- Not to tell lies
- Not to commit adultery
- Not to use intoxicants

- The doctrine of ahimsa in Buddhism is more practical as it is free from extremes as seen in Jainism. Path of Buddha is middle path i.e avoidance of extremes , it includes
- Non violence –against all living things
- Non hatred –do not hate any one not even your enemy.
- Renunciation –giving up of worldly things.
- Nirvana – moksha , mukthi –release from earthly matters.

• **NON- VIOLENCE IN CHRISTIANITY.**

- Christianity is the largest religion in the world today .
- Most of the western countries profess Christianity.
- According to preaching of Christianity,
- Christianity propogates non-violence in its teaching.
- Jesus christ was called as prince of peace , who belived in non-violence .
- Christian verse LOVE THE ENEMY signifies the concept of forgiveness and non-violence.

- He believed SUFFERING is a means to convert hatred in to love.
- He was crucified by his enemies , and during his crucification he said ,
- **“ Father, forgive them for they know not what they do”**.
- Thus spreads love and non-violence.
- **NON-VIOLENCE IN ISLAM**
- The word Islam means peace, safety, goodwill and salvation.

- Is also based on the principles of love, justice and brotherhood.
- The teachings of Islam are based on the HOLY QUORAN and SUNNAH of the prophet.
- Islam believes in love, peace, brotherhood , tolerance forbearance ,charity, unbiased attitude etc.
- All the major religions have propagated the belief of non-violence or Ahimsa as the only way of achieving peace.

- **GANDHIJI'S APPROACH TO NON-VIOLENCE.**
- Gandhiji was heavily influenced by the story of king Satya HarishChandra in a Play and his Adherence to truth, and his achieving triumph on the path of Truth by withstanding all the difficulties on the way.
- Gandhiji Believed in and followed Basic Theories of Non – Violence and Truth.
- The Technique of Satya Grah and Non – Violence Action, Formulated and practiced by Gandhiji, was a different approach to Non – Violence altogether and had a very positive effect.

- He Preached what he Practiced.
He was essentially a 'Man Of Action' & said that, “ Realisation Of God could only be through service to Humanity.”
- According to him, “ All Human Beings are Children Of God and are connected to each other and Violence can't create any bonding. Non – Violence is thus an essential element that controls Human Relation.”
- He Completely adheard to Non – Violence and considered it as a Spiritual Weapon. He Also made it Clear that this is for the People who had courage

- Self – Suffering, emphasised by Gandhiji was the **KEY** SatyaGraha Technique.
- Non – Violence is The Greatest Weapon or Power at the Disposal of Human Kind which can bring **PEACE** in the World.
- He observed that Violence originated from anger and anger can be avoided Thus, preventing destruction in Mass Scales.
- According to Gandhiji, Practice and Applicability of Non – Violence can be of 2 Aspects :

- ▣ (1) Non – Violence in Thoughts.
(2) Non – Violence in Action.

Non – Violence does not mean to bear with Injustice and it's not also a submission to wrong. Rather it is condemning the Evil, without getting angry or resorting to Violence.

- **Gandhiji's Philosophy Of Non – Violence**

- **Essential Elements :**

- Truth is the Most Important Element Of Non – Violence. In Changing Circumstances we should avoid having Pre – Formed Ideas but, stick to Truth.
- Ahimsa - Is the Non – Violence in Thought, Word and Deed.
- TrusteeShip – Gandhiji believed in Doctrine of TrusteeShip, whereby everybody has Equal Right in the use of Nature and Nothing belonged to any Single Individual.

- ▣ The Very Concept of Material Belonging gives Rise to Violence.
- **Love** – Practicing Non – Violence is the only way where Hatred can be turned into Love and when there is Love And Affection there is **NO** Way For Violence.
- **Perseverance and Tolerance** – The Virtue Of Patience and Tolerance is very essential to Develop Non – Violence approach in the Society.
- **Courage** – People should have Courage to withstand the Pressure in the Path Of Non – Violence.

- **Acceptance** – WE Should accept the Fact that we all are One Single Community of Human Beings and all differences are Man – Made and can be Resolved through Peace Methods.
- **Respect** – Everybody must have Respect for each other and **RESPECT** the Faith, Religion and Caste followed by Others.
- **Understanding** – Mutual Understanding.
- **Appreciation** – Appreciate the Good Things and Overlook the Bad Things.

- **Instances Of Non – Violent Movements By Gandhiji :**

On the Night of June 7, 1893, Mohandas Karamchand Gandhi, a young lawyer then, was thrown off the train's First Class “Whites – Only” compartment at Pietermaritzburg Station in South Africa for refusing to give up his seat.....When Gandhi refused to move to the rear end of the train, he was thrown out.

- From there on he decided to fight injustice and defend his rights as an Indian.

- He decided to stay back in South Africa, and to fight for the rights of Indians and organised his first campaign of SATYAGRAHA, OR MASS CIVIL DISOBEDIENCE. After seven years of protest, he negotiated a compromise agreement with the South African government.
- In 1915 he returned back to India and by 1920 he was the leader of India's independence movement.
- His method was always non-violent, he was jailed several times but always released because of his mass following.

- **NON-COOPERATION MOVEMENT (1920 TO 1922)**

- After Jalianwala Bagh massacre-april 1919.

- It was a movement against British oppressive methods. Gandhiji asked people to refuse buying British goods and use only local handicraft goods. He also asked people not to follow British rules through non-violence method.

- **DANDI MARCH- 12TH MARCH TO 6TH APRIL 1930**

- THIS was an action against British policy of heavy tax and salt monopoly.

- ▣ He marched along with his followers for 24 days covering about 240 kms from Sabramati Ashram to Dandi and made salt, breaking the salt laws. Another reason for this march was that the civil disobedience needed a strong inauguration that would inspire more people to join the movement of civil disobedience.

- ▣ **CIVIL DISOBEDIENCE MOVEMENT**

- It began with famous Dandi March in 1930, and was followed by civil disobedience all over India. The whole movement was non-violent though Britishers resorted to lathi charge, in which 300 people were injured and two were killed.

- There were demonstrations, hartals , boycott of foreign goods and later refusal to pay taxes. Lakhs of people participated in the movement, including large number of women.
- There were some other movements like
- **CHAMPARAN SATYAGRAHA - 1917**
- **KHEDA SATYAGRAHA—1917 TO 1918**
- **KHILAFAT MOVEMENT—1919**
- **QUIT INDIA MOVEMENT—1942**

- Thus Mahatma Gandhi led many nonviolence movement against Britishers, by way of observing fast and methods of Satya Graha.
- **DISCOURSE ON POLITICAL VIOLENCE AND TERRORISM DURING COLONIAL STRUGGLE.**
- Political violence :
- This simply means when violence is used by people and governments around the world to achieve political goals.

- Eg: war- state vs state, Genocide , rebellion against the state.
- Non – Action of a government can also be called as political violence.
- Eg: refusal to provide food during famine
- 1770 Famine of bengal , 1943 Famine of bengal, in which millions of people died.
- Inaction or late action of government during riots and communal violence.
- Political violence is very different from criminal violence.

- Political violence is politically motivated, pre planned for political gain, whereas criminal violence is done by criminals for some personal gain or may be at the spur of the moment.
- **TERRORISM-** Refers to a strategy of using violence, social threats or coordinated attacks in order to generate fear, cause disruption and ultimately brings about compliance with special political or ideological demands.

- United States Code of **FBI** defines Terrorism as the Unlawful use of Force and Violence against Persons or Properties to intimidate or Coercive a Government, the Civil Population or any Segment thereof, in furtherance of Political or Social Objectives.
- What distinguishes Terrorism from Other Forms Of Violence, is a deliberate and Systematic Use Of Coercive Intimidation.

▣ **Political Violence During The Colonial Struggle**

- During the British Raj and The Colonial Struggle, People felt the Repression when British started using Oppressive Methods.
- Though there were Uprising (Revolt Against Government), they were not successful because of Superiority of British Force.
- There were many Strategies followed by Different Groups to achieve Independence, some followed Violence while some followed Non – Violence.

- When Britishers wanted to establish their Colonies in India, they defeated Dutch and Portuguese who had already invaded India to establish their Colonies.
- They had to defeat Mughal Empire,
Battle Of Placy 1757 – British East India Company over Navab Of Bengal and French Allies.
- Battle Of Baksar 1764 – British East India Company over Mir Kasim the Navab of Bengal.
- **DEFEAT** Of Tipu Sultan 1799 Supported by Nizam Of Hyderabad.

- ▣ After that the Britishers took over the Entire Country.
- After taking over the Entire Country they started disregarding Customs and Traditions of The Country and they Started Opressing the People.
- The First Rebellion against the British Government was seen In 1805 and 1806, the First Major Rebellion by British Indian Soldiers against The Government **happened in 1857**, Mangal Pandey, inspired to Rise against British Government.

- ▣ After this incidence the Governance of India was taken over by the Crown Of England from East India Company.
- All these Revolts were quashed by the British Government without any Mercy because of their Superior Military Power. After 1857 the Military and Political Power of The British was Firmly Established.
- In July 1905, Lord Curzen ordered Division of Bengal on the Basis Of Religion, that is Hindu And Muslim. This British Tactics of 'Divide And Rule' enraged the Indians and there were Wide Spread Agitation and 'Swadeshi Movement', where all Foreign Products were **BANNED & BURNED.**

- ▣ .
- ▣ The Struggle Of Independence therefore, had a new Outlook and Revolt and Violence was at the Brink of Explosion.
- 1st World War – 1914 to 1918. Both Men And Resources from India were used during the 1st World War, 1/6th of Military were Indians, there were high Casualties about 54 Thousand Deaths and 65 Thousand Injuries and 4000 Missing were Reported. It had an Adverse Moral Effect on Indians.

- 2nd World War 1939 to 1945, 2.5 Million Indian Men Took Part, 87,000 Lost their Lives; 34,000 were wounded and 1,000 became Prisoners Of War or Missing.
- After Gandhiji Returned to India from South Africa in the Year 1915, he introduced Various Moments for gaining Freedom like Civil Disobedience and Non – CoOperation Movement and Propagated the Use Of Non – Violent Methods.

- ▣ On April 13th 1919, the British crossed the Limit of Brutality, when they Opened Fire on a Group who had Peacefully gathered at Jalian Walla Bhag at Punjab, which was ordered by General Dyer.
- ▣ After the Said Incident there were Rise in Revolutionary Movements, where many groups were Involved in Violent Activities against the British Rule. Eg – Chandra Shekar Aazad – Train Robbery 1929. Bhagat Singh – Threw Bombs at Legislative Assembly April 8th 1929, Bhaga Jatin, Ram Prasad, Sukhdev also Participated in the Violence.

- ▣ **Udham Singh Shot Dead General Dyer – 1940**

But, after that due to change in Political Scenario that is there was an Indication that British Government is likely to give Independence to India, such Agitation declined.

▣ **Agrarian Violence And Repression**

- India is Predominantly and Primarily an Agriculture Based Country, around 60% of the Population in India is dependent on Agriculture.
- The Word Agrarian means, 'Ownership of Farming Land and Cultivation On It', the Production from such Land is used for their Consumption and was sold for Meeting Other Needs Of Life.
- The People Associated with Agriculture can be divided into 3 categories :

- 1) LandLords or *Jamindars* who own large areas of Land, who employ farmers to cultivate those lands.
- 2) SmallLand Holders.
- 3) Peasants – Small Farmers, Tenants, Share Croppers, etc, usually Members from lowly social class.
- During British rule ,small farmers and peasents were exploited by the British government and Zamindars.
- British imposed a very heavy tax as land revenue.
- Britishers as well as the landlords acquired small

- Lands belonging to the small holders at very low rates using force.
- LandLords used to Lend Loans at very high rates of Interest and when the Poor Farmers were not able to Repay the Loans, their Small Lands were **FORCIBLY** taken by the Land Lords against Settlement of their Loan And Interest.
- Due to such Oppressive Tactics, the Small Farmers Suffered **HUGELY** due to Heavy Taxes, Debt Burden and Industrialisation. India being an Agricultural Country, people didn't know what else to do.

- ▣ Slowly and Gradually there was some kind of Resentment amongst the Small Farmers and Peasants against the British Government and LandLords.
- ▣ Some of these farmers took up Arms against British Government and the Zamindars to Fight for their Rights.
- ▣ Such Uprising of the Farmers against Opression is called as **Agrarian Violence**, Adoption Of Violent Methods Of Agitation By Farmers in India was the Direct Result of their Exploitation and Denying of their Rightful Basic Rights.

▣ **19th Century Agrarian Violence**

- ▣ **1) Santhal Rebellion** :- (Santhal Community) It is situated in Present Day Jharkhand. Rebellion was against British Colonial Authority and Zamindar System.
- ▣ Started on June 30th 1855, Mobilized around Ten Thousand Santhals. On November 10th 1855, Martial Law was Proclaimed which Lasted till Jan 3rd 1856, when Martial Law was suspended and the Movement was Brutally **QUASHED** by British Troups.

- ▣ Led by – 4 Murmu Brothers (Siddhu ,Kanhu, Chand and Bhairav).
- ▣ Reasons for Uprising : By Tribal People – Bengal Presidency.
- ▣ 1) Tyranny in Revenue Collection System by Britishers, enforced by Local Zamindars and the Courts.
- ▣ 2) High Rate of Interest on Money Lending – When could not be Repaid their Lands were forcibly taken.

- ▣ 3) Zamindari Systems in India, where Peasants were Treated as Bonded Labour.
- ▣ 4) Atrocities of British Police Force.
- ▣ 5) Judiciary System under the Control Of East India Company or British Government.

▣ **Moplah Rebellion (1836-1854) 1921**

▣ **Malabar Region in Kerala.**

▣ Rebellion – Moplah Peasants **V/S** Hindu LandLords and State.

▣ There were Series of Revolts during this Period (22 Movements), this Rebellion was More of A Communal Clash rather than Agrarian Violence.

▣ In the Traditional Malabar Land System, the Land's were held by Hindu's by Birth Right (Jenmis).

- ▣ The Peasants were mostly Muslims since there were Peasants involved in the Revolt, the Movement was given Agrarian Colour whereas, the Main Reason was Communal Clash against Ownership of Land.

1921 Khilafat Movement – Freedom For Muslim Peasants.

- ▣ The Government couldn't take Strong Actions due to Weakening of Military because of Participation in 1st World War. It was Crushed at the End of 1921.

▣ **The Kol Rebellion 1831**

- ▣ The Kol's were Tribal Inhabitants of the Chota Nagpur Region, a part of Bengal Presidency.
- ▣ The Kol's **FEARED** their Independence would be threatened by the Britishers so, in order to resist the British Invasion, the Kol's rose in Rebellion in 1831.
- ▣ The King of Porhat agreed to pay Huge Taxes to the British Government but, the Kol's refused the Agreement and broke into Rebellion.

- ▣ The British sent their Troops to Suppress the Rebellion. The Kol's could not Match the British Troops who had Modern Weaponry, with their Traditional Weapons.
- ▣ The Kol Rebellion was due to the Exploitation and Oppression faced by the Local's in the Hands of other Non – Tribals, they felt threatened by the British Agents and Non – Tribals encroaching their Territories.

INDIGO MOVEMENT (1859-1860)

- ▣ Cause of Revolt : indigo planting in BENGAL dated back to 1777. But after British invasion in Bengal indigo planting became more and more profitable because of demand for blue dye in Europe.
- ▣ The indigo planters persuaded/pressurised the peasants to grow indigo instead of food crops.
- ▣ They provided farmers with loans at high rate of interest. Once the farmer took such loan ,he remained in debt forever and passed on to his successor.

- Since the planters paid very less price, farmers could not make any profits growing Indigo. The British law also supported the planters in oppressing the peasants
- Zamindars also sided with planters.
- Under this severe pressure , the peasants resorted to violence.
- The revolt:- The revolt started from the village of Gobindpur and Chaugacha in Nadia district . The revolt was led by Bishnu charan Biswas and Digambar viswas.

- ▣ The Movement spread to other Parts very Rapidly. Some Indigo Planters were given Public Trials and executed. The Indigo Depots were Burned down.
- ▣ The Revolt was Ruthlessly Supressed by large Forces of Police and Military backed by the British Government. Many Peasants were killed in the Incident.

▣ **Pabna Peasant Uprising 1873 to 1876**

- This Area is now in Bangladesh, this was a Resistance Movement by the Peasants (RYOTS) against the Landlords in Bengal. This Movement was led by Ishan Chandra Roy.
- Some Landlords forcefully collected Rents and Land Taxes and they also increased Taxes and Rent very oftenly.
- Prevented Tenants from acquiring Occupancy Rights Under Act X of 1859, the Peasants were often evicted from the Land due to Non – Payment, due to Decline in the Production of Jute in the 1870s,

- ▣ The Peasants were Struggling with Famine. At the Same Time the Land Lords enhance the Taxes which Triggered the Revolt.
- ▣ They tried setting up their Own Self Government, with an Army to fight the Zamindars and Police. But, the Interference of Sir George Campbell, the then Lt. Governor of Bengal, who advised Zamindars to Impose Tax according to the Provisions of The Law and not Opress the Peasants. Gradually the Revolt Subsided.

▣ Deccan RIOTS 1874 to 1875

- Peasants of Maharashtra from Pune, Satara, Ahmad Nagar Revolted against increasing Agrarian distress.
- *Reasons* – Debt Peonage(Bonded Labour).
- The Land Lords had given Loans at High Rates and when Peasants were not able to Repay the Same, they were made Bonded Labour.

The Peasants Revolted against this. Their Main Aim was to Destroy Bonds, Decrees and Other Documents in the Position of Land Lords and

- ▣ Other proofs with Money Lenders.
- ▣ Initially the Government used Force to Pacify them but, later the Commission had to be Appointed who looked into the Matter and Gradually the Revolt came into a Conclusion.
 - ▣ **20th Century Agrarian Violences/Movement**
- *Champaran Indigo Satya Graha – 1917.*
- *Place : Champaran District Of Bihar during British Rule.*

- ▣ The Movement inspired by Gandhiji which was given a name of 'Satya Graha', which was a Major Revolt in Indian Independence Movement.
- *Reason : Tenants Farmers were Forced to grow Indigo in their Farms as a Condition of Tenancy because the Indigo had a Good Market in Europe.*
- But, the Germans had invented Artificial Dye, so the Prices of Indigo fell Drastically which had an Adverse Effect on Farmers Income.
- But, during World War 1, the German Dye wasn't available and hence once again the peasants were

- Forced to grow indigo. This caused much anger and resentment amongst the peasant.
- Gandhiji arrived at Champaran, assessing the situation the police arrested him. But had to be released because thousands of people gathered in front of the police station protesting against his arrest.
- He organised various protests and satyagrahas against landlords and govt. , which relented and cancelled revenue hikes and granted more control over farms.

• KHEDA SATYAGRIHA---1917

- Location :--kheda dist of gujrath
- Organised by :-- Mahatma Gandhi and Sardar Patel
- The people of the region were not able to pay the high taxes because of crop failure and plague epidemic.
- The Peasants, with the help of sardar patel filed a petition for scrapping of taxes for the Year. But the government rejected the petition and warned people that in case of failure to pay taxes their properties would be confiscated and will not be returned even if

- ▣ The tax is paid at a later date. Government sent thugs to confiscate property and cattle, people did not protest, so the revolt was peaceful.
- ▣ But nobody came forward to buy the goods in Auction. Later the government agreed to forgo the tax for that year and properties also were returned.

▣ **Kisaan Movement 1920**

- In Awad U.P. The Farmers were Opressed due to many Reasons like, Lack of Ocupancy Rights, Exploitation by Land Lords, Heavy Debts, World War 1, Forced Labour, Forced Eviction, Bonded Labour, etc.
- The Awad **Kisaan Sabha** asked Farmers to Protest by 1921, the Movement became Agressive and started Looting and Attacking Zamindars.
- As a Result of the Revolt the Awad Rent Act was amended and the Violence was put to and End.

▣ **Bardoli Satya Grah 1928**

- Location – Bardoli Gujarat State.
- Method – Civil Disobedience and Revolt in the Indian Independence Movement.
- *Lead By* :- Sardar Valab Bhai Patel in 1925, Bardoli suffered from Floods and Famine and Facing Great Financial Trouble.
- The Government had raised the Tax by 30% and despite Petitions from People, the Government refused to Cancel the Tax. People had Barely

- ▣ anything to eat because of National Calamities.
- ▣ Patel lead the Peaceful Revolt and Refused to pay Tax, resulting in Government, confiscating Properties of Farmers.
- ▣ But, during such auction of Properties nobody came forward to buy those Properties so, Government relented and returned the Properties and Taxes were exempted for that Year and Increase also Cancelled for 2 years.

▣ Agrarian Violence During 21st Century

- There were some Agrarian Violence in 21st Century also but, Reason behind such Violence was Totally different from Revolts of 19th and 20th Century.
- The Main Reason Behind such Violence in 21st Century was Government's Decision to allot Farmlands to Big Industries under Different Government Policies thus, Depriving the Farmers there Livelihood.
- Some Instances of Violence :
 - 1) Singur – West Bengal – 2006. The Protest Was Against allotting of **Agrarian Land** to Tata AutoMobile

▣ Project

2) Nandi Gram – West Bengal – 2006.

Protest against Government's Decision to allot **Agrarian Land** to a Chemical Company.

3) Lal Garh – West Bengal – 2008.

Protest against Government's Decision to allot Fertile **Agrarian Land** to Jindal Group to Setup a Special Steel Plant.

All this Revolts were Backed by Communists and Employed Some Degree of Violence.

▣ Analysis

- ▣ 1) Most of the **Agrarian Violence** except the 21st Century Violence was caused because of the Following Reasons :
 - A) Exploitation of Peasants.
 - B) Harsh Government Policies like, Heavy Taxes and Land Revenue.
 - C) High Interest Rate on Loans.
 - D) Forceful Land Grabbing.
 - E) Bonded Labour, etc.

- ▣ 2) Most Of the **Agrarian Violence/Revolt** were Violent in Nature except the ones lead by Mahatma Gandhi.
- 3) The Naxilites and CPI(M) lead Movements had the Object of Overthrowing the Government and Grabbing Power.
- 4) Many Demands of the Peasants were conceded.
- 5) Most of the Movements were Crushed within 6 Months but, Some lasted for 1 or 2 years.

▣ COLONIAL LEGAL ORDER AS A CAUSATIVE FACTOR OF POLITICAL (AGRARIAN) VIOLENCE.

- The British invasion in India resulted in many agrarian violences due to various repressive methods resorted to by the British Government. Many policies and legal orders by the British government instigated various agrarian violence.
- **THE LEGAL ORDERS.**
- **1) Excessive and unreasonable land taxes in India.**
- When British arrived in India, although 70% of the population was engaged in agriculture, it was famous

- For production of COTTON CLOTHES through hand loom weaving and also famous for handicraft industry
- After arrival of British in India they imposed tariff and taxes on this products . It is also alleged that they destroyed these looms and other handicraft industries .
- They established power looms in England and started exporting raw materials from India and started manufacturing cotton clothes , which were being produced in India till then. The motive behind closing of these industries is to drive these people towards agriculture which was the main source of income for For the Indians.

- ▣ The land tax (lagaan) which was collected from farmers, was main source of income for the Britishers and was an easy way. Thus Britishers achieved two goals with one action of destroying Indias looms and handicraft industry.
- ▣ Land revenue was the major source of income for kings and emperors since ancient times in India, Britishers also carried forward the same method of revenue collection.

- Since majority of Indians engaged themselves in agriculture it was a major and easy way of revenue for the British government.
- They adopted 3 types of land tenures.
- **LAND TENURE** :- The way in which land is held by an individual from the government ,i.e relation ship between land holder and the government.
Government was the absolute owner of land at that time.

▣ **Zamindari System**

- Roughly, 19% of the Total Area under British Rule mainly, Bengal, Banaras, Bihar and Northern Karnataka, were Brought under **Zamindari System**, this System introduced by Lord Corniwallis in 1793 through Permanent Settlement Act.
- The Zamindars were Recognised as Owners of the Land as long as they Paid, Revenue to the East India Company regularly.
- The Amount of Tax was Fixed.

- ▣ 1/11th of the Collected Revenue went to Zamindars and 10/11th went to East India Company, the **RYOTS** were considered as Farmers and Tenants.
- ▣ The Revenue fixed by the Authority was too high. Many Times, Zamindars also defaulted on Payment. **RYOTS** were always under stress because of **LEGAL** and **ILLEGAL** Taxes on them.

▣ **RYOTWARI SYSTEM 1820**

- Sir Thomas Munro, Governor of Madras introduced this System
- About 52% of the Area under British Rule was brought under this System, comprising Part of Bombay and Madras Presidency and Assam.
- 1) Under this System, the Ownership Rights were given to Peasants and the British Government collected Tax directly from Peasants.
- 2) There was no Intermediary like Zamindars.
- 3) The Revenue Rates of **RYOTWARI SYSTEM** was

- ▣ 50% where the Lands were dry and 60% in Irrigated Lands.
- ▣ 4) This Revenue Rates were Fixed during a Good Crop but, these were not considered when there was a Crop Failure.

- ▣ **MAHALWARI SYSTEM 1833**

- The Area consisted of 30% of the Total Area under British Rule. Consisted of Central Province, North West Frontier, Agra, Punjab.

- ▣ A) In this System, Lands were divided into **MAHALS**. Each **Mahal** comprises of one or more Villages.
- ▣ B) Ownership Rights were Wested with Peasants.
- ▣ C) The Village Commitee was held Responsible for Collection of the Taxes.
- ▣ Overall in all the 3 System, the Tax was very heavy and the Ultimate Sufferer were the Poor Peasants.
- ▣ Many of the Europeans themselves, Observed that the Tax System was Exorbitant.
- ▣ Bishop Hebr – 1826 – No Native Prince demands the Kind of Rent which we demand.

- ▣ Col. Bigs in 1830 wrote – The Kind Of Tax imposition which is in existence now in India, which exist no where in Europe.
- **2) Forced Indians to Grow Raw Produce Only.**
- The Main Motive behind such Policies to make India to supply Raw Material to English Industries in England at a Cheaper Rate, so that they can Manufacture Finished Goods and sell them at a Handsome Rate. Indians Were Not Allowed to Make Finished Goods.

- ▣ This selfish Motives of Britishers were Successful but, the Indian Farmers suffered a lot because of British Supressive Methods.
- ▣ India who were exporting many Finished Goods before British Intrusion started importing same things because of British Policies, many Artisans lost their Earnings.
- ▣ There were also Orders to Force Indian Artisans to Work at Companies Factories.

▣ 3) Peasants were forced to grow Commercial Crops only.

▣ The Policy of Commercialisation of Agriculture by British, Forced Indian Farmers to grow Cash Crops such as, Opium, Tea, Coffee, Sugar, Jute and Indigo.

▣ This, not only Prevented Peasants from growing Food Crops but also Degraded the Fertility of the Land, where no other Crops could be grown.

▣ Apart From That, the Farmers were given very low price for this Cash Rich Crops.

• 4) Forcing More Land on Farmers.

Farmers were Forced to Take More Land on Tenancy Basis, though they were not able to Cultivate the Entire Land.

- ▣ And thus, the Britishers used to Extract more Revenue from the Farmers.
- **5) Forced People to Abandon their Occupation and Work For The Company.**
- The East India Company never Encouraged the Growth Of Indian Industries.
- They Encouraged the Sericulture (Production Of Silk) but discouraged the Manufacture of Silk Fabrics. The Silk Winders were Forced to Work in Company's Factories and Prohibited Working anywhere Else, due to this Policy, many Industries which were Prospering in India were Gradually Forced to Close.

- ▣ Thus, the Britishers had the Desired Effect of Carrying Raw Material from India to England and Flooded the World Market with Finished Goods for enormous Profits, which other wise would have been India's Share.
- **6) Imposition of Heavy Duties and Taxes on Country Traders.**
- In the 18th Century, whenever an Indian Trader wanted to Transport his Goods by Road or by Navigable Rivers, he had to pay inland Taxes and Duties which were Quite Heavy.

- ▣ But due to 'Farman' or Royal Order, this Taxes and Duties were **not Imposed** on the Goods imported or exported by East India Company.
- ▣ Thus due to Tax Burden, the Indian Goods had to be Sold at Higher Rates in Comparison with British Goods which Ruined Indian Traders, that is how the **EIC** Monopolised the Trade.
- **7) Forcible Acquisition and Public Auction Of Estates of Zamindars.**
- The Land Of Zamindars who were not Able to Pay the Tax Dues and the Ones who were not Loyal to the Britishers were Forcibly Auctioned at Public Auctions.

- **8) Policies Resulting in Famine :- No Relief Measures From The Government.**

- India is Pre Dominantly an Agricultural Based Country but the Farmers mainly dependant on Monsoon for Irrigation but due to Droughts and Crop Failures combined with British Policies resulted in Famines.

- Inaction of British Government added Fuel to Fire.

- 18Th, 19th and 20th Century Famines resulted in 60 Million Death, not Entirely due to Lack of Food but due to British Inaction and Biased Behavior.

- ▣ Instead of supplying the Surplus Food to Famine Hit Areas, the Same were exported to England.
- ▣ Florence Nightingale pointed that Famine in British India were not Caused by Lack of Food but due to Non – Transportation of Food to the Suffered Area.

- **9) Misuse Of Political Power.**

- Opression and Supression of Indian People through **Misuse Of Power** was the Main Tactics of British Rule. Divide And Rule was one of the Main Planks.

- ▣ British Exploited India to the Maximum to their Gain because they had Legal Order being in Power and they implemented them by **Misusing and Overusing** to the Maximum for the Benefit of Political Gain.

▣ **The Telangana Struggle And Legal Order**

- The Telangana Movement refers to a Movement for the Creation of a New State, Telangana from the Pre Existing State of Andhra Pradesh.
- The New State corresponds to the Telugu Speaking Portion of the Erstwhile Princely state of Hyderabad.
- After several Years of Protest and Agitation, the Central Government under UPA decided to bifurcate the existing Andhra Pradesh state on 7th Feb 2014, the Union Cabinet Unilaterally cleared the bill for the Creation of Telangana.

- ▣ Lasting for Decades, this has been one of the most long lasting Movements in South India.
- ▣ Hyderabad would be the Capital of Telangana and AndhraPradesh for a Period of Maximum of 10 Years. On 2nd June 2014, Telangana State was created.

- *Constitution Provisions For Formation Of A New State :*

Formation of a New State is Constitutional Issue and hence, we need to study the Provisions of the Constitution.

▣ Article 2 and Article 3 of the Constitution deals with the Formation of New States, the Struggle is Basically for Formation of a New State of Telegana out of State of Andra Pradesh.

• *Provisions of Constitution :*

1) Political **WILL** and Parliament **Bill** are enough for Formation of a New State.

2) Neither the Consent of Andra Pradesh Assembly nor the Amendment to the Constitution is required for Carving out a New Territory from the Boundaries of Present Andra Pradesh State.

- ▣ 3) The Constitution in Article 3 Vests the Power to form New States and Alteration of Areas, Boundaries or Names of Existing States in Parliament Alone which may pass the law on the Subject.
- 4) A Bill for the Purpose can be introduced in either House of Parliament on the Recommendation of the President which in fact means Recommendation of the Union Government, as a President acts on the Advice of the Union Government.
- 5) The Constitution is however silent on the Subject of the Criteria forming States, it is completely under the

- ▣ discretion of the Government.
- 6) Moti Lal Committee Report of 1928 Recommended the Formation of States on Linguistic Basis.
- 7) British People having no Regard to Language and Culture Of Indians, constituted Large Provinces only on Administrative Criteria.
- 8) Legislation for Creating Telangana comes under the Ambit of Article 3 (A).
- ▣ 9) In case of Telangana, union government has to take a political decision and the president has to recommend the parliament to Pass the Bill .
- ▣ 10) The Bill which is being introduced ,is to be

- To the concerned state (Andhra Pradesh)
- 11) however, the opinion or opposition of the concerned state does not matter because once the Bill is passed by the parliament and assented to by the president it becomes effective.

HISTORY OF TELANGANA STRUGGLE

- After Independence, the state reorganisation commission was appointed to prepare for the creation of states on linguistic basis in December 1953. The commission headed by Justice Fazal Ali.
- The state reorganisation commission was not in favour of an immediate merger of the Telangana region

- ▣ with Andhra State, despite Common Language between two.
- The Public Opinion of Telangana was not in Favour of the Merger because till then it was a Separate State and they wanted a Separate State.
- The People of Telangana had Several Concerns :
 - A) It had a larger Revenue Base which People thought Might be diverted to Andhra Pradesh.
 - B) They also Feared that planned Irrigation Project of Krishna And Godavari River would not benefit Telangana.



C) They also Feared that People of Andhra who had Access to Higher Standard Of Education under the British Rule would have an Unfair Advantage in seeking Government and Educational Jobs.

- Despite all this, Telagana was Merged with Andhra Pradesh.
- The Fazal Ali Commitee stated that, “ It Would be Wrong to Merge Telangana with Andhra”, Once the Old Hyderabad State (North Karnataka, Marathwada and Telangana) was Abolished.

- But that Recommendation was overlooked by the Government of India and a Gentlemen's Agreement was entered into by the Leaders of Telangana and Andhra Pradesh under the Promise that :

A) Telangana will profit from Proposed Dams of Krishna and Godavari.

B) Telanganities would be given Preference in Government Jobs.

C) 40% of Ministers from Telangana.

- By 1969, the Illusion had been shattered, once every Clause of the Agreement had been Broken.

- Telangana erupted for demand of Separate State, ' Jay Telangana' Movement started in which Students also Participated. More than 350 People died in Police Firing including Students from Osmania University.
- Indira Gandhi, the then Prime Minister of India, in a Master Stroke, made M. Chena Reddy, the Leader of the Movement, as the Governor of UP and thus, controlled the Situation.
- In 1990^s the BJP promised a Separate State if they came to Power.

- ▣ BJP created Jharkhand, ChattisGarh and UttarKhand States in 2000s as Promised but could not create Separate Telangana because of it's Coalition Partner, Telugu Desham (Chandra Babu Naidu).
- This Development again brought Demand of Separate State, a New Party called TRS was Formed by K. Chandrasekhar Rao (May 17th 2001).
- The Violent Agitations, Protests and Demonstrations resulted in Great Loss of Life and Property. On Nov. 29Th 2009, KCR announced Indefinite Strike demanding State Hood, the Movement spread like

- ▣ Wildfire. KCR started his Fast unto Death, Health of KCR Deteriorated very Fast.
- In December 9th 2009, P. Chidambaram, the Union Minister Of Home Affairs announced that Indian Government would start the Process of Forming Separate State.
- Pro Telangana Supporters Celebrated the Central Government's Decision and those from Andhra and Rayal Seema Region's Protested.
- The Government of India back tracked from it's decision and said that it will not act until an all Party consenses is Reached.

- The TRS called for a General Strike on 24th December 2009.
- By February 22nd 2010, more than 250 Telanga People committed Suicide.
- On Feb 2010 Shri Krishna Committee was formed to give Report by December 2010 on Formation Of Telangana.
- On 16th December 2010 TRS organised Public Meeting in Warangal and KCR appealed to the Prime Minister, Manmohan Singh to Note that People of Telangana were Losing Patience.

- The Justice Shri Krishna Committee found that, there is some Merit in demand of Separate State.
- 2011 February 17th Non – CoOperation Movement started and lasted for 16 days with Participation of 3 Lakh Government Employees.
- 10th March 2011, Million March was organised by Telangana, JAC in Hyderabad, there were many Strikes and Protests after that.
- 2012 and 13 also saw many Agitations.
- 3rd October 2013, The Union Cabinet approved the Creation of the New State of Telangana.

- 6th December 2013, Union Home Ministry sends the Telangana Draft Bill to the President of India.
- 11th December 2013, the President Reviews the Bill and Passes it on to the Andhra Pradesh Assembly for it's Views.
- Andhra Pradesh Assembly rejects the Bill.
- 18th February 2014, Telangana Bill passed by Lok Sabha.
- 20th February 2014, Telangana Bill passed by Rajya Sabha.

- 1st March 2014, President gave his Assent and Published in the Official Gadget.
- 2nd June 2014, Telangana was Formed.
- Telangana Struggle (Agrarian)
- The Nizam of Hyderabad state being a Muslim and the vast majority of People of Hyderabad belonging to the Hindu religion. Though the Muslim Population was about 12%, almost 90% of the bureaucratic of officials were Muslims.
- Nizam and Mullahs tried to dominate the rest of the

- ▣ People. This created unrest among the other castes in Hyderabad.
- During the Telangana struggle of 1946-47 the Nizam and his armed Razakars(private military) resisted the integration of Hyderabad state into the domain of India. It is also said that they had plans to make the Nizam accede his princely state to Pakistan instead of India.
- The people of Telangana were socio-economically exploited by the people in power and this was the beginning of the armed peasant struggle .
- The jagirs were estates granted to Muslim officers

- ▣ Especially the relatives of the Nizam for recruiting and maintaining armed personnel to help the Nizam in wars.
- The jagirs and samsthanams were those, given to reward officers who distinguished themselves in serving the Nizam.
- Maktas , banjars , agrahams and inams were given for various services to various land owners who were given liberty to exploit the peasants as much as they liked.
- The Deshmuks and Deshpandes collected tax for the Nizams. These Deshmukhs and Deshpandes as



Collectors of Taxes, Grabbed Thousands of Acres of The Best Fertile Cultivated Land and made it their Own Property and the Peasants became Tenants.

- Therefore, the Major Culprits against Whom the Revolt was Setup against are Deshmuks' and Despandes'.
- The Powerful People got this Land registered in their Names without the Knowledge of the Peasants thus, these Feudal Lords got Position of Unlimited Lands.

- The Feudal Lords used to Torture the Peasants who were unable to Pay Taxes, who were forced to give up their Lands, this System was Prevalent at the Time of Telangana Struggle.

- *The Vetti System :*

The Vetti System (Forced Labour and Exaction) in Telangana was Social Phenomenon affecting all classes of People.

Each Harijan Family had to send One man from the Family to do Vetti in the House of Patel, Patwari or Desmukh.

- ▣ Some of the People from Backward Community are Made to Carry Members of the Landlord's Family in Palkis' over Long Distances.
- ▣ When the Landlords travelled in Bullock Carts, this People were made to Run behind and in front of the Bullock Carts as Path Clearers and Escorts.
- The Blacksmiths were to Supply Agricultural Equipments to Landlords, Free–Of–Cost and Carry out Repairs also for Free–Of–Cost.
- The Vetti System had Degraded the Life of Telangana People, the People had lost their Self – Respect completely and a Sense Of Rebel had



in the Minds of Peasants against the Opression.

- With the passage of Time, the Communist Party had become an Organised Form and Supported the Peasant Struggle, giving it a More Organised and Qualitative Movement.
- Among some of the Feudal Lords, Prominent were, Vishnur Deshmukh; Suryapet Deshmukh; Janna Reddy Prathap Reddy.
- The Beginning of Telangana's Armed Stuggle were against the Atrocities of Vishnur Deshmukh in 1946, when his Man attacked and Murdered Doddi Komarayya, the Local Andra Maha Sabha Worker.

- *The Telangana Agrarian Revolt :*
Vishnur Deshmukh of Jangaon Taluk, Forcibly tried to take Possesion of Land belonging to a Washer Woman known as Ailamma, who was Supported of the Sangh.
- He had also sent Gundas to Eliminate Sangh Leader, who Retaliated and Beat the Gundas who failed in their Attempts but the Deshmukh got them Arrested on the Charges of Murder Attempt.
- Since Sangh Leaders were under Custody, Deshmukhs sent 100s of Gundas and Servants again to Ailamma's Land for gathering Harvest but again his Forces were Deafeated

- *Doddi Komarayya's Martyrdom :*

Vishnur Deshmukh was insulted and Angered because of this big defeat, he planned to Murder the Leaders of the Sangh with the Help of the Police and July 4th 1946, his Men started Pelting Stones at the Houses of the Leaders resulting in People coming out and taking a Procession in Protest, which was Lead by the Leader, Doddi Komarayya, many shots were fired at the Procession, killing the Leader, Doddi Komarayya on the Spot, which angered the Crowd.

- They tried to set the Landlord's House on Fire

- ▣ Thousand's of People gathered at Doddi Komarayya's Funeral Procession. People pledged that they would not allow Zamindars and their Men to come to their Field. Thus, the Movement gathered Momentum with Thousand's of Peasants supporting the Cause which spread to Hundred's of neighbouring Villages.
- ▣ After the Independence, the Nizam declared that, he would not join Indian Union but will remain Independent.
- ▣ Police Action of September 1948 by Newly Formed India against Nizam ruled Hyderabad State annexing it into the Indian Union.

▣ The Communists Party and the Andhra Maha Sabha gave a Direction to this Revolt and converted it into a Agrarian Revolt, many Reforms done because of this Revolt :

- > The People were discouraged from Practice of Forced Labour and any form of Exploitation.
- > The People were made to Retain the Land that they were Cultivating and also to Recover the Land illegally taken away from them.
- > Occupation and Cultivation of Waste Lands of Government and the Big Landlords are given to



> The Food Grains stored in Gowdons belonging to the Government and Zamindars were seized and were Distributed among the Rural Poor.

> Old Records of Money Lending and other Documents with the Patels, Patwaris, Landlords and Money Lenders were burned down.



Thus, the Violence came to an End after Successful Revolt against the Government and the Zamindars and Providing Reforms and Rehabilitations of Poor Farmers.

▣ The Report Of Indian Human Rights Commission On Arwal Massacre

- Arwal :- Jahanabad Sub Division, Gaya District, Bihar.
- The Incidence at Arwal took place on April 19th 1986, the Government of Bihar took every possible Measure to Suppress the News. But the National Press lost no Time to bring it to the News Hungry People.
- The Indian People's Human Rights immediately took up the Issue and referred it to the Indian People's Human Right Tribunals.

- ▣ Soon after, a 2 member Tribunal appeared on the Scene, went Deep into the Case and finally prepared a Report. The Report was Formally released on July 30th 1987. And that indeed Marked an Important Land Mark in the History of Movement for Human Rights.
- ▣ The Framework of the Commission therefore, defines the Human Rights of the People as Inviolable, Particularly in the Context of Possible Attacks by the State on them.
- ▣ It is from this Stand Point that IPHRC has Established an Independent Body calling it 'The Indian People's Human Rights Tribunal' and comprising of Ex Judges of the Supreme Court and

- ▣ High Court to Investigate into and Adjudicate upon the Human Rights by the State.
- ▣ The IPHRC having thus, established the IPHRT with Justice VR Krishna Iyer as its Chairman, Aims at Specifically focusing the Fact that while there are Innumerable Agencies, Setup by the State to look into the Violation of Law and Order by Individuals and Groups.
- ▣ There is not One Single Body to investigate into Acts committed by the state against the People.

- ▣ In keeping with this Principle and the Highest Traditions of Judicial Enquiries, Justice TU Mehta (Former Chief Justice Of Himachal Pradesh High Court) And Justice PS Poti (Former Chief Justice of Gujrat High Court) as the 2 Member Tribunal investigated into the Massacre at Arwal and Strongly Deplored the Firing by the Police.

- ▣ The 104 Page Report by the Eminent Judges is not only Just a Pain Stakingly Assembly of :
 - 1) Facts Relating to the Incident.



2) Not only the Meticulous Recording of Investigation and Examination of Witness.

3) But also Socio Economic Conditions which Formed the Essential Background to the Issues and the Incident.



The Report is Devastating indictment of the Body Politics as Obtained in Bihar and the Country as a Whole.



This IPHRT was Constituted for the Purpose of Fact Finding of the Police Firing on 19th April 1986 at Arwal in Jahanabad District of Bihar on a meeting of the Mazdoor Kissan Sangram Sameeti, an

- Organisation of Landless Labourers and Poor Peasants.
- A Large Number of People including Children were killed in the Firing. The Government had not ordered any Judicial Enquiry.
- This incident is called as 'Second Jallianwala Bhag', the Fact finding Mission was initiated after the Commission received a Complaint from the President of Mazdoor Kissan Sangram Sameeti – Dr. Vinayan.
- The Tribunal was asked to look into the following matter by the Commission through a Letter dated 10th January 1987.



,

- A) The background to the Firing and the Land Dispute.
- B) The Facts and Circumstances leading to the Firing.
- C) The Number of Casualties.
- D) The Subsequent Repression, If any.



Facts :

1) Arwal is small town on the Patna Aurangabad Highway. The Arwal Police Station was under the jurisdiction of Gaya district but now Falls under Jahnabad District, newly created to effectively deal with Rural Agrarian Violence in the area.



Most of the People living in that Area were Backward and Poor. The Richest Family in the Village was of Razak Family whose House located near the 0.25 Acres of land which was the Disputed Land of this Case.



The Razak Family claims that the Disputed Land belonged to a Zamindar and the Same was Granted to Razak Family by the Zamindar, however the Family could not produce any Documentary Evidence about the Title of the Land.



2) There were 9 Families living in the Adjoining Land of Disputed Land in Huts and since the Disputed Land was Lying Vacant, the 9 Family thought that it was a Governmental Land and Over the Years, they Filled that Land with Mud, since it was Low Lying and Marshy Area, with the Intention of building their Huts as the Land appurtnant to their huts.



Since the Razak Family did not have any Documentary Evidence of the Title, the Nine Family continued to Treat as Government Land and lived there.

- ▣ Police Machinery and Government Department were willing to Support the Claim of Razak Family and Tension was Prevailing about this issue.
- ▣ In the Year 1985, a Brick Wall was Erected between Disputed Land and the Huts. The Wall not only Prevented the 9 Families access to the Disputed Land but also Prevented Drainage around the Hutments.
- ▣ The Area became Water Logged and resulted in the Growth Of Insects and Germs. The 9 Family Members wanted to Demolish the Wall with the Help of NKSS Leadership.
- ▣ Therefore, it was decided to do the same on 19th April, this was widely known to the Razak Family as



well as to the Police.



The MKSS having taken the Cause of the Landless Families who had Laid Claim to the Disputed Land, had held 2 Public Meetings in Arwal, One on 15th March 1986 and the Other on 6th April 1986.



In these Meetings, Razak Family was asked to Remove the Boundary Wall but they did not Comply. Hence, it was Decided to remove the Wall on 19th April 1986.

3) On 19th April 1986, Hundreds of People under the Banner of MKSS gathered at the Sight of the Dispute.

- ▣ The Initial Purpose was to make Hole in the Wall so, that it will Serve as Drainage Outlets and to Relieve Water Log Portions of the Areas around the Huts but Ultimately the Mob seems to have got Angry which Resulted in Demolition of the Entire Wall.
- ▣ The Agitation would have ended then and there but for the Arrest of 4 Workers of MKSS, who were taken to the Police Station after the Arrest, this was sufficient Provocation for Crowd to Move the the 'Maidan' (Ground) of Gandhi Pustak Compound, a Group of 700 – 800 People gathered in the Ground by 3 P.M. And the Protest Meeting Started.

- ▣ There were 2 Versions of the Event of 19th April, One was by MKSS President, Dr. Vinayan who stated that,
 - On 19th april 1986 around 700 people gathered at the disputed land. The people tried to talk to Razak family, who instead of coming to talk, pelted stones at the gathering which resulted in people demolishing the wall.
 - At this stage the station Incharge of Arwal police station along with the DSP, circle officer and some constables arrived at the site . The police immediately fired in the air and threw teargas shells

- And brick bats at the people . The people threw back the brick bats at the police.
- The station Incharge diplomatically pacified the people and asked the people to disperse , which they did and informed the station incharge that they will gather at the gandhi library grounds to hold a peaceful meeting.
- Meanwhile the station Incharge arrested 4 mkss workers.
- The meeting started under the presidentship of Bharath sao, the SP of jehnabad C.R. Kaswan and SDO arrived with military police and blocked the entrance

- And without any provocation or warning started firing.
- Within minutes the meeting place was turned into graveyard. When people started running and tried to jump the walls they were fired upon by the land lords also.
- The police removed the bodies and destroyed them at unknown places.
- Bharat saho was arrested and taken inside the thana and was shot dead at the thana at the instance of Rameshwar Razak.
- The DM of gaya district after visiting the site informed the higher officials that the firing was unwarranted.



- After the Incident, an FIR was Filed by the Station Officer and it was stated that, the Naxalites belonging to MKSS attacked Arwal Police Station and since the life of SP Jahanabad was in Danger, the Police had to Resort to Firing, which resulted in Several Deaths and Injuries.
- The Contents of FIR are totally false and fabricated with the Intention of Justifying Police Firing.

- *2nd Version :*

The Tribunal Alleged that, there was no CoOperation from the Bihar Government as far as their Version was concerned.

- However, the Commision could obtain Government's Version from the Counter Affidavit filed by the Government Authorities in Patna High Court, and Supreme Court. In

- PEOPLE'S UNION FOR DEMOCRATIC RIGHTS

- V/S

- STATE OF BIHAR

▣ And also from Copy of Case Diaries and FIR which states that :

1) On 19th April 1986, MKSS had a Programme of Forcibly grabbing a Small Piece of Land which is a Disputed Land which was in the Possession of One Shree Razak.

▣ On the Basis of Such Information, Section 144 of CRPC was imposed in Arwal Police Station Jurisdiction.

2) Police Party with Tear Gas and a Magistrate was Deputed on the Spot on the day for Maintaining Law and Order. Police arrested Four Workers.

- ▣ 3) Police Party instructed the Mob to disperse, but they resorted to Brick Batting resulting in injuries to 2 Police Man.
- ▣ There were also Gunshots Fired by the Mob after which Tear Gas Shells and 3 rounds were Fired by the Police under Orders of the Magistrate.
- ▣ The Mob forcibly Demolished the Wall and Implanted their Flags and Banners, the Mob proceeded to the Police Station demanding to Release of the Arrested Persons and started Brick Batting the Police Station.

- ▣ Finding the Grave Situation, the Station Officer incharge sent **S.O.S** to SP Jahnabad. But before the Arrival of SP, the MKSS Workers started Firing at the Police Station. At this Juncture, SP Jahnabad accompanied by SDO Jahnabad arrived at Arwal Police Station, the Mob tried to attack him however, the SP escaped unhurt.
- ▣ Sensing more Violence from the Mob, the Majistrate ordered Firing which Resulted in Deaths of Many People (21 Deaths and Several Injuries).

- The tribunal after taking evidence from various eye witness came to a conclusion that there are three facts which are not in dispute. They are
- The police which was admittedly forwarned had suffcient armed force and , lathi force and teargas party to command and control a crowd of only 700 people.
- No dead or injured person was found in the compound of police station after the firing stopped. There were no blood stains or pools of blood anywhere in the police station compound or any of its walls.

- It was doubtful whether the crowd had any firearms with them. Presuming that they had some fire arms with them they were country made and only three in numbers.
- These fire arms which were inspected by the tribunal were not in working condition. On the contrary the police force had modern weaponry.
- These three facts totally counter the police version.
- FROM ALL THE ABOVE DISCUSSION THE TRIBUNAL CONCLUDED AS FOLLOWS:
- The nine families residing adjacent to the disputed

- Land in their hutments were claiming the allotment of the disputed land in their name and in fact their case was recommended by SDO Mr. Vyas.
- However , this recommendation was not acted upon.
- The revenue record showed this land as “Gair Mazura” land belonging to the government and hence the nine landless families had a good case to be considered in their favour according to the rules.
- The nine landless families had openly improved this land and extended the limits of their hutments in a portion of this land , but with the help of police the

- Rajaks were successful in pulling down these extension.
- The nine landless families failed to get redress from the concerned authorities against the above actions of the police and hence they approached MKSS for redressing their grievances.
- MKSS held two meetings to highlight, the wrong done to the 9 Landless Families but without any Response from the Conserved Authority.
- Meanwhile, Razaks created a Wall on the Boundary of the Disputed Land in such a Manner that, all water outlets of the nearby huts were blocked, this caused



Serious Sanitary and Health Problems.

- MKSS gave a Call to the People to collect at the site of the Disputed Land on 19th April 1986.
- The Authorities knew about the Call and tried to Prevent the People from Gathering, with the Police Force, who were equiped with Firearms and Tear Gas Shells but could not prevent People from Gathering.
- The Original Ideas of Agitating Leaders was to make Holes in the Wall to make way for the Drainage Water but due to some Stone Pelting from Razak House and Police Action, the Angered People completely Demolished the Wall.

- The Police having thus being Frustrated in their Attempt to save the wall, told the Leaders of the Gathering that since they had Achieved their Object of pulling down the Wall, they conduct the Meeting peacefully.
- Meanwhile the Police had arrested some persons, who had come to Attend the Gathering. The Leaders of the Gathering were therefore, demanding their release, but the Police did not release them.
- The Leaders of the Gathering took the People to the Nearby Gandhi Library Ground which was next to the Police Station for a Peaceful Meeting.

- Meanwhile, further Reinforcements of the Police was called and hence, SP Shri Kaswan reached the Sight with more armed Force.
- The meeting was Peaceful and the Story of the Police that the Crowd which Gathered there had encircled the Police Station with Country – Made Firearms and attacked the Police Station with Lethal Weapons, is a Story unworthy of Credence.
- The SP Mr. Kaswan came directly to the Compound of Gandhi Library and blocked the only gate of the Compound with his Jeep, without visiting Police Station for ascertaining the Facts.

- There is no Evidence to show that he was attacked by the Gathering, immediately on his Arrival. On the Contrary, it is found that he ordered Firing without any Warning or without complying with the Procedure, Prescribed in the Bihar Police Manual 1978.
- Since Compound of Gandhi Library was enclosed on all Sides and the Exit was Blocked by the SP and his Team who were Firing, many People were Either Injured or Killed. They were also Fired upon by the Landlords.

- About 52 Rounds were Fired in about 15 Minutes and no Authority was bothered to see, whether such Quantums of Firing was required.
- The Firing was highly Indiscriminate, Unnecessary and Unjustified, which resulted in the Loss of 21 Lives and Several Others were Seriously Injured.
- Bharat Saho, the Leader of the Agitators was Carried Alive Inside the Police Station And Was Found Dead Afterwards.
- No Immediate Medical Facilities were given, Injured were taken to a Distant Hospital and many Died on the Way.

- ▣ No identification of the Dead were conducted through their Relatives and their Funerals were conducted at a Distant Place without the Knowledge of the Relatives.

Thus the Report of the Tribunal concluded.

- ▣ The Report was signed by the Two Tribunal Members of the Human Rights Commission :

1) T.U. Mehta.

2) P.C. Poti.

- ▣ The Same was Released by Mrinal Sen, President of IPHRC on 30th July 1987.

▣ **The Report Also Contained**

- ▣ 1) Individual Statement of Witnesses along with their Name and Addresses.
- 2) Sena Activities, etc controlled by Landlords for Exploitation of Peasants.
- 3) Socio – Economical Conditions of Peasants.
- 4) Statement of CM Bindeswhari Dubey, few Days before the Incident about his Resolution to finish the Naxalites.

▣ **Violence Against Women**

- This type of Violence is Gender – Based, meaning that the Violence are committed against Women, Expressly Because they are Women.
- The U.N declaration on the Elimination of Violence against Women states that,
- “Violence Against Women is a Manifestation(Facts of Showing Something) of Historically Unequal Power Relations between Men and Women and that Violence Against Women is One of the Crucial Social Mechanisms by which Women are Forced into a Subordinate Position compared with Men”

- ▣ Kofi Annan, Secretary General of the United Nations declared in a 2006 Report posted on the website of United Nation Development Fund for Women stated that,
- ▣ “Violence Against Women and Girls is a Problem of Pandemic Proportions. At least 1 out of every 3 Women around the World has been beaten, Coerced into Sex, or otherwise Abused in her lifetime with the Abuser usually someone known to her.”

- ▣ Violence Against Women can fit into several Broad Categories.
- ▣ This include, Carried out By Individuals' as well as States. Some of the Forms of Violence perpetrated of Individuals are Rape, Domestic Violence, Sexual Harassment, Female Foeticide, Female Infanticide, Stalking, Prenatal Sex Selection, Obstetric Violence and harmful customary or traditional practice such as honour killings ,dowry deaths ,dowry violence, marriage by violence and forced marriage.
- ▣ Some forms of violence are perpetrated by the state such as war rape (strategy) sexual violence and Sexual Slavery during conflict.

- forced sterilisation, forced abortion , violence by police and other authorities.
- Many forms of violence against women such as trafficking and forced prostitution are often perpetrated by organised criminal networks.
- Violence :
- violence means “ application of physical force with the intention of hurting or killing of a person or damaging or destruction of property of a person, or causing psychological harm through utterances and action.

- Violence against women is understood as a violation of human rights and form of discrimination against women and shall mean all acts of gender based violence that result in or likely to result in physical, sexual ,psychological or economic harm or suffering to women ,including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in Private Life.
- *Types of Violence Against Women :-*
- Violence Against Women can be categorised into 3 Major Heads such as,



- 1) Violence carried out by Individuals.
- 2) Violence carried out by States.
- 3) Violence carried out by Organised Criminal Networks or Syndicate.

1) Violence carried out by Individuals :

- Rape :
- Rape means forced sexual intercourse , against the will of the Victim or without the Consent of the Victim or with Consent, when Consent is obtained through Threat, Coercion, etc.

- ▣ A Sexual Intercourse with a Women, who has not attained 18 years of Age with Consent is also termed as Rape. which is Punishable under Section 376 and defined under Section 375.
- ▣ such acts go un Reported most of the time because of Social Stigma or Threats by the Offender.

Cruelty :- Usually at Matrimonial Home.

Cruelty means infliction of Physical or Mental Distress. Cruelty maybe by the Husband or his Relatives.

Any act, which wilfully done to cause Physical Hurt or Injury to a Woman is known as Physical Cruelty whereas Wilful Comments, Abuses, Nagging are some types of Mental Cruelty suffered by a Woman.

- ▣ Nowadays lots of Cases are registered under Section 498 A of IPC, which has Penal Provisions against Cruelty.
- ▣ The Courts have granted Divorce many a times on the Ground of Cruelty because it considers it as a Grave Offense.
- ▣ Demand for Male Child, Denial of Food, Locking the Wife outside the House, Physical Violence, Taunt, Threatening to Divorce, etc are some types of Cruelty practiced in Many households.
- *Harassment* :- Harassment covers a wild range of behaviour of an Offensive Nature, it is commonly understood as Behaviour intended to disturb or upset, and it is Characteristically repetitive .

- ▣ In the Legal Sense, it is Intentional Behaviour which is found Threatening or Disturbing.
- ▣ Sexual Harrassment refers to Persistent and Unwanted Sexual Advances, Typically in the Workplace where the Consequences of Protesting are Potentially very Disadvantageous.

Case Law –

Vishaka V/s State of Rajasthan SC 1997

- *Victim* – Social Worker Bhanwari Devi, who Protested against Child Marriage in Upper Caste was Sexually Assaulted.

- *Dowry Death* :– Dowry is a Social Evil prevailing in the Society since long and a Social System refusing to go away despite a Law in place against such System.
- Dowry Deaths are Deaths of Young Women, who are Murdered or Driven to Commit Suicide by continuous harassment and torture, by Husbands and In laws in an effort to extort an Increased Dowry.
- India reports the Highest total Number of Dowry Deaths in the Subcontinent.
- *Domestic Violence* :– In a Domestic Setup :

- ▣ Domestic Violence is a Pattern of Behaviour which involves Violence or Other Abuse by One Person against another in a Domestic Setup such as, Marriage or Cohabitation.
- ▣ Domestic Violence can take number of forms including Physical, Verbal, Emotional, Sexual Abuse, Marital Rape, Abortions, etc.
- *Bigamy* :- Bigamy is the Act of Entering into a Marriage with another Person while still Legally Married to One Person, Bigamy is a Crime Punishable under the Law – Section 494 of IPC.

- ▣ Forced miscarriage : when a miscarriage is brought about by beating , kicking or forcibly making to drink something which may cause miscarriage.
- ▣ Outrage of modesty : There is no precise definition of what constitutes a woman's modesty. And now the supreme court has finally defined modesty. It is defined as “ The essence of woman's modesty is her being a feminine gender. The Modesty is referred to AS FEMININE DECENCY.
- ▣ The act of pulling a woman , removing pallu, coupled with request for sexual favour –would be an Outrage to the modesty of woman .

- ▣ And knowledge that modesty is likely to be outraged is sufficient to constitute the offence.
- ▣ Rupen Deol Bajaj IAS. v/s KPS Gill ,DG of police. (case law on outraging the modesty)
- ▣ Dinner party 20/8/1988. Gill was charged under sec 354 and 509 of IPC.
- ▣ Criminal force : whoever intentionally uses force to any person , without the consent of that person ,in order to commit an offence ,or intending by the use of such force.
- ▣ To cause or knowing it to be likely that by the use of

- ▣ Force he will cause injury, fear or annoyance to the person to whom the force is used, is said to use criminal force. --sec 350 of IPC.
- ▣ Harassment at workplace :
- ▣ Harassment at workplace may include verbal abuse, sexually derogatory language, display of offensive cartoons or materials or offensive gestures, sexual advances, asking for sexual favours etc.
- ▣ vishaka vs state of Rajasthan.
- ▣ In the said case the supreme court has issued certain Guidelines,

- which are to be followed in every organization and institution ,which prohibits harassment at work place and punititive action in case of any contravention.
- Female foeticide : means the act of killing a foetus outside the legal channels of of abortions . It occurs in India for assumed cultural reasons.
- Female foeticide has been linked to the arrival, in the 1990s of affordable ultra sound technology and its wide spread adoption in India .
- sati :
- it is an obsolete Indian funeral system , where

- ▣ A widow immolated herself on her husband's funeral pyre or committed suicide in another fashion shortly after her husband's death.
- ▣ MANY A times such immolation or suicide were forced by family members or the society, whenever the widow is reluctant .
- ▣ Abetment to suicide : when one person drives another person to commit suicide , it amounts to suicide. This is an offence punishable under sec. 306 of IPC.
- ▣ ASSAULT : An assault is carried out by threat of bodily harm coupled with an apparent present ability

- ▣ To cause harm. It is both a crime and tort. So it may result in either criminal or civil liability. Sec. 351 IPC.
- ▣ Bride Burning : Is a form of domestic violence, a category of Dowry Death, Bride Burning occurs when a Young Woman is murdered through burning by her husband or his family for her families refusal to pay additional Dowry.
- ▣ The wife is typically doused with Kerosene, Gasoline or other Flammable Liquid and set alight, leading to death by fire, this Crime has been treated as Culpable Homicide and if Proven usually punished to life imprisonment or Death – Section 304B of IPC.

- ▣ Acid Throwing : acid throwing , also called as an acid attack , is a form of violent attack defined as the act of throwing acid or a similar corrosive substance on to the body of another with the intension of disfigurement, maiming, torture or kill , mostly when the perpetrator's advances or proposals are protested or refused.

- ▣ VIOLENCES CARRIED OUT BY THE STATE

- ▣ War time sexual violence : Rape or any other form of sexual violence during war by the military personnel is known as war time sexual violence.

- ▣ During war and armed conflict , rape is

- ▣ used as a strategy as a means of psychological warfare in order to humiliate the enemy .
- ▣ Many a time it is also used as military strategy to drive away the civilians from that area of attack.
- ▣ Forced Sterilisation : Government policies ,in violation of human rights, force people to under go surgical or other sterilization.
- ▣ ___India has a dark history of state sponsored population control often targeting poor and the underprivileged.

- ▣ According to BBC report India carried out nearly 4 million sterilisation during 2013-14, according to official figures. Less than 1 lakh of these surgeries were done on men. More than 700 deaths were reported due to botched up surgeries between 2009 and 2012. There were 356 reported cases of complications arising out of such surgeries.
- ▣ Forced Abortion : Forced abortions means causing an abortion by force , threat or coercion . The governments do this to contain the growth of population.
- ▣ China is the best example of this.

- ▣ Violence by Police : Police brutality in India is well known . There has been instances of rape and other brutalities against women who go to police station to make a complaint or file an FIR.
- ▣ Eg : Mathura Rape case 1972 , custodial, Gadchiroli.
- ▣ Rameeza Bee in Andhra Pradesh 1978.
- ▣ Maya Tyagi in UP 1980.



- ▣ VIOLENCE BY ORGANISED CRIMINAL NETWORKS :

- ▣ Trafficking of women and forced prostitution : women and girls are trafficked within the country as well as abroad for the purpose of commercial and sexual exploitation and forced marriage. These activities are mainly carried out by organized criminal networks or syndicates.
- ▣ **Online or digital violence**
- ▣ Online or digital violence against women refers to any act of violence that is committed, assisted or aggravated by the use of information and communication technology (mobile phones, the Internet, social media, computer games, text messaging, email, etc) against a woman because she is a woman.

- ▣ Online violence can include the following.
- ▣ **Cyberbullying**
- ▣ Cyberbullying involves the sending of intimidating or threatening messages.
- ▣ **Non-consensual sexting**
- ▣ Non-consensual sexting involves the sending of explicit messages or photos without the recipient's consent.
- ▣ **Doxing**
- ▣ Doxing involves the public release of private or identifying information about the victim.

- ▣ VARIOUS LAWS ENACTED IN INDIA , TO COMBAT VIOLENCE AGAINST WOMEN

- ▣ SEC. 125 OF CRPC 1973 : provides for maintenance of wife , parents and children , if a person having Sufficient means refuses to maintain them , the courts can order that person to pay such amount as it deems fit as maintenance. (wife , legitimate or illegitimate minor child , major child having physical or mental abnormality and parents)

▣ THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT , 2005 :

- ▣ The domestic violence act was meant to provide protection to the wife or female live-in partner from acts of domestic violence (physical and mental) at the hands of her husband and his relatives in the domestic setup or male live-in partner.
- ▣ It is a civil act , no penal provisions. Penal consequences follow only when there is a breach of protection order.
- ▣ The court orders to do or abstain from doing an act, like monetary compensation for injuries , monetary relief for expenses and loss suffered, temporary custody of small children. etc

- ▣ PC & PNDT ACT 1994 (Amendment act 2003)
- ▣ MEDICAL TERMINATION OF PREGNANCY ACT 1971. (Amendment act 2021)
- ▣ Provides for prohibition of determination of sex of the foetus in the mothers womb and prohibits termination of pregnancy , which allows termination only in case of medical emergency ,up to 20 weeks of pregnancy (24 weeks – 2021 act) and
- ▣ in case of rape victims or failure of contraception in case of married women and unmarried woman (2021 act)
- ▣ Any person who contravenes the provisions of these acts is liable to punishment according to the provisions of these laws. – Intention is to prohibit the termination for demand of male child.

- ▣ Indian penal code 1860 :
- ▣ Sec .354 :- punishment for assault or criminal force to woman with intent to outrage her modesty. shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.
- ▣ Sec. 354A : punishment for sexual harassment. shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.
- ▣ Sec. 354B : punishment for assault or use of criminal force to woman with intent to disrobe or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

- ▣ Sec. 354C : punishment for voyeurism.
- ▣ Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year,
- ▣ but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.

▣ Sec. 354D: punishment for stalking . Any man who-

-
(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking:

- ▣ Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.]

- ▣ Sec. 376 : punishment for Rape . Whoever, except in the cases provided for by sub-section (2), commits rape shall be punished with imprisonment of either description for a term which shall not be less than seven years but
- ▣ which may be for life or for a term which may extend to ten years and shall also be liable to fine unless the women raped is his own wife and is not under twelve years of age, in which cases, he shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both

- ▣ Sec. 376 A : punishment for causing death or resulting in persistent vegetative state of victim
- ▣ Whoever, commits an offence punishable under sub-section (1) or sub-section (2) of section 376 and in the course of such commission inflicts an injury which causes the death¹ of the woman or causes the woman to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, or with death.
- ▣ ¹ Criminal Law (Amendment) Act, 2013

- :
- Sec. 376 AB : punishment for rape on woman under twelve years of age. Whoever, commits rape on a woman under twelve years of age shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of that person's natural life, and with fine or with death:

- ▣ Sec. 376 B : punishment for sexual intercourse by husband upon his wife during separation. Whoever has sexual intercourse with his own wife, who is living separately, whether under a decree of separation or otherwise, without her consent, shall be punished with imprisonment of either description for a term which shall not be less than two years but which may extend to seven years, and shall also be liable to fine¹.

- ▣ Sec.376 C : punishment for sexual intercourse by a person in authority.
- ▣ If a person is convicted under section 376(c) for forcibly inducing/enticing a female to have sexual intercourse, by using his authority, he shall be liable for imprisonment not less than 5 years and it may get extended to 10 years and he will also be liable to pay fine.

- ▣ Sec 376D : punishment for Gang Rape Where a woman is raped by one or more persons constituting a group or acting in furtherance of a common intention, each of those persons¹ shall be deemed to have committed the offence of rape and shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life which shall mean imprisonment for the remainder of that person's natural life, and with fine;

- ▣ Sec 304 B : punishment for causing dowry death.
- ▣ Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death.

- ▣ Whoever commits dowry death shall be punished with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life.
- ▣ THE INDECENT REPRESENTATION OF WOMENS (PROHIBITION) ACT, 1986.
- ▣ AN act to prohibit indecent representation of women through advertisement or in publication , writings, paintings , figures or in any other manner and for matters connected therewith or incidental thereto.



- ▣ . Penalty. — Any person who contravenes the provisions of section 3 or section 4 shall be punishable on first conviction with imprisonment of either description for a term which may extend to two years, and with fine which may extend two thousand rupees, and in the event of a second or subsequent conviction with imprisonment for a term of not less than six months but which may extend to five years and also with a fine not less than ten thousand rupees but which may extend to one lakh rupees.
- ▣ Art.15(3) and 15(4) of constitution of India.
- ▣ Provides for making any additional provision for the benefit and development of women and children .

- ▣ INDIAN PENAL CODE 1860 :
- ▣ Sec 366 : Punishment for kidnapping, abducting or inducing woman to compel her marriage, etc.
- ▣ Sec 366A : Punishment for Procuration of Minor Girl.
- ▣ Section 494 : Punishment for Marrying again during lifetime of husband or wife. (Bigamy)
- ▣ Section 498 : Punishment for Enticing or taking away or detaining with criminal intent a married woman
- ▣ SEC 498 A Husband or relative of a husband of a woman subjecting her to cruelty

DOWRY PROHIBITION ACT 1961 : Prohibits taking and giving of Dowry of any kind and provides Punishment in case of Contravention Of the Provisions of the Act.

- ▣ **Section 113 – B of Indian Evidence Act 1872**
- ▣ Provides for Presumption of Dowry Death in case of :
 - 1) If the wife dies an unnatural Death.
 - 2) Within 7 Years of Marriage.
 - 3) There has been an incidence of harassment for a Dowry Demand immediately before a such Death.
- ▣ If all the above 3 conditions are fulfilled, then it is Presumed by the Court that there has been a Dowry Death and the Husband may be Punished according to the Provisions of the Law.

- ▣ IMMORAL TRAFFICKING PREVENTION ACT 1986 (ITPA) This act is meant to Combat the activity of Trafficking of Females/Girls for Various Purposes.
- ▣ Immoral Traffic (Prevention) Amendment Bill, 2006 The Immoral Traffic Prevention Amendment Bill, 2006 is a revised version of the Immoral Traffic Prevention Act, 1986
- ▣ CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN :
- ▣ International Treaty adopted in 1979 by UNO – General Assembly. Ratified by 189 Nations.
- ▣ The Treaty provides for Prohibition of all kinds of Discrimination and Outlines Women Rights.

- ▣ **Article 1** defines discrimination against women **in** the following terms:
- ▣ Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

- ▣ **Article 2** mandates that states parties ratifying the Convention declare intent to enshrine gender equality into their domestic legislation, repeal all discriminatory provisions in their laws, and enact new provisions to guard against discrimination against women.
- ▣ States ratifying the Convention must also establish tribunals and public institutions to guarantee women effective protection against discrimination, and take steps to eliminate all forms of discrimination practiced against women by individuals, organizations, and enterprises.

- ▣ DECLARATION ON THE ELIMINATION OF VIOLATION AGAINST WOMEN 1993.
- ▣ ___ Proclaimed by General Assembly resolution 48/104 of dec.1993.
- ▣ Recognizing the urgent need for the universal application to women of the rights and principles with regard to equality, security, integrity and dignity of all human beings.
- ▣ The 1993 Declaration on the Elimination of Violence against Women was **the first international instrument explicitly addressing violence against women, providing a framework for national and international action.**

- ▣ Recognizing that effectiveness of the convention on elimination of all forms of discrimination against women would contribute to the elimination of violence against women and that the declaration on the Elimination of violence against women, set forth in the present resolution, will strengthen and complement that process.

- ▣ some case laws on violences against women :
- ▣ 1) Nirbhaya case – New Delhi
- ▣ 2) Vishaka vs state of Rajasthan (sexul harassment at work place)
- ▣ 3) The shahbano case -- (maintenance of muslim women after the period of Iddat)
- ▣ 4) Aruna shanbagh case. 1973. (Attempt to rape and attempt to murder by strangulation)
- ▣ 5) Bantala rape case 1990
- ▣ 6) Anjana Mishra rape case 1999.

▣ Statistics of reported cases of violence against women

▣ Year Reported Violence

▣ 2008 195800 2012 244200

▣ 2009 203800 2015 300000.

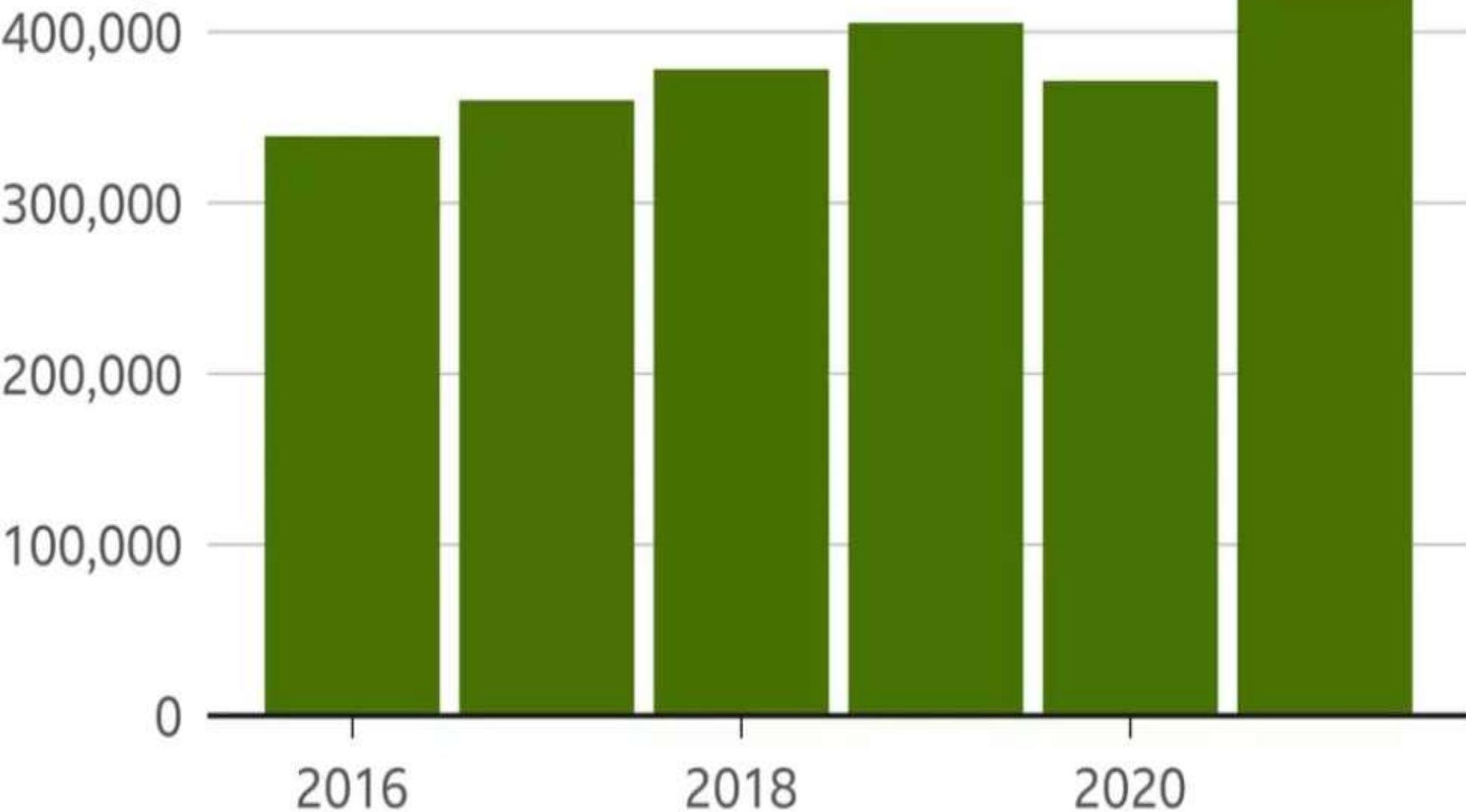
▣ 2010 213500

▣ 2011 228600

▣ What we can analyse from the above data is violence against women is on the rise despite having laws in place. A serious effort should be made to find out the exact reasons and find a solution immediately to tackle this menace.

The rising graph

Incidents of crimes against women highest in 6 years



- ▣ Every three minutes there is an incidence of crime against women, which is reported.
- ▣ Many cases go unreported.
- ▣ **CRITICAL APPRECIATION** : There are many enactments to protect women from violence as well as welfare of women.
- ▣ However, there is no serious effort from the enforcement authority to implement the same, which is the main reason behind increase in violence rather than decrease. Many a time the cases of violence go unreported or not complained against because of

- ▣ Threat from the offender or social stigma attached to it .
- ▣ Many a times lack of awareness about the penal provisions , legal rights and of welfare schemes, deprives the women of remedies.
- ▣ **SUGGESTIONS :**
- ▣ Women should be made aware of their rights, welfare schemes , penal provisions against violence, so that they can fight against such violence and exploitation .
- ▣ The human rights commission should also become more active and arrange awareness programmes very frequently at different flat forms.

- ▣ Human rights commission should also take suo motto action when ever there is incidences of violence against women . There should be positive message in the society to respect women.

- ▣ COMMUNAL VIOLENCE

- ▣ India is a secular country, there is no state sponsored religion . We have several communities and religion. Art 25 and 26 which are fundamental rights , provides for freedom to profess ,practice and propagate of religion and freedom to manage religious affairs.

- ▣ Community---is a group who share something in common.
- ▣ Religion ----- Faith or belief in specific God or culture.
- ▣ Indian constitution promotes Brotherhood. The word Fraternity in the preamble signifies that people belonging to various religion and community live in peace and harmony.
- ▣ The word secular was inserted in the 42nd amendment to the constitution in the year 1976 ,so that it assures the people that India is a secular country, which does not sponsor any religion and people can choose any Religion and profess that religion.



- ▣ But the seeds of hatred and enmity have been sown during British Raj for their benefit and advantage.
- ▣ They followed the method of divide and rule so that there is no unity amongst Indians , which may cause a hindrance in their rule. To achieve this goal they divided Hindu and Muslim on communal grounds, who were till then living in peace and harmony.
- ▣ The division of Bengal in 1905 , by Lord Curzon was in very stratagical and clinical manner. They divided Bengal into 2 pieces on the basis of Hindu majority and Muslim majority.

- ▣ . Then while granting Independence they delivered a final blow by dividing India into two pieces as India and Pakistan.
- ▣ The incidences which followed after the division, when people who were settled in an area since so many years started moving from one area to another , and the violence which resulted had a great and ever lasting impact on peoples memory.
- ▣ Although Britishers left India in 1947, our power hungry politicians continued this practice of divide and rule method for their own political gain and hence communal violence continued even after Independence.

▣ COMMUNAL VIOLENCE OR INTER COMMUNAL VIOLENCE.

- ▣ Communal violence involves conflicts between two communities like, Hindu, Muslim ,Christian , sikh etc.
- ▣ Mobilized (organized and provoked) against each other by interested parties for their own benefit or gain.
- ▣ This was done through creating feelings of hostility, emotional furry, social discrimination and social neglect
- ▣ The high degree of cohesion (togetherness) in one community against another is built around tension and Polarization (identified with particular ideology).

- ▣ Targets of attack in communal violence are the members of the enemy community. Communal violence is mainly based on hatred, enmity and revenge.
- ▣ There is no leadership which can effectively control and contain the riot situation , in fact such situation is used for the maximum benefit .
- ▣ Communal violence has increased Quantitative and Qualitatively(Intensity) ever since politics came to be communalized.

- ▣ Some political parties tolerate ethno-religious communalisation and few other encourage it.
- ▣ Political parties do not take a collective stand against these negative incidences of communal violence which affects the society and nation, for obvious reasons.
- ▣ The hindu organization blame Muslims and Christian for forcibly converting Hindus to their religions.
- ▣ _It is high time that political parties and political leaders ignore political and electoral considerations and take action against elements which disrupt social harmony through communal clashes.

- ▣ The sensitive issues like,
- ▣ 1) Kashmir Issue.
- ▣ 2) Ram Janma bhoomi –Bhabri masjid Issue.
- ▣ 3) Gujrath Godhra incidence.
- ▣ 4) Mumbai bomb blast.
- ▣ these incidences have been used by political parties to their own advantages of electoral vote bank, disregarding the national interest.
- ▣ There have been instances of attack against Christian missionaries , although in lesser numbers because of Forcible conversion of Hindus into Christianity.

▣ FEATURES OF COMMUNAL VIOLENCE

▣ A probe of the major communal riots in the country in the last five decades has revealed that ,

▣ 1) Communal violence or riots are more politically motivated than fuelled by religion . Power hungry politicians instigate communal riots and try to bring peace among people, so that they can become champions of peace in the eyes of innocent common man.

▣

- ▣ 2) Besides political interest ,economic interest also plays an important role in instigating communal riots.
- ▣ 3) Communal riots seem to be more common in North India than in south India.
- ▣ Reason :- muslim population is less in south,-- less damage in south during British raj due to communal clashes , so revenge clashes were minimum.
- ▣ Moplah clash though communal clash was given an agrarian colour,--- Radical Islamic elements are more in north,---High rates of literacy in south.

- ▣ 4) The possibility of recurrence of a riot in a place where it has happened before than in a place where it has not happened before.
- ▣ 5) Most of the communal riots takes place on the occasion of religious festivals.
- ▣ 6) The use of deadly weapons are on the rise in the recent incidents of communal violence.
- ▣ **COMMUNALISM IS :-**
- ▣ 1) A serious threat to the integrity and economic development of the country, which have diverse religions and religious group.

- ▣ 2) such violence and riots result in bloodshed and hatred amongst the communities involved in the incidents.
- ▣ 3) True dedication to your own religion and community does not automatically generate mistrust and hatred towards other religion.
- ▣ It is the interested parties which exploit the illiterate and the poor to instigate such violence to their own advantage.
- ▣ 4) The Indian economy has grown at less than required rate due to communal violence, because this is a hindrance in development.

- ▣ This gives rise to new problems like , unemployment, inequality and a large gap of distribution of wealth.
- ▣ 5) The political parties using religion as a stepping stone for political power. Tickets are issued on the basis of community backings.
- ▣ 6) The concept of communalism in India generally has been used to explain the confrontation between Hindus and Muslims, as they are major religious groups and their number really matters in elections.

▣ CAUSES OF COMMUNAL VIOLENCE:

- ▣ 1) Divide and rule policy of Britishers :
- ▣ ___ After the revolt of 1857, the British thought , with unity our days are numbered and they started to divide different communities on community lines particularly , Hindu and Muslim.
- ▣ __ Partition of Bengal and swadeshi movement was the major factor in dividing Hindus and Muslims.
- ▣ 2) partition of the country :
- ▣ a) partition was a great disaster for the country.

- ▣ b) Before partition all were Indians
- ▣ But after independence , muslim became minority in India.
- ▣ Hindus and Sikhs became minority in Pakistan
- ▣ 3) communal conflicts and conflicts of interest
- ▣ Hindus and Muslims cannot be said as entirely homogenous communities, there are besides religious conflicts , conflicts of interest also existed.
- ▣ 4) political factor : In most of the cases the communal violence is politically motivated . Politicians maximise Political gain through money and muscle power and slogans etc.

- ▣ Leaders from both the communities mislead their respective group to gain political advantage . These leaders never try to bridge the gap between the communities but in fact they try to increase the gap as far as possible.
- ▣ 5) socio political issue :
- ▣ a) cow protection issue
- ▣ b) urdu devnagari script.

- ▣ 6) Administrative Failures :

- ▣ weak law and order situation , many a time due to orders from the leaders as to inaction or delayed action

- ▣ Nexus between police and anti social elements

- ▣ 7) partisan behavior of police:

- ▣ The partisan attitude of police allows petty clashes to turn into major communal violence

- ▣ The Madan commission on Bhiwandi riots (1970) has recorded that the police personnel showed communal bias and actively assisted the hindu rioters in burning And looting muslim properties and communal discrimination was practiced in making arrests.

- .
- 8) Rumors : False and exaggerated rumors pave an easy way to communal violence.
- 9) violence is a result of one feels threats, harassment, fear and danger from other community resulting in anger and hatred .
- 10) Conversion : conversion from one community to another community .
- eg : conversion of Dalits to Islam at meenakshipuram In Tamilnadu resulted in violence , it also instigated violence in Ahemadabad , pune and Solapur in 1982.

- ▣ conversion of adivasis into Christianity instigated violence against Christians in Gujrath , Mp and Uttarkand and in orissa in 2008.
- ▣ 10) Religious conflicts : Belief of superiority of religion over others and our own faith and belief is correct one and other religions are not good and acceptable .
- ▣ 11) Religious organization.
- ▣ a) Bajrang Dal b) RSS c) shivsena d) VHP

- ▣ Who have their own ideology resulting in conflicts.
- ▣ Again Madan commission (1970) observed that such organisations are behind the communal violence.
- ▣ 12) Religious processions and celebrations:
 - ▣ a) Bhagwati jagaran
 - ▣ b) Durga pooja
 - ▣ c) Ganesh utsav
 - ▣ d) Rath Yatra
 - ▣ e) Shiv jayanthi

- ▣ f) Ram Navami utsav
- ▣ g) Ram leela
- ▣ h) Tazia
- ▣ i) Muhharam etc
- ▣ passing of a procession through a particular area , strong hold of a particular community , shouting of anti slogans, etc causes communal violence.
- ▣ Offering of Namaz on Roads , organizing Maha aratis also results in communal clashes and violence.

- ▣ 13) Religious Fanaticism : (extreme beliefs)
- ▣ Constant preaching and action of communal organization . Instigating violence through hate speeches. Illiterate followers being constantly hammered of hatred and hardcoreness. , raising of anti communal slogans.
- ▣ 14) Revival of Fundamentalism:
- ▣ prominent display of religious signs and slogans on vehicles and public places has caught up rapidly.
- ▣ use of loudspeakers at religious places creates disharmony at times. Attempt to restrict are termed as anti religious.

- ▣ 15) Hurting religious sentiments :
- ▣ 1967-Srinagar—Torn pieces of Holy Quoran
- ▣ 1968- Assam---Killing of a cow by Muslims
- ▣ 1986-Banglore, Mysore ---defamatory article
against prophet Mohd.
- ▣ 1980 Moradabad – Intrusion of a pig into Idgah
during eid prayers.
- ▣

- ▣ 16) Other Issues :
- ▣ 1) changing the route of the procession ,
- ▣ 2)clash in timings of prayers of two communities.
- ▣ 3) cow slaughter- mob lynching
- ▣ 4) disrespect of holy places or places of worship.
- ▣ 5) Dispute over places of worship.
- ▣ 6) Distribution of objectionable article through pamphlets
- ▣ 7) Disturbance of religious function / processions.

- ▣ 8) Intolerance during fairs and festivals
- ▣ 9) marriage, eloping from different communities
- ▣ 10) Mischievous media reporting.
- ▣ 11) objectionable speeches
- ▣ 12) petty quarrels
- ▣ 13) personal quarrels
- ▣ 14) Provocative / abusive slogans against other community
- ▣ 15) Publishing of provocative articles and Objectionable writings

- ▣ 16) sexual offences

- ▣ 17) Throwing of liquor / animal carcasses etc.

- ▣ MAJOR INCIDENCES OF COMMUNAL
- ▣ VIOLENCE

- ▣ **1) Partition of India 1947 :-**

- ▣ India was divided into 2 countries on Communal Lines which resulted in, Migration of People from one side to another, which caused :

- ▣

- ▣

- 1) Communal Violence.
- 2) Bloodshed.'
- 3) Hindu's in Pakistan and Muslim in India were hurt by the Violence of High Intensity.
- 4) People were killed in Large Numbers.
- 5) Rehabilitation of Refugees in Refugee Camps became One of the Biggest Challenges for India.

▣ 2) Anti Sikh Riots 1984 :-

- ▣ Aggreived by the Operation Blue Star carried out to fish out Terrorist from '*The Golden Temple*', Mrs. Indira Gandhi, the then Prime Minister of India was assassinated by her **OWN SIKH BODYGUARDS** on 31st October 1984, which resulted in Violence Against Sikhs, which also spread from Delhi to other places in India, 8 to 17 Thousand Deaths were reported, around 3 Thousand Deaths were reported from Delhi alone.

- ▣ Background of the Incidence :-
- ▣ A Separate Khalistan was demanded under the Leadership of Bhindranwale who made '*The Golden Temple*' as his Hideout and HeadQuarters.
- ▣ **3) Ethnic Cleansing Of Kashmiri Hindu Pandits 1989 – 90 :-**
- ▣ Kashmir which was known for Love, Peace, and Unity of Hindu, Muslims And Other Communities, got disturbed with the Growth of Extremist Islamic Terrorism .

- ▣ The terrorism which got the support of external elements resulted in killing and large scale exodus of Kashmir pundits from the valley to other parts of the country, in the late 1980's and beginning of 1990's. it reduced the status of Kashmiri pundits to that of refugees in their own country.
- ▣ 4) Bhagalpur Riots 1989 : Bihar—oct to nov 1989
- ▣ In 1989, violence between Hindus and muslims in Bhagalpur resulted in deaths of around one thousand people(mostly muslims) and displacement of around 50000 people. This riot had started at a time when

- ▣ Ram Janmabhoomi movement was at its peak and lasted for about two months.
- ▣ violence erupted because of objection to hindu(VHP) procession in muslim area, where anti muslim slogans were raised.
- ▣ **5) Babri Masjid Demolition , 6th December 1992**
- ▣ IN the mediveal period , a Mughal general Mir Baqui had built a mosque called Babri masjid named after emporer Babur , in the 16th century.
- ▣ in the year 1992 , karsevaks from various parts of

- ▣ India assembled in Ayodhya under the leadership of VHP and demolished the mosque on 6th of dec.
- ▣ The demolition of mosque resulted in mass scale communal riots for several months which resulted in deaths of atleast 2000 people. Most of the Islamic countries condemned the demolition .
- ▣ 6) Godhra Riots 2002 : sabramati express—27 feb2002. :
- ▣ The Godhra riots were caused by the result of incidents of burning of a coach of sabramati express which was carrying karsevaks returning from Ayodhya

- ▣ In which 58 hindu karsevaks were killed .
- ▣ This was followed by communal riots between Hindus and Muslims in Gujrath , which lasted for several months. This incidence is labelled as a black spot in the history of the state as several people were killed mercilessly . The official statements states that atleast 790 muslims and 254 hindus were killed during the riots
- ▣ 7) Assam communal violence 2012 : first incidence on 20th July 2012.
- ▣ The large scale immigration of Bangladeshi people Into the north eastern states often results in communal and ethnic clashes.

- ▣ In 2012 there were communal clashes in Kokrajhar between Bodos and Muslims after unidentified persons killed four youths of Bodo Tribes. The riots resulted in the death of 80 people and destruction of 500 villages.

- ▣ **MUZAFFAR NAGAR VIOLENCE –27 AUG 2013**

- ▣ On the above date, the communal clashes broke out between Jats and Muslim community in Muzaffarnagar district in UP. The riots resulted in the death of 62 people and displaced more than 5,000 people.

- ▣ The Riots were labeled as the Worst Violence in the recent history of UP.

Reason : Caused by Minor Altercation between Hindu and Muslim Youths.

- ▣ **Calcutta Riots of 1946(16th August 1946) :-**

- ▣ The Calcutta Riots of 1946 are regarded as one of the Most Devastating Riots to have happened in India with approximately 4,000 Deaths and 1,00,000 were left Homeless.

- ▣ The Riots happened when Mohd. Ali Jinnah asked Muslims across the Country to participate in Direct Action in order to press the Claims for a Separate State for Muslims.

The Violence saw Massacre, Forced Conversion, Arson, Abduction & Mass Rape.

Bhiwandi Riots 1970(7th And 8th May) :-

- ▣ The Bhiwandi Riots of 1970 are regarded as the Most dangerous of their Kind to have happened in India, Before the Bombay Riots.

- ▣ The Riots happened when a Procession was being Taken Out during Shivaji Jayanti.
- ▣ The Route of the Procession was through a Muslim Dominated Area and during the Procession, Anti – Muslim Slogans were Raised, there were Prolonged Tension between 2 Communities and such Slogans resulted in Altercation between the 2 Communities and resulted in Major Violence.
- ▣ It is Alleged that Police did not take any actions against the Miscreants initially and later on the Police targeted Muslims while Firing.
- ▣ The violence resulted in burning of MUSLIM properties

- ▣ Over 250 deaths were reported . There were repercussion of the incidence in Jalgaon and mahad , which reported violence.
- ▣ **MORADABAD RIOTS OF 1980 (13th aug to nov 80)**
- ▣ In 1980 , Moradabad of UP was rocked by series of
- ▣ Religious clashes that lasted from Aug to November. The violence started when a pig entered the Idgah Maidan during Eid prayer and police did not take any action . The two month long violence took lives of 400 people . But unofficial figure stated the death as high as 2500. public property worth lakhs of rupees was destroyed in the violence .

- ▣ Moradabad has a history of Hindu Muslim riots , such riots had occurred in 1848 ,1872 ,1948 ,1978 etc.
- ▣ **BOMBAY RIOTS OF 1992-93 (dec 92 to jan 93)**
- ▣ The main reason behind Bombay riots was the demolition of Babri Masjid at Ayodhya ,UP.
- ▣ There was significant uproar after the incident and it soon led to frequent clash between Hindus and Muslims.
- ▣ Apart from Bombay ,several other cities were affected in the riots . Almost 1000 people lost their lives in the Riots and hundreds rendered homeless.
- ▣

- ▣ In one gruesome Incident a room was set on fire in Goregaon in Mumbai, where several muslims were taking shelter. Gradually the violence was calmed down .
- ▣ But in a revenge action the city of Mumbai was rocked by a serial bomb blast, allegedly by underworld don Dawood Ibrahim and his gang which resulted in deaths of 317 people and injuries to 1400 people in addition to destruction of properties worth lakhs.

DIFFERENT ENQUIRY COMMISSION REPORTS

1969- Ahmedabad Gujrath Riots

Justice p. Jagmohan Reddy commission Report

The violence was Gujrath's first major Riot that involved massacre , arson and looting on a large scale

It was the most deadly Hindu- Muslim violence since the 1947 incidence during partition

Official figures : 660 people were killed (un off-2000)

1074 were injured and 48000peopleLost their property.

- ❖ Muslims communities suffered majority of losses
- ❖ There were several incidents of clashes between Hindu and muslim textile workers over jobs in textile mills.
- ❖ In a Rally held on 27 and 28 dec 1968 by RSS supremo M.S Golwalkar pleaded for a hindu Rashtra.
- ❖ On the Muslim side provocative speeches were made at the conference Jamait –Ulema-e-Hind in June 1969.

- ❖ On the Evening of 3rd March 1969, a Hindu Police Officer moved a Handcart which was obstructing near the Kalupur Tower.
- ❖ A copy of Quran placed on the Handcart fell on the Ground, the Muslims wanted an apology by the Policeman. Several Policeman were injured in the Protest.
- ❖ On September 4th 1969, A Muslim Police Officer, while dispersing a RamLeela Festive Crowd hit a Table containing Hindu Text of Ramayana and Arthi Thali, which fell down.

- ❑ The Hindus alleged that the Police Officer also kicked the Holy Book. This led to the Protest from Hindus.
- ❖ Bhartiya Janasangh Leader Madhok made Fiery Speeches on 14th and 15th September.
- ❖ On 18th September 1969, there was a Clash between Hindu Sadhus, who were bringing Cows to the Jagannath Temple through a Crowded Street where Muslims had gathered to celebrate 'Urs.'
- ❖ Muslim Women were injured by Cows, this led to Violence, on 19th September, the Muslims attacked the Temples, later on the Violence escalated and resulted in Deaths and Injuries and Loss of Property.

▣ **Justice Reddy Commission Report 1969**

- ❖ It was set up by the State Government led by the Chief Minister of Indian National Congress, Hitendra Desai, on demand, why State Machinery was unable to contain and Failure of Police in controlling the violence.
- ❖ The Commission blamed the Hindu Nationalist Organisation for the Violence.
- ❖ The **RSS**, the Hindu Maha Sabha, the Janasangha were involved in the Riots.
- ❖ The Commission also stated that in Badodra, the Shops of Muslims were identified, marked in Advance and then Systematically destroyed.

- ❖ This Planning suggested that the Violence was Pre-Planned.
- ❖ The Commission published it's Report in 1971.
 - ▣ The Commission questioned the Police Role in the Riots.
- ❖ The Commission found that atleast six instances of Muslim Religious Places adjoining Police Stations being Attacked or Damaged.
- ❖ The Police defended themselves claiming that they did not have sufficient Force since they were busy Quelling the Riots at other Places.

- ❖ However, the Commission refused to entertain this Argument since there were no Damages to Hindu Places of Worship near the Police Station.
- ❖ Overall, 37 Mosques, 50 Darghas, 6 Kabristans, and 3 Temples were destroyed.
According to Conspiracy Theory, the Violence was deliberately engineered to discredit Chief Minister, Hitendra Desai, who had been supporting the Congress (O) Leader, Morarji Desai. Instead of Congress (I) Leader, Mrs. Indira Gandhi.

▣ **Bhiwandi Riots (Jalgaon and Mahad) 1970**

- ❖ **Report of Justice O.P. Madhan Commission.**
- ❖ Hindu Communal Organisations have always maintained that it is always the Muslims, who start Riots, Forcing Retaliatory Acts by Hindus in Self – Defense.
But Virtually, every single officially appointed Judicial Commission to probe into cause of Riots in different parts of the Country, had found, the **RSS** and other Organisations guilty.

- ❖ Almost 1 Year after the Riots in Ahmedabad, Communal Riots broke out in Bhiwandi, Maharashtra during Shivaji Jayanti Procession.
- ❖ The Procession was the Largest held during that Time and there were 10,000 People in the Procession which was Double the Normal Number.
- ❖ When the News of Riots spread there were Violence in Jalgaon and Mahad also.
- ❖ The Cause of Violence were the Results of the Procession which was taken through the Muslim Area despite Police Warning against it
- ❖ And Preparation for the Procession since last few months, were the Indication of that.

❖ Till this Event, there was Harmony and Peace between the Communities because of Socio – Economic Reasons.

The Textile mills in Bhiwandi which was the Primary Source of Employment belonged to the Muslims but their Suppliers and Money lenders were Marwari – Hindus which made the 2 Communities, Inter – Dependant.

❖ But this Harmony was disturbed due to Preparation of Procession, which till then was not held Publicly.

❖ There was a General Consensus that Shivaji Jayanti Procession caused the Riots and also involvement of some Hindus and Muslim Political Organisations.

- ❖ Casualties :
 - Date of Violence – 7th And 8th May 1970.
 - Death – 250 People.
 - Arson and Destruction of Muslim Properties.
- ❖ Alleged involvement of **RSS** and Janasangh.
- ❖ There was a Tension between Groups like **RSS**, Janasangh, Shivsena on the One – Side and Muslim Groups of Jammāt - E - Islam and Muslim League, on the other.
- ❖ The Route of the Procession was through Muslim Dominated Area and there was a Mosque on that Route. The Permission for Procession was given over Protest from Muslims.

- ❖ The members of the procession arrived with lathis and shouted slogans against muslims.
- ❖ It is alleged that police opened fire once the violence became uncontrollable but targeted only muslims.
- ❖ It is also alleged that some muslims threw stones at the procession which started the violence.

- ▣ **MADAN COMMISSION REPORT**

- ▣ Chief Minister : Vasanth Rao Naik

- ❖ The Maharashtra Govt. appointed a judicial inquiry commission on 12 th may 1970 and
- ❖ justice O.P MADAN, A SITTING JUDGE of the Bombay High court was appointed as the head of the commission .
- ❖ The commission submitted a seven volume report in 1974 , which ran more than 2000 pages.
- ❖ The justice Madan commission conducted a public inquiry rather than an in camera inquiry.
- ❖ This was to restore the public confidence on state agencies.
- ❖ And also to show that there is no scope for speculation as regards to fairness and neutrality of the commission.

- ❖ Administration and police submitted their evidence through affidavits , even secret and confidential intelligent reports were provided to the commission.
- ❖ The victims also provided evidence through affidavit
- ❖ Based on these affidavits the commission was able to gauge whether there was prior knowledge of possibility of violence during the procession
- ❖ The government documents are necessary or useful particularly to assess the decisions taken by the administration during the period when the riots Occurred .

- ▣ The Madan commission in this respect was better placed than many other commissions.
- ❖ The Madan Commission did not restrict its area of Inquiry only to Bhiwandi Riots but decided to study all earlier cases to find out the Root Cause of Communal Violence across the Country.
- ❖ The Madan Commission did not restrict evidence which came before it through written statements and affidavits but, made its own Inquiry to ascertain the Truth.
- ❖ Justice Madan argued that a Commission has to dig deeper to get the Facts. That is why it is different from Court of Law, which Solely depends on the Evidence produced before it.

- ❖ The Commission found that there were Serious Discrepancies between the FIRs and some of affidavits filed by the Police Officers on the same incidence.
- ❖ The Commission also depended on the News Paper Report and on the Spot Inspection Data of the Effected Area (Field Visit) to cross check the Police Version.
- ❖ The Commission conducted Cross – Examination to conclude on veracity of Evidence came before it.

The Commission also looked into 1964 Procession and other Shivaji Jayanti Procession and also the Activities of the Organisation of Janasangh and Rashtriya Utsav Mandal.

FINDINGS OF THE COMMISSION

- ▣ Madan commission in its overall findings concluded that the Shiv Jayanti procession was a means for the local level leaders belonging to both Hindu and Muslim political organisation to foment riots in Bhiwandi .
- ▣ The route of the procession was always the point of contention between the communities.
- ▣ The atmosphere of 1970 violence was created around the preparations which was going on for several months.

- ▣ The commission held that Bhiwandi Branch of All India Majlis Tomeer –e-millat , The shiv sena , jansangh, Bhiwandi Seva samiti and Rastriya utsasv mandal were responsible for fomenting communal tension in Bhiwandi.
- ▣ The commission also observed that there were several lapses at the administrative level, which was not able to assess the situation in Bhiwandi and take preventive measures before procession.
- ▣ commission observed that some of the policemen showed communal discrimination in dealing with the

- ▣ Rioting mobs , where they did not take action against Hindu rioters.
- ▣ The commission also found the special Investigation squad set up to investigate the riot cases conducted its investigation with a communal bias and therefore its report was also discriminatory.
- ▣ It is also observed that when such procession is politicised such procession results in riots and becomes a law and order problem for the state.
- ▣ when such procession is not politicised the procession always passes in peaceful manner.

- ▣ It also debated the citizens right to go in a procession over a public road and this entire right was taken for granted without any restriction.
- ▣ One more question which was debated about was the route of procession when the other party clearly objected to it.
- ▣ But not an easy question to resolve because the fundamental rights of citizen “to assemble peacefully and without arms and Governments power to maintain law and order.

- ▣ The commission observed that the right to take Procession was subject to restriction.
- ▣ But not from an arbitrary demand from another community, that it can not pass through their place of worship.
- ▣ But Restriction that strictly came from District Magistrate and Traffic Authorities.

This meant in the eyes of commission, the 2 religious groups are equal and have the same rights, but this was subject to restrictions imposed by law for maintenance of law and order.

▣ Findings on Role of Police

- ▣ The Police Authorities failed to Judge the Real Objective of the time duration and activities of various organisations during Preparation and hence failed to take Preventive action against the Violence.
- ▣ Although the Policemen were walking along with the slogan shouting elements, they failed to arrest any of them.
- ▣ In Cross Examination, Policemen stated that, there were no clear cut orders from the Authorities as to timing of the arrests of those people who were shouting Provocating Slogans.

- ▣ There were many Contradictory Statement by Policemen.
- ▣ Eg : A Police Inspector stated that, There were Provocating Slogans but they were not against Muslims, which defies the logic.
- ▣ The Commission concluded that,
- ▣ a) The Main Cause of Violence Was Shivaji Jayanti Procession.
- ▣ But Observed That The Incident did not happen at the Spur of the Moment.
- ▣ But due to accumulation of Various Tensions over a Period of Time, they are not Spontaneous but Planned over a Period of Time.

- ▣ b) The Commission held various organisations responsible for the Violence and loss of life and property, Shivsena, Janasangh, and Rastriya Utsav Mandal were involved in the Violence.
- ▣ There were evidence of Communal Speech by some of the Leaders.



- ▣ **Bombay Riots 1992 – 93**

- ▣ **Justice Shri Krishna Report.**

- ▣ The Bombay Riots usually refers to the Riots in Mumbai, in December 1992 and January 1993 (6th December 1992 to 26th January 1993)
- ▣ 900 People died in the Violence (575 Muslim, 275 Hindus and 50 others).
- ▣ The Reason behind the Riots were mainly due to Escalation of Hostilities after large scale protests by Muslims in Reaction to the 1992 to the Babari Masjid Demolition by Hindu Karsevaks in Ayodya

- ▣ The First Phase of the Violence was Muslim Backlash after Demolition of Babari Masjid on 6th December 1992.
- ▣ The Second Phase was a Hindu Backlash occurring as a result of the killings of Hindu Mathadi Kamgars by Muslim Fanatics in Dongri, stabbing of Hindus in Muslim Majority Areas and burning of 6 Hindus including a Physically Handicapped Girl in Radha Bhai Chawl. This Phase occurred in January 1993 (6th to 20th January).

- ▣ The Police had to resort to firing in 43 Cases resulting in death of 11 Hindus, 31 Muslims and 3 Others.
- ▣ There were several cases of Mob Violence, stabbing and Arson. Several Temples and Mosques were attacked.
- ▣ On December 1992, a Pamphlet In Urdu Language was Distributed around Jama Masjid in Mahim Area. This Pamphlet was communally provocative and incited Muslim to fight against Hindus and calls upon Muslim to construct the Babari Masjid, if necessary with Blood.

- ▣ On 1st January 1993, there was an Article in the Shivsena Mouthpiece Samna under the Caption, “Hindus must be Aggressive now”, openly inciting Hindus to Violence.
- ▣ Many incidents of Riots, in response to such Articles.
- ▣ Many cases of Stabbing, Arson, Mob Violence, Attack on Private and Government Properties followed.
- ▣ On 10th January 1993, the Army was deployed to take control of the Situation and from 20th January onwards, there was no Major Communal Incidents.

- ▣ 26th Jan 1993, passed off peacefully and during the subsequent period the city limped back to normalcy.

- ▣ **JUSTICE B.N. Shri Krishna Commission**

- ▣ On Jan 25th 1993, the Government of Maharashtra headed by Congress CM Sudakar Rao Naik, Constituted a Commission of Enquiry under Justice B.N. Shri Krishna in 1995, the Terms of Reference were expanded by the Subsequential Shivsena – BJP Government to Include the Investigation into the Cause of the Mumbai Blast on March 1993.

- ▣ In Jan 1996, the Commission was disbanded by the Sena BJP Government on the Ground that it had taken unduly long time to produce report and the report is likely to open wounds that had healed over time.
- ▣ The Commission was Reconstituted in May 1996 due to Pressure from Civil Groups and Persuasion from PM Atal Bihari Bajpai.
- ▣ Recording of Evidence started from June 24th 1996 and came to an end on July 4th 1997.
- ▣ The Commission reported the Witness of 502 People, Deposition ran into 9665 Pages.

- ▣ Took on Record 2903 Documents as exhibits.
- ▣ 2126, Affidavits were filed before the Commission.
The Commission submitted its Report in 1998.
- ▣ **Findings** : The Commission said that, the December 1992 phase of the rioting by the muslims was a spontaneous reaction of leaderless and angry muslim mobs .
- ▣ It stated that the January 1993 phase commenced from 6th by the Hindus brought by communally inciting Propaganda unleashed by Hindu communal organization and writing in news papers like SAMNA and NAVAKAAL.



- ▣ The commission also mentioned the name of Shiv Sena Pramukh Bal Saheb Thackeray for issuing directives in this regard.
- ▣ IT ALSO STATED That there was no material on record suggesting that even during this phase any known muslim Individuals or organization were responsible for the riots . Though many Muslim criminal elements appeared to have indulged in violence, looting Arson and rioting.

- Prominent Shivsena leaders named by the commission include,

- Balasaheb thackray

- Gajanan kirtikar

- Madhukar sarpotdar

- Milind Vaidya

- The commission also spoke about the built in bias of the police force against the Muslims. Appeals from muslims to protect them was ignored.

- ▣ Even when Hindu offender was clearly identified , no arrest was made.
- ▣ It listed 11 incidents in which 31 police officers were found actively participating in riots ,communal incidents and incidents of loot and arson.
- ▣ It recommended that the government take strict action against them.
- ▣ In its action taken report , the sena-Bjp government said
 - ▣ 1) special civil code for the minorities
 - ▣ 2)Reversal of decision in the shah Bano case

- ▣ 3) Opposition to the singing of Vande Mataram
- ▣ 4) Use of the loud speakers for Namaz
- ▣ 5) Offering of Namaz on roads
- ▣ 6) Honorarium granted to the Maulavis
- ▣ 7) The concession granted to the Haj pilgrimage
- ▣ Are the reasons which lead to the bitterness among Hindus and Muslims which ultimately led to the riots of 92-93.

- ▣ The government said it accepted the commission recommendation to improve policing in the state , it cannot agree with the conclusions of the commission.
- ▣ The commissions report was finally tabled on 6th aug 1998 (Report submitted on feb16 ,1998) in the state assembly due to public pressure and petitions before the Bombay High court. (CM Manohar Joshi)
- ▣ The CM dubbed the report as anti Hindu and biased in favour of the minority community.
- ▣ He also said that it is the riots and serial BOMB blasts Of march 1993 are designs of Pakistan's ISI to destabilise India and Bombay its economical capital.

- ▣ However, the police commissioner Mr. Bapat could not furnish any evidence in support of such claim during his deposition.

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NANAVATI—MEHTA COMMISSION 2002

□ GODHRA RIOTS 2002

- The incidence : The Godhra Train Burning was an incident that occurred on the morning of 27 Feb 2002, in which 59 karsevaks died in a fire inside the Sabramati express train near the Godhra railway station in Gujrath
- The victims were mainly ,hindu pilgrims who were returning from Ayodhya after religious ceremony at the disputed Babri masjid site .
- The commission set up by the Government of Gujrath to investigate the train Burning at Godhra, spent 6 years going over the details of the case and concluded that the fire was result of arson by the mob of 1000 to 2000 people .

- ▣ A court convicted 31 muslims for the incident and the conspiracy for the crime . The conviction was later upheld by the Gujrath High court.
- ▣ Although the actual causes of the fire have yet to be proven conclusively.
- ▣ The train incident later triggerd the Gujrath riots which resulted in widespread loss of life and distruction of property .

- ▣ In feb 2002, thousands of devotees of Rama known as karsevaks had gone from Gujrath to Ayodhya at the behest of the VHP to take part in “ Purnaahuti Maha Yagna “.
- ▣ on 25th feb, 1700 pilgrims and karsevaks boarded ssabramati espress which was bound for ahemadabad.
- ▣ On 27 feb 2002, the train made a scheduled stop at Godhra at 7-43 am.
- ▣ As the train started leaving the platform, some one Pulled the chain and train stopped near the signal point.

- ▣ The train was attacked by a mob of around 2000 people. After some stone pelting 4 coaches of the train were set alight . 59 people including 27 women and 10 children were burnt alive and 48 people were injured.
- ▣ According to J. Mahapatra, additional director General of Gujrath police , miscreants had kept the petrol soaked rags ready for use much before the train arrived in Godhra.
- ▣ A study conducted by the gujrath forensic science Laboratory report states that 60 ltrs of inflammable liquid had been poured into coach s-6 of the train using a wide mouthed container and set on fire immedietly .

- ▣ . This event triggered the anti muslim riots in which 2000 people were killed and 150000 were displaced.
- ▣ The Nanavati Mehta commission Enquiry and Report:
- ▣ This commission was appointed by the government of Gujrath to probe the Gujrath Godhra train burning incident of 27 feb,2002.
- ▣ it's jurisdiction was later enlarged to enquire into 2002 Riots.

- ▣ It was appointed on 6th march 2002, with K.G Shah , a retired High court judge the only member.
- ▣ It was later reconstituted to include G.T.Nanavati , a retired judge of the supreme court as chairman of the commission of the 2 member committee, after protests from human rights organization over shah's closeness to Narendra Modi .
- ▣ , Akshay Mehta retired judge of Gujrath High court joined the commission after the death of shah on 6th April 2008.

- ▣ In sept 2008 the commission submitted the part of its report covering the Godhra train burning incident (part I)
- ▣ The commission concluded that burning of S-6s coach of sabramati express near Godhra railway station was a planned conspiracy
- ▣ The part dealing with subsequent violence was submitted on 18th nov 2014 and it's term ended on 31st October 2014.
- ▣ During the six year probe the commission examined more than 40000 documents and the testimonies of more than 1000 witness.

- ▣ The credibility of the commissions report was called into question when the investigative magazine Tehelka released a video recording showing Arvind Pandya , counsel for Gujrath Govt discussing with the commission.
- ▣ In the video Pandya states that hindu leaders need not concern themselves about the Nanavati-Mehta commission, since shah was their man and Nanavati could be bribed ,the findings would be definitely be in BJP's favour .
- ▣ Pandya resigned from the post of counsel for the Government , stating that he has been framed .



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▣ **Terms of Reference**

- ▣ Initially the terms of reference of the commission were to inquire into the facts ,circumstances and course of events that led to the burning of s-6 coach of sabramati express.
- ▣ On 20th July 2004, soon after the UPA government came to power in the center, the scope of the commission was widened to include within its scope of inquiry, the role and conduct of the then CM Narendra Modi and any other Ministers, Police officers & other Individuals or organizations.

- ▣ The Central Government could not constitute a Separate Commission since the provision of commission of inquiry act 1952 does not allow to simultaneous commission into the same matter.
- ▣ The Initial Term of the committee was 3 Months, however, it's terms were extended for 24 Times and it's term ended on 31st October 2014.
- ▣ On 7th March 2002, the Commission started it's functioning at Ahmedabad.
- ▣ On 20th April 2002, it issued a notification inviting people who are acquainted with subject matter to furnish the commission with statements/affidavit.

- ▣ The Inquiry was conducted by the commission as an open public inquiry. The Public and Media were also permitted to remain present at the time of hearings fixed by the commission.
- ▣ The Commission initially examined the burnt s-6 coach to see it's condition and the damage caused to it and later in the light of evidence collected by it.
 - ▣ **Part I Report and Conclusions**
- ▣ In September 2008, the Commission submitted it's 168 Page Part 1 Report.

- ▣ The Report concludes that, The Burning of the s-6 coach of Sabramathi Express was a Premeditated Crime and not an accident.
- ▣ It gave a clean chit to the Gujrat CM Narendra Modi, saying, 'There was no Evidence to show that he or anybody in his Government was involved with the Incident.'
- ▣ As per the commission, the conspiracy was hatched by some local Muslims at the Aman Guest House in Godra, the Previous Night.

- ▣ The 140L of Petrol was collected from a Petrol Pump on the Night of 26th Feb 2002.
- ▣ Next day, Hasan Lala forcibly entered the Coach and threw burning rags inside the Coach.
- ▣ Forensic Evidence that fuel was poured on the Coach before burning it was also presented by the commission.
- ▣ The Report also concluded that, the train was attacked by 1000s of Muslims at the Signal Area.

- ▣ The Commission also concluded that there was no evidence regarding involvement of any definite religious or Political Organisation.
- ▣ The commission claimed that there was no evidence to justify the contention that the kar sevaks have been fighting with Muslim Vendors at Stations before the incident as alleged earlier, though there were some minor scuffles with 3 Muslim Vendors on the Godra Platform.

- ▣ According to the Report, setting fire to the train was Part of a larger conspiracy to instill a sense of fear in the administration and create anarchy in the state.
- ▣ Final Report was submitted on 18th November 2014 to Gujrat Government.
- ▣ The BJP welcomed the Part I of the Report and said that the Report put an end to the Speculation that the fire was an accident.
- ▣ VHP. Also welcomed the Report and it's Secretary said that the Report established that the Train Burning was Pre-Planned Conspiracy.

- ▣ *Court Verdict* : In Feb 2011, the Trial Court convicted 31 People and acquitted 63 Others for Conspiring to Murder saying that the Incidence was a Pre-Planned Conspiracy mainly by Muslims.

- ▣ **LIBERHAN COMMISSION**

- ▣ (To Inquire into the Demolition of Babari Masjid in Ayodhya in 1992).
 - ▣ The Commission was formed by Government of India to investigate the Demolition by Babari Masjid in Ayodhya on 6th December 1992 and subsequent Riots.



- ▣ Led by Retired High Court Judge, MS Liberhan which was formed on 16th December 1992.
- ▣ The Commission was originally mandated to submit it's report within 3 Months. Extensions were given 48 Times and after a delay of 17 Years, the one Man Commission submitted the Report to PM Manmohan Singh on 30th June 2009.
- ▣ In November 2009, a day after a Newspaper published the allegedly leaked contents of the Report, the Report was tabled in Parliament by HomeMinister P.Chidambaram.

- ▣ *The Dispute*

- ▣ The Babari Masjid which was constructed in 1527 by Order of Babar, the 1st Mughal Emperor of India. It is alleged that Mir Baqui, allegedly destroyed an existing Ram Temple in Ayodhya.
- ▣ The said Mosque was demolished on 6th December 1992 by A Political Rally developed into a Riot involving 1.5 Lakh People, despite commitment to the Indian Supreme Court by the Rally Organisers, that the Mosque would not be harmed.

- ▣ More than 2000 People were killed in the ensuing Riots in many Major Indian Cities including Mumbai and Delhi.
- ▣ The site was considered as Ram Janm Bhoomi by some Hindu Organisation. The VHP began a campaign for the construction of Ram Temple in that Place with BJP Backing. Later LK Advani led a Rath Yathra known as Ram Rath Yathra.
- ▣ On 6th December 1992, the VHP and BJP organized a Rally at the site involving 1.5 Lakh Volunteers known as Kar Sevaks.

- ▣ The rally turned violent and demolished the mosque resulting in large scale violence throughout India.
- ▣ THE DESTRUCTION OF Babri masjid sparked muslim outrage around the country provoking several months of inter communal rioting in which hindus and muslims attacked one another , burning and looting of homes,shops and places of worships.
- ▣ Several BJP leaders were taken into custody , the VHP was banned by the government . The riots spread to the cities like Mumbai,Surat,ahemadabad, Kanpur , DELHI ,Bhopal and other cities.

- ▣ Mumbai Riots resulted in Mumbai Bombings 1993.
- ▣ Indian Mujahiddeen cited the Babri Masjid Demolition as reason for terrorist attacks.
- ▣ There were reaction in Pakistan and Bangladesh also. Many temples were destroyed ,several HINDUS WERE KILLED.
- ▣ *TERMS AND REFERENCE OF THE COMMISSION*
- ▣ To make an Inquiry with respect to the following matter.

- 1) All sequence of events leading to the destruction of Babari Masjid Structure in Ayodhya on 6th December 1992.
- 2) The Role played by the Chief Minister and members of the Council Of Ministers, Officials of The Government Of UP, by Individuals and Organisations in Connection with Destruction of Babari Masjid Structure.
- 3) The Deficiencies in Security Measures and other arrangements which might have contributed to the events of Destruction of Babari Masjid.

- ▣ ***Duration and Expenses***

- ▣ One Man Panel and Country's Longest Running Inquiry Commissions costing the Government Rupees 80 Million.

- ▣ The Commission was appointed by the then PM Shree Narsimha Rao.

- ▣ The Commission's Duration was about 16 Years.

- ▣ ***Proceedings of the Commission***

- ▣ The Commission recorded Statements of Several Politicians, Bureaucrats and Police Officials including

- 1) Kalyan Singh – CM Of UP – BJP.
- 2) Narshima Rao – PM – Congress.
- 3) LK Advani – BJP.
- 4) Murli Manohar Joshi – BJP.
- 5) Uuma Bharati – BJP.
- 6) Mulayam Singh Yadav – Samaj Wadi Party
 - ▣ Top Bureaucrats and Police Officials Of Uttar Pradesh recorded their Statement as witness including
 - ▣ District Magistrate – RN Shri Vastava.

- ▣ Senior SP – DB Roy.
- ▣ Mark Tully – BBC Journalist.
- ▣ KS Sudharshan – RSS Leader.
- ▣ Jyoti Basu – CM West Bengal.
- ▣ Vishnu Hari Dalmia – President VHP.
- ▣ VP Singh.
- ▣ ***Contents Of The Report***
- ▣ On 23rd November 2009, the Media began reporting on the contents of the report, which had been leaked before being made available to the Legislature.

- ▣ It is alleged that Home Ministry deliberately leaked the Report.
- ▣ 1) The Report indicted top BJP Party Leaders as being actively Involved in the Meticulous Planning of the Demolition of the Mosque.
- ▣ 2) The Report holds 68 People culpable including LK Advani, Murli Manohar Joshi, AB Vajpai and Kalyan Singh (All of them have been acquitted of all charges by a Special Court in Lucknow, on 30th September 2020)
- ▣ 3) The Report accused RSS of being the Chief Architect of the Demolition and Names it as the Core of Sangh Parivar.

- ▣ 4) The Commission has identified the Kalyan Singh led BJP Govt. in UP as the key to the execution of the Conspiracy to Demolish in the Babari Masjid.

- ▣ 5) Justice MS Liberhan termed :
 - i. Atal Bihari Vajpai.
 - ii. LK Advani.
 - iii. Murli Manohari Joshi as Pseudo – Moderates, pretending to keep a distance from the Ram Janma Bhoomi Campaign when they were actually aware of whole conspiracy.

- ▣ 6) The Commission said, “These leaders have violated the trust of the people.”
- ▣ 7) Kalyan Singh, who was the CM of UP during Babari Masjid demolition ,was accused of Posting Bureaucrats and Police Officers who would stay Silent during the Mosque’s Demolition.
- ▣ 8) The Commission said, Kalyan Singh’s Govt. was the Essential Component needed by the Sangh Parivar for it’s Purposes.
- ▣ 9) The Commission’s report said, that Kalyan Singh allowed RSS to directly run his Government.

- ▣ 10) It also stated, that the Govt. systematically and in a Pre – Planned Manner removed inconvenient Bureaucrats from Positions of Power and Diluted the Security Cover.
- ▣ 11) The Commission stated that, the Preparation was accomplished with Phenomenal Secrecy, was technically flawless with consistency and assured results.
- ▣ Leaders know how passions are aroused and how to prevent the same, they always see what would be beneficial to them rather than what would be good for the Nation.

▣ **Role Of Police and Para – Military System In Dealing With Communal Violence**

- ▣ Introduction : India being a country where many religions and faith are practiced and followed and due to conflict of interests, there is a likelihood of disputes among these communities.
- ▣ In Democracy, the duty of the state is to provide Peace, Prosperity and Justice to People.
- ▣ This duty can be fulfilled by the Democratic Govt. through the Civilized Principles of Rule of Law.

- ▣ The Concept of Rule Of Law is based on just, fair and reasonable action of Rule Maintaining Authority.
- ▣ The Burden to implement Law and maintain order in the Society is one of the Prime Responsibilities of the Enforcement Agencies of the State.
- ▣ The Role of Law Enforcement Agencies is a Sensitive Issue as far as Preventing of Communal Violence.
- ▣ ***Role Of Bureaucracy***
- ▣ The Prime Responsibility of a Local District Administration is to maintain Law and Order and Peace in the District.

- ▣ The District Magistrate (Executive Magistrate) and the Police are important agencies dealing with the problem of law and order.
- ▣ The Communal Fall Out are seen as the Fall Out of Activities of Anti – Social People. The Image of Administration should stand the test of impartiality in approach, rationality of Decisions and concerns of the People.
- ▣ The Hierarchy of Administrations in a district generally starts with District Magistrate who maintains law and order and supervises the overall situation and has the power to make the required decisions.

- ▣ The SP assists in Maintenance of Law and Order.
- ▣ The District Magistrate is the 1st Law Enforcement Agencies in dealing with Communal Violence in his District ,and the SP assists him with his Police Force, it was also being Observed that more often, he looks up to his Political Bosses and acts according to their will rather than according to his Constitutional Duties.
- ▣ On Several Occasions, it is found that Officers at all Levels, including DM and SP have been found hesitant in taking quick and firm decisions during Communal Violence.

- All the Commissions which were appointed to inquire into various communal riots, have reported that the Police have not performed their Duty in controlling the Situation. They have been biased and at times being found Participating in the Violence themselves.
- Many a times, it is also observed that the efficient DM and SP have been transferred under Political Pressure.
- No action is taken on officials, who have been unsuccessful in containing the Violence, at the most they are transferred.

- ▣ If Proper and Immediate Action are taken by the Authorities during a Communal Violence, it can be quelled within few hours.
- ▣ Delay in decision, however, turns this Violence into High Intensity Violence and results in Great Number Of Casualties.
- ▣ ***Role Of Intelligence Agencies***
- ▣ Often, it is heard during a Communal Violence that, the Intelligence Agencies did not gather the Intelligence properly, and hence Prevention Measures could not be taken on Time.

- ▣ The Intelligence Agencies also complain that, We Have Provided Appropriate Information ,that The Trouble Is Likely To Happen .
- ▣ But No Action Was Taken Against Such Information.
- ▣ **For Eg:** The Shri Krishna Commission, inquiring on Mumbai Riots (1992 – 93) observed that, the Intelligence Agencies didn't Provide the Information about Possibility of Demolition of Babari Masjid, perhaps with Timely Information, the Violence could have been prevented to a Large Extent.

▣ ***Role Of Police***

- ▣ Among the State Agencies, the Role and Attitude of the Police is very Crucial in Maintenance of Law and Order in the Society.
- ▣ The Functioning of the Police must be looked at from the Point of View of the People and not just from the Point of View of the Government.
- ▣ The Emphasis must be on Service with duty and Accountability, and not mere Power and Authority.

▣ The Control and Direction of the Police Force is vested in the DM. There are 3 Important Features of the Police Administration in the District.

1. Being the Executive Head Of the District and with the Responsibility of maintaining Law and Order, the System authorizes the DM for the General Control of the Police in a District.
2. Any action of the Police must be in accordance with Section - 23 of the Police Act 1861, the CRPC 1973, Principles of Law and Order and the Rule Of Law.

- ▣ 3) If a Lawful Order is given, there is a Compulsion to obey the Order, disobedience is Punishable not only under the Rules of Disciplinary Action but also is to be treated as an offense under IPC.
- ▣ The public administrative agencies and the police normally adopt following strategies to deal with the communal violence
- ▣ 1) Developing constant intelligence ,identification of communal problems and the people, involved in creating communal trouble .
- ▣ 2)Documentation for future, ,anti riot schemes.internal

- ▣ Security schemes and rehearsals .
- ▣ 3) Issuing regulatory orders to control a group of people in public places.
- ▣ 4) Legal action and criminal prosecution against the offenders
- ▣ 5) Preventive action against communal elements

6) Police Patrolling and Surveillance.

7) Resorting to Social Contact, Meeting on given occasions.

8) Use of Force if needed.

- ▣ It is generally observed (OP Madan Commission Report) that most of the communal riots are repeatedly reported in the same locality, sometimes Police can properly predict Communal Riots with Proper Intelligence.
- ▣ Police can identify the areas as Sensitive/Hyper-Sensitive based on past incidents. In such places the Police are required to be well prepared to handle such dangers.
- ▣ On the basis of above discussion role of police in general can be classified as :

1. Maintenance of Law and Order.
2. Enforcement of Law.
3. Prevention Of Crime.
4. Bringing Perpetrators of Communal Violence and Other Crimes to Justice.
5. To Prevent and Control Communal Violence.
 - ▣ It is Amply established that Police has to play a Major role to control violence and therefore Police Reforms shall be considered on Priority Basis to enable Police to perform their duties without fear, Favour or Biass.

▣ It is generally alleged that :

1. The Police did not come to the rescue of Victims on Time.
2. The Police Forces were themselves instrumental in killings.
3. That they themselves indulged in Arson and Looting.
4. Arrested innocent, Tortured them and Filed false Charges.
5. They have built in mind set against a particular community which results in helping the Culprits of Violence.

- ▣ This mindset has to be changed. There has to be reformation in the Police Force so that the communal violence can be prevented and controlled without any major incidence.

- ▣ **Duties of the Police**

1. The Police Force, State or Central is the organized Government Institution to face the brunt of Communal Violence.
2. It is bound to be involved very actively in all three stages :

a. Incitement .

b. Violence.

c. Rehabilitation of Victims.

▣ The police duties which may be divided into 3 category :

1. Before Communal Violence.

2. During Communal Violence.

3. After Communal Violence.

▣ **Before Communal Violence**

1. Before the Outbreak of Communal Violence, the Police have to collect actionable intelligence about the likelihood of Communal Violence.
 2. In a communal Violence, anti-social elements play a crucial role in creating hatred conditions and therefore, a list of those elements must be prepared and should be arrested before the Outbreak of Communal Violence.
- ▣ In case of Religious processions and celebrations, the intention and the preparedness of those who take out as well as who oppose the procession should be truly understood and strict action to be taken in advance.

▣ **During Communal Violence :**

▣ When the Communal Violence could not be prevented and at the Outbreak of Violence, the Police have to perform the following duties :

1. When Arson, Looting and stabbing incidents are reported. Curfew must be imposed immediately and enforced strictly.
2. To curb the Communal Violence, effective measures to contain like, Lathi Charge, Tear gas, water cannon, and some times if the situation demands firing should be resorted to according to the situation.

- ▣ 3. Organized effective Mobile and on Foot Patrolling to Supervise the Situation with the help of Control Room and Wireless Facilities.
- ▣ 4. Senior Officers should remain on the spot and take charge of the situation and should take proper and immediate decisions.
- ▣ 5. Miscreants should be arrested on the spot without any bias and brought to Justice.

▣ **After the Communal Violence**

1. The Injured should be taken to the Hospital immediately and the dead should be disposed of according to the provisions of the law.
2. Through investigation, detection, arrest and prosecution of all perpetrators immediately.
3. Special Squads should be formed for speedy investigation. Police should also Assist to prepare the Panchnamas of damages.
4. Prompt Registration of all insidences.

- ▣ The Human Rights of People can be protected by the Police by following all the above methods.
- ▣ **Police Accountability**
- ▣ In a democracy, the Police remain ultimately accountable to the People. Protection of Basic Rights of People and Compliance with the Law are the 2 Essential Qualities of Good Policing.
- ▣ The Police should not themselves indulge in Abuse of Power and take part in Arson, Looting and Killing.
- ▣ There should not be any bias in Police Action, they should act according to the Rule of Law.

- ▣ Exercise of Police Power must be subjected to checks and balances.

- ▣ The Role of Police in Preventing Communal Violence can be divided into 3 Phases.

1. Understanding the Cause of Community Unrest and spotting the Symptoms. Eliminating the Conditions, which will lead to friction and misunderstanding and ultimately result in Violence and Lawlessness.
2. Establishing contact with key groups in the Community, this will enable the authority to get a continuous supply information, which helps in assessing and spotting the Symptoms.

- ▣ 3. Psychological Control of Symptoms.

- ▣ Whenever there is a Symptom of Violence they should be controlled through Psychological Interaction by the Police with the People.

- ▣ **Role Of Para-Military Forces and the Army**

- ▣ The Responsibility of Quelling Communal Violence and Protection of Life and Property rests with the State Government by Using Police Force.

- ▣ But if the situation goes out of control, the Para-Military Forces under the Central Government and even the Army can be called in to control the Situation and restore Peace in the Society.

- ▣ Since Law and Order is a State Subject, the State Police are first pressed into Service to curb Communal Violence. Only when the State Police is not able to control the Situation, the Central Para-Military Force or the Army is called in.
- ▣ **CRPF – Central Reserve Police Force.**
- ▣ **BSF – Border Security Force.**
- ▣ **RAF – Rapid Action Force.**
- ▣ **SRPF – State Reserve Police Force.**

- ▣ The Speciality with Para-Military Force is that, they are unlikely to be biased and participating in the Riots and will have more honest attitude.
- ▣ Even victims and minority community plead for the Presence of Para-Military and Armed Forces for a longer Period, because they do not have Faith in Police Force.
- ▣ Eg : During Bhiwandi Riots 1970, many Muslim Women pleaded to retain the Army for at least a Month.
- ▣ Para-Military Forces are not influenced by Local Power Equations and hence they behave in a Impartial Way and act according to the Law.

- ▣ The Code of Criminal Procedure 1973 makes specific Provision for calling the Army to aid the Civil Authorities in case of Communal Violence(Section 130 and 131).

▣ **Violence Against Scheduled Castes**

1. Crimes against the Historically Marginalized Scheduled Castes and Scheduled Tribes(SC and ST). By the Upper Castes in India, represent and Extreme Form of Prejudice and Discrimination.
2. Former Untouchable Castes and Several Tribal Group continue to be Subjected to Discrimination, economic and social exclusion and a stigmatised identity . (Untouchability Abolished under Article17).

- ▣ 3. Additionally similar to Hate Crimes in other parts of the world, this groups have been victimized of crimes and atrocities at the hands of the upper castes, largely on account of their low caste identity such atrocities are practiced in the form of bonded labour, sexual assault on women, abused by police, illegal land encroachments and forced eviction.
- ▣ 4. According to the statistics presented to Parliament in February 2003, Violence against the Scheduled Castes and Scheduled Tribes has been increasing over the year.

- ▣ 5. The Maximum numbers of cases reported from Bihar, Madhya Pradesh and Rajasthan.
- ▣ Since 2014, Crime against SC/ST have increased overall, although there was steep rise of 5.5% in 2016, as per 2016 Statistics.
- ▣ UP is in First Number Followed by Bihar and Rajasthan.
- ▣ 6. There is low literacy Rate among SC/ST Population due to inequality and abuse in many which results in drop-outs in the schools which further gives cope for Social-Inequality.
- ▣ They are discriminated against, Denied access to land, forced to work in D-Graded Condition and Routinely Abused at the hands of Police and Higher Caste Groups, who enjoy State Protection.

- ▣ 7. The Provision of the Constitution and Laws must be strictly adhered to protect this group against discrimination.
- ▣ 8. Socio-Economic Conditions of SC/ST are the Main Reasons of Discrimination and Atrocities.
- ▣ They are considered as the Lowest caste in Caste Hierarchy, the problem of un touchability in the country has been deep rooted.
- ▣ They are barred from Civic Utilities such as Use of Wells, Tanks, etc.
- ▣ They also suffer religious disabilities, which debar them from entering Temples, Burial Grounds, etc.

▣ **Constitutional Safe Guards To The Members Of Scheduled Castes and Scheduled Tribes**

- ▣ **Article 14** – Equality Before Law which states that, the State shall not deny any person equality before law or equal protection of law.
- ▣ Both the expressions have also been included in the universal declaration of Human Rights.
- ▣ Equality before Law means No Special Privileges to anyone and all are equal before the Law.
- ▣ Equal Protection of Law means Equality of Treatment in Equal Circumstances.

- ▣ **Article 15** – No Discrimination on the basis of (grounds) of religion , race ,caste, etc.
- ▣ provides that , No citizen shall, on the grounds only of religion ,race , caste, sex place of birth or any of them be subject to any disability , liability, restriction or condition with regard to :
 - ▣ a) access to shops, public restaurants , hotels ,and places of public entertainment.
 - ▣ b) The use of wells , tanks , bathing ghats, roads and places of public resort maintained wholly or partly out of state fund or dedicated to the use of general public.

- ▣ Art 15 (4) provides for making special provision for the advancement or any socially and educationally backward classes of citizens or for the scheduled Castes and the scheduled tribes .(Added by the constitutional first amendment Act of 1951)
- ▣ The said amendment was made to over ride the decision of “ state of madras vs champakam dorairajan (1951 SC) is a landmark decision of the supreme court of India.
- ▣ This judgement led to the First Amendment of the constitution or India . It was the first major judgement regarding reservations in Republic of India.

- ▣ It was the first major judgement regarding reservations in Republic India .
- ▣ In its ruling the supreme court upheld the Madras High court judgement , which in turn had struck down the Government order passed in the Madras presidency .
- ▣ The G.O had provided caste based reservation in government jobs and college seats.
- ▣ The supreme court held that , providing such reservation was in violation of Article 29 (2) of the Indian constitution.

- ▣ The first amendment was made to over ride the above decision. It gives discretionary power to the state to make special provision for the advancement of SC/ST.
- ▣ **THIS IS CALLED AS PROTECTIVE DISCRIMINATION.**
- ▣ Art 16 : Equality of opportunity in public employment
- ▣ 1) There shall be equality of opportunity for all the citizens in matters relating to employment or appointment to any office under the state ,
- ▣ 2) No citizens shall , on grounds only of religion , Race, caste, sex , place of birth or any of them be ineligible for, or discriminated against in respect of any employment or office under the state.

- ▣ 3) Enables the state to make provision for the reservation of the post in the government jobs in favour of any backward class of citizens which in the opinion of the state, is not adequately represented in the service of the state.
- ▣ New clause 4A was inserted by the 77th Amendment Act 1995 empowers the state to make any provision for reservation in matters of promotion for SC/ST.
- ▣

- ▣ **Article 17** : Article 17 abolishes untouchability and forbids its practice in any form.
- ▣ **Article 21A** : Right to free education (6 to 14 years)
- ▣ in the year 2002 , 86th amendment .
- ▣ **Article 23** : Prohibition of traffic in human beings and forced labour.
- ▣ ANY forms of forced labour are prohibited and contravention of this provision is an offence punishable by law.
- ▣ **Article 25** : Freedom of conscience and free Profession, practice and propagation of religion.

- ▣ **Art29 (2)** : No citizen shall be denied admission into any educational institution maintained by the state or receiving aid out of state funds on grounds of religion, race, caste language or any of them.
- ▣ **Art 38 (2)** : The state shall in particular strive to minimize the inequalities in income and endeavour to eliminate inequalities in status, facilities and opportunity not only amongst groups of people residing in different areas or engaged in different vocations.

- ▣ **Art 39** : The state shall in particular direct its policy to –wards securing :
- ▣ a) The citizens men and women equally have the right to an adequate means of livelihood .
- ▣ b) That the ownership and control of the material resources of the community are so distributed as best to sub serve the common good.
- ▣ d) That , there is equal pay for equal work for both men and women.
- ▣ **Art 39 A** : Free legal aid , 1976 42nd amendment.

INCIDENCES OF ATROCITIES

- ▣
- ▣ The Caste system prevailing in India is about 2000 years old, which is also called as verna system. According to this system the people are divided into four major vernas or catergories .
- ▣ **These are**
- ▣ **1) Brahmins (priests and Teachers)**
- ▣ **2) Kshatriyas (Rulers and soldiers)**
- ▣ **3) Vaishas (Merchants and Merchants and Trders)**
- ▣ **4) Shudras (Labourers and artisans)**

- ▣ Being in the lowest strata of the caste system of the system of the society , shudras are the most targeted and exploited verna.
- ▣ since Ancient History of India , The SC/ST have been constantly targeted , exploited and meted out inhuman and cruel treatment from people in authority and higher caste people.
- ▣ Although constitution of India has made several provisions for the protection of SC/ST and their upliftment and Various enactment prohibiting violence against SC/ST, the incidences of atrocities have been On the rise mainly because of the following reasons :



□ :

- 1) The SC/ST People are not aware of such protective laws.
- 2) They are not aware of their rights.
- 3) Police Force is acting in Collusion with high caste people.
- 4) They cannot afford or cannot have access to redressal system or to justice.

- ▣ 5) The Law aren't implemented properly.
- ▣ The Major Incidence of Atrocities against SC/ST are murder, rape, arson, beating, land grabbing, major incidents are reported from the state of UP, MP, Rajasthan, AP, Bihar, Karnataka and Maharastra.
- ▣ Many incidences go unreported or unregistered because Police are reluctant to register such cases.
- ▣ Fear in the minds of the people of Police Atrocities and sometimes lack of awareness is also the reason behind unreported cases.

- ▣ Comparative Incidence of crime against scheduled castes.
- ▣ 2006 – 27,070
- ▣ 2007 – 30,031
- ▣ 2008 – 33,615
- ▣ 2009 – 33,594
- ▣ 2010 – 32,712
- ▣ Murder, Rape, Kidnapping, Dacoity, Robbery, Arson, Hurt, Crimes against the Provision Of Protection Of Civil Rights Act, Crimes against the Provisions of SC/ST Prevention of Atrocities Act are the Major Incidences of Violence against SC/ST.

▣ Major Incidences Of Atrocities

1. Kilvenmani Massacre(Tamil Nadu).

- ▣ On 25th December 1968, the Powerful Landlords of Village Kilvenmani killed 44 People(5 Men, 16 Women and 23 Children). The chief accused was Gopalakrishnan Naidu.
- ▣ The Victims were Dalits working in the fields of this landlords. Influenced by CPI(M), this Workers demanded more wages , good working conditions and formed a union and hoisted red flags in their village.
- ▣ Irked by this action by Zamindars with Goons surrounded the Hutments and some were shot dead and others were burnt alive.

▣ 2) Tsundur massacre , Andhra Pradesh

- ▣ The Tsundur Massacre refers to the killing of several Dalit people in the village of Tsundur, Guntur district, Andhra Pradesh, India, on 6 August 1991. 21-22 Dalits were massacred by Reddy men with the alleged help of the police. When a young graduate Dalit youth was beaten because his feet unintentionally touched a Reddy woman near a cinema hall, the Dalits of the village supported him. As a result, Dalits were socially boycotted by the Reddy landowners of the village and resulted in the massacre .

- ▣ **3) Bathani Tola massacre, Bihar.**
- ▣ **On 11 July , 1996, 21 daliths were slaughtered by Ranvir sena in Bathani Tola , Bihar. Among the dead were,**
- ▣ **1man, 11 women , 6 children and 3 infants.**
- ▣ **and set 12 houses on fire.**
- ▣ **The attack was in retaliation of earlier killing of upper caste people by CPI (ML) in an argument for increase in daily wages of agricultural labourers.**
- ▣ **The Landlords wanted to reassert their feudal tyranny over the poor who have started becoming more vocal and by attacking the most vulnerable, women and children, they wanted to send a clear message that they would not allow anyone to disturb the social structure.**

▣ 4) **Laxmanpur Bhathe carnage, Bihar**

- ▣ The Laxmanpur Bhathe massacre was a massacre conducted in the Laxmanpur Bhathe village in [Arwal district](#) of Bihar, On first December 1997 , Ranveer sena gunned down 58 daliths in retaliation for the bara massacre in Gaya where 37 upper castes brahmins and agriculturists were killed . The then President [K R Narayanan](#) had expressed his shock and dismay over the mass murder of 58 Dalits in Central Bihar. In his strong-worded reaction, he had termed the massacre as "national shame"

▣ 5) **Ramabai killings 1997**

- ▣ **Ramabai** is a colony in Mumbai, on 11 July 1997 , a team of state Reserve police force fired upon a crowd protesting the recent desecration of a statue of Dr. B.R. Ambedkar ,in which 10 people were killed and 26 were injured . Many observed that the firing order was a caste based Prejudice

▣ 6) **Gohana , sonepet, Haryana**

- ▣ On 27th , aug 2005, Dalith named Shivpal had a fight with a jat (Baljeet) and Baljeet died because of head injuries .
- ▣ Although police arrested 4 daliths involved in baljith Murder , a strong mob of jats numbering around 1000 torched about 60 daliths house holds with full support of local Police from 27 August 2005 upto 31 August 2005.

7) **KHAIRALANJI MASSACRE , MAHARASTRA. (BHANDARA DISTRICT)**

- ▣ Khairalanji Massacre refers to 29 sep, 2006 murders of 4 s/c citizens by members of the politically dominant Kunbi cast located in the [Bhandara district](#) of the state of [Maharashtra](#). . The incident happened in retaliation of police complaint over land dispute lodged by a lady of the house hold . The women of the family, were paraded naked in public before being murdered.
- ▣ There were allegations that the local police shielded the alleged

- ▣ perpetrators in the ongoing investigation .
- ▣ A government report on the killings, prepared by the social justice department has implicated top police officers, doctors and even a [BJP](#) member of the Legislative Assembly.
- ▣ The state Home Minister [R. R. Patil](#) admitted to initial lapses in police investigation and said that five policemen , suspended in the investigation of the killings have been dismissed.
- ▣ In December 2006, CBI filed a chargesheet against 11 persons under charges of murder, criminal conspiracy, unlawful assembly with deadly weapons and outraging the modesty of women.
- ▣ In September 2008, six people were given the death sentence for the crime. However, on 14 July 2010, the Nagpur bench of the High Court commuted the death penalty awarded to the six convicted to a 25-year rigorous imprisonment jail sentence.

▣ 8) MIRCHPUR , HISSAR (HARIYANA)

▣ On 21 April , 2010 , 18 Dalit homes were torched and Daliths were burnt alive .

▣ The Incident Happened after a dog barked at Jat while he was passing by. The jat boy hurled a brick at the dog for which a dalit boy objected . Soon the argument turned violent and houses were burnt by jats.

▣ 9) Dankaur , Greater Noida, 9th October, 2015.

▣ Members of a dalit family was striped naked by the police for demanding speedy action against Land grabbing and theft.

- ▣ 10) **Saharampur violence . UP. April –may 2016.**
- ▣ The violence broke out during the procession of Rajput warrior king Maharana Pratap over the loud music .
- ▣ In the violence one man was killed ,16 were injured and 25 Dalit houses were burned .
- ▣ 11) **BHIMA KOREGAON CLASHES**
- ▣ The 2018 Bhima Koregaon violence refers to violence during an annual celebratory gathering on 1 January 2018 at [Bhima Koregaon](#) to mark the 200th anniversary of the [Battle of Bhima Koregaon](#).^[1] The violence and stone pelting by crowd on the gathering resulted in death of a 28-year old youth and injury to five others.[[]

12) KARAMCHEDU MASSACRE

- Karamchedu massacre refers to an incident that occurred in [Karamchedu](#), [Prakasam district](#) of [Andhra Pradesh](#) on 17 July 1985, where brutality by [Kamma](#) landlords against [Dalits](#) resulted in the killing of six Dalits and grievous injuries to many others.
- Three Dalit women were raped. Hundreds of Dalits in the village were displaced from their home after their houses were burnt and looted.
- Kammas, who held economic power and political influence, were the dominant caste in the village, while the Dalit villagers, who mostly worked as agricultural labourers under the Kamma landlords for meager wages, were oppressed socially and economically.
- .

- ▣ The provocation for the violence came from a trivial incident in which a Dalit ([Madiga](#)) boy objected to a Kamma boy soiling the water tank where Dalits drew their drinking water.
- ▣ Scholars have reported that the massacre happened because the Kammas wanted to "teach a lesson" to the Madigas since Kammas felt that their caste-supremacy was challenged by Dalits who were perceived as "untouchables" and "nobodies".

- ▣ **MELAVALU MURDERS 1997 Melavalavu massacre**
- ▣ The **1997 Melavalavu massacre** refers to the murder of a Panchayat President of the village and six other men, all members of the Dalit community by dominant caste members in Melavalavu, Madurai on 30 June 1997.
- ▣ The men were hacked to death after some dominant caste members refused to accept a Panchayat president from the Dalit Community.

- ▣ The Melavalavu panchayat located near Melur in Madurai district. Melavalavu village, is dominated by the people of Kallar caste, while the people of the Scheduled Castes are a minority in the village residing mostly in Ambedkar Nagar area.
- ▣ The village Panchayat was allocated to the members of the Scheduled Castes as a reserved constituency in 1996 by the government. But the Dalits were threatened by the dominant castes that they could not contest the election as the Head of the Village Panchayat.

- ▣ Following this, elections were held on 31 December 1996 due to the inability to hold elections on 9 October 1996 and 28 December 1996.
- ▣ Murugesan, a member of the Dalit community won the election. He went to the district collectors Office and asked the district collector and the Tamil Nadu government for protection for himself and his dependents after threats by dominant caste members who denied Dalits as their president and vice president of Panchayat.
- ▣ He along with six other men were murdered when they were returning in a town bus from Madurai after meeting the Collector office on 30 June 1997.

- ▣ **Kambalapalli Dalit Massacre On 11 March 2000 | Caste Violence**
- ▣ On 11 March 2000, seven Dalits were locked in a house and burnt alive by an upper-caste Reddy mob in Kambalapalli, Kolar district of Karnataka state. The Civil Rights Enforcement (CRE) Cell investigation revealed deep-rooted animosity between the Dalits and the upper-castes as the reason for the violence.

▣ 2012. DHARMAPURI VIOLENCE

- ▣ In December 2012 approximately 268 dwellings – huts, tiled-roof and one or two-room concrete houses of Dalits of the [Adi Dravida](#) community near Naikkankottai in [Dharmapuri district](#) of western Tamil Nadu were torched by the higher-caste [Vanniyar](#).
- ▣ The victims have alleged that ‘systematic destruction’ of their properties and livelihood resources has taken place.[\[55\]](#)

USE OF CRIMINAL LAW TO COMBAT ATROCITIES OR CONTAIN AFTERMATH OF ATROCITIES

THE PROTECTION OF CIVIL RIGHTS ACT, 1955

An Act to prescribe punishment for the [preaching and practice of “Untouchability”] for the enforcement of any disability arising therefrom and for matters connected therewith.

2. Definitions. —

“civil rights” means any right accruing to a person by reason of the abolition of “un touchability” by article 17 of the Constitution.

- ▣ 3. Punishment for enforcing religious disabilities. —
Whoever on the ground of “untouchability” prevents any person —
 - ▣ (a) from entering any place of public worship which is open to other persons professing the same religion or
 - ▣ (b) from worshipping or offering prayers or performing any religious service in any place of public worship, or bathing in, or using the waters of, any sacred tank, well, spring or water-course

- ▣ river or lake or bathing at any ghat of such tank, water-course, river or lake in the same manner and to the same extent as is permissible to the other persons professing the same religion .
- ▣ Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees.

- ▣ 4. Punishment for enforcing social disabilities. —
Whoever on the ground of “untouchability” enforces against any person any disability with regard to —
- ▣ (i) access to any shop, public restaurant, hotel or place of public entertainment; or
- ▣ (ii) the use of any utensils, and other articles kept in any public restaurant, hotel, dharamshala, sarai or musafirkhana for the use of the general public . or
- ▣ (iii) the practice of any profession or the carrying on of any occupation, trade or or

- ▣ (iv) the use of, or access to, any river, stream, spring, well, tank,, water-tap or other watering place, or any bathing ghat, burial or cremation ground, any sanitary convenience, any road,
- ▣ or passage, or any other place of public resort which other members of the public, or
- ▣ or (viii) the construction, acquisition, or occupation of any residential premises in any locality, whatsoever;
- ▣ 5. Punishment for refusing to admit person to hospitals, etc.

- ▣ — Whoever on the ground of “untouchability” —
- ▣ (a) refuses admission to any person to any hospital, dispensary, educational institution or any hostel, if such hospital, dispensary, educational institution or hostel is established or maintained for the benefit of the general public or any section thereof; or
- ▣ (b) does any act which discriminates against any such person after admission to any of the aforesaid institutions,
- ▣ shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred

- ▣ 6. Punishment for refusing to sell goods or render services. —
- ▣ Whoever on the ground of “untouchability” refuses to sell any goods or refuses to render any service to any person at the same time and place and on the same terms and conditions at or which such goods are sold or services are rendered to other persons in the ordinary course of business
- ▣ Shall be punishable with imprisonment for a term of not less than one month and not more than six months and also with fine which shall be not less than one hundred rupees and not more than five hundred rupees

- ▣ **Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989**
- ▣ It was enacted when the provisions of the existing provisions (such as the Protection of Civil Rights Act 1955 and Indian Penal Code) were found to be inadequate to check these crimes (defined as 'atrocities' in the Act).
- ▣ Recognising the continuing gross indignities and offences against Scheduled Castes and Tribes, the Parliament passed the 'Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act 1989..

- ▣ The preamble of the Act also states that the Act is:
- ▣ *"to prevent the commission of offences of atrocities against the members of Scheduled Castes and Tribes, to provide for Special Courts for the trial of such offences and for the relief and rehabilitation of the victims of such offences and for matters connected therewith or incidental thereto"*.
- ▣ Thus objectives of the Act clearly emphasised the intention of the government to deliver justice to these communities through proactive efforts to enable them to live in society with dignity and self-esteem and without fear or violence or suppression from the dominant castes. The practice of untouchability, in its overt and covert form was made a cognizable and non-compoundable offence, and strict punishment is provided for any such offence.

- ▣ The SCs and STs (Prevention of Atrocities) Act, 1989 was passed in Parliament of India on 11 September 1989 and was enacted from 30 January 1990. It was comprehensively amended in 2015, and notified on 26 January 2016.
- ▣ There was another amendment in 2018 which added Section 18A (with effect from 20 August 2018).
- ▣ Number of cases of misuse of this Act has been reported from different parts of the country as mentioned in the Supreme Court verdict of 20 March 2018.
- ▣ In this verdict, the Supreme Court of India banned immediate arrest of a person accused of insulting or injuring a Scheduled Caste/Scheduled Tribe member to protect innocents from [arbitrary arrest](#).

- ▣ In August, 2018, the parliament of India passed the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2018, to bypass the ruling of the Supreme Court of India laying down procedures for arrests under the Act.
- ▣ The bill inserts section 18A (1) (a) in the 1989 Act, that says a "preliminary enquiry shall not be required for registration of an FIR against any person".
- ▣ The Bill also inserts Section 18A (1) (b), which says "the investigating officer shall not require approval for the arrest, if necessary, of any person against whom an accusation of having committed an offence under this Act has been made and no procedure, other than that provided under this Act or the Code, shall apply".
- ▣ The amendments rule out any provision for anticipatory bail for a person accused of atrocities against SC/STs, notwithstanding any court order.

- ▣ Objectives
- ▣ The basic objective and purpose of this more comprehensive and more punitive piece of legislation was sharply enunciated when the Bill was introduced in the Lok Sabha:
- ▣ Despite various measures to improve the socio-economic conditions of the SCs and STs, they remain vulnerable...
- ▣ They have in several brutal incidents, been deprived of their life and property... Because of the awareness created... through spread of education, etc., when they assert their rights and resist practices of untouchability against them or demand statutory minimum wages or refuse to do any bonded and forced labour, the vested interests try to cow them down and terrorise them.
- ▣ When the SCs and STs try to preserve their self-respect or honour of their women, they become irritants for the dominant and the mighty...

- Under the circumstances, the existing laws like the Protection of Civil Rights Act 1955 and the normal provisions of the Indian Penal Code have been found to be inadequate to check and deter crimes against them committed by non-SCs and non-STs...
- It is considered necessary that not only the term 'atrocities' should be defined, but also stringent measures should be introduced to provide for higher punishment for committing such atrocities.
- It is also proposed to enjoin on the States and Union Territories to take specific preventive and punitive measures to protect SCs and STs from being victimized and, where atrocities are committed, to provide adequate relief and assistance to rehabilitate them.

- ▣ The objectives of the Act, therefore, very clearly emphasise the intention of the Indian state to deliver justice to SC/ST communities through affirmative action in order to enable them to live in society with dignity and self-esteem and without fear, violence or suppression from the dominant castes.
- ▣ **Salient features**
- ▣ The provisions of SC/ST Act and Rules can be divided into three different categories, covering a variety of issues related to atrocities against SC/ST people and their position in society.

- ▣ The first category contains provisions of criminal law. It establishes criminal liability for a number of specifically defined atrocities, and extends the scope of certain categories of penalizations given in the Indian Penal Code (IPC).
- ▣ The second category contains provisions for relief and compensation for victims of atrocities.
- ▣ The third category contains provisions that establish special authorities for the implementation and monitoring of the Act.

- ▣ The salient features of the Act are
- ▣ Creation of new types of offences not in the Indian Penal Code (IPC) or in the Protection of Civil Rights Act 1955 (PCRA).
- ▣ Commission of offences only by specified persons (atrocities can be committed only by non-SCs and non-STs on members of the SC or ST communities. Crimes among SCs and STs or between STs and SCs do not come under the purview of this Act).
- ▣ Defines various types of atrocities against SCs/STs (Section 3(1)i to xv and 3(2)i to vii).
- ▣ Prescribes stringent punishment for such atrocities (Section 3(1)i to xv and 3(2)i to vii).
- ▣ Enhanced punishment for some offences (Section 3(2)i to vii, 5).
- ▣ Enhanced minimum punishment for public servants (Section 3(2)vii).

- ▣ Punishment for neglect of duties by a public servant(Section 4).
- ▣ Attachment and forfeiture of property (Section 7).
- ▣ Externment of potential offenders (Section 10(1), 10(3), 10(3)).
- ▣ Creation of Special Courts (Section 14).
- ▣ Appointment of Special Public Prosecutors (Section 15).
- ▣ Empowers the government to impose collective fines (Section 16).
- ▣ Cancellation of arms licences in the areas identified where an atrocity may take place or has taken place (Rule 3iii) and seize all illegal fire arms (Rule 3iv).
- ▣ Grant arms licences to SCs and STs (Rule 3v).
- ▣ Denial of anticipatory bail (Section 18).
- ▣ Denial of probation to convict (Section 19).

- ▣ Provides compensation, relief and rehabilitation for victims of atrocities or their legal heirs (Section 17(3), 21(2)iii, Rule 11, 12(4)).
- ▣ Identification of atrocity prone areas (Section 17(1), 21(2)vii, Rule 3(1)).
- ▣ Setting up deterrents to avoid committing of atrocities on the SCs amongst others (Rule 3i to 3xi).
- ▣ Setting up a mandatory, periodic monitoring system at different levels (Section 21(2)v):
 - District level (Rule 3xi, 4(2), 4(4), 17).
 - State level (8xi, 14, 16, 18).
 - National level (Section 21(2), 21(3), 21(4)).

▣ CHAPTER II OFFENCES OF ATROCITIES

▣ 3. Punishments for offences atrocities. —

▣ 3 [(1) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —

▣ (a) puts any inedible or obnoxious substance into the mouth of a member of a Scheduled Caste or a Scheduled Tribe or forces such member to drink or eat such inedible or obnoxious substance;

▣ (b) dumps excreta, sewage, carcasses or any other obnoxious substance in premises, or at the entrance of the premises, occupied by a member of a Scheduled Caste or a Scheduled Tribe;

- ▣ (c) with intent to cause injury, insult or annoyance to any member of a Scheduled Caste or a Scheduled Tribe, dumps excreta, waste matter, carcasses or any other obnoxious substance in his neighbourhood;
- ▣ (d) garlands with footwear or parades naked or semi-naked a member of a Scheduled Caste or a Scheduled Tribe;
- ▣ (e) forcibly commits on a member of a Scheduled Caste or a Scheduled Tribe any act, such as removing clothes from the person, forcible tonsuring of head, removing moustaches, painting face or body or any other similar act, which is derogatory to human dignity;

- ▣ (f)
- ▣ wrongfully occupies or cultivates any land, owned by, or in the possession of or allotted to, or notified by any competent authority to be allotted to, a member of a Scheduled Caste or a Scheduled Tribe, or gets such land transferred;
- ▣ (g) wrongfully dispossesses a member of a Scheduled Caste or a Scheduled Tribe from his land or premises or interferes with the enjoyment of his rights, including forest rights, over any land or premises or water or irrigation facilities or destroys the crops or takes away the produce therefrom.

- ▣ Explanation.--For the purposes of clause (f) and this clause, the expression “wrongfully” includes —
- ▣ (A) against the person’s will;
- ▣ (B) without the person’s consent;
- ▣ (C) with the person’s consent, where such consent has been obtained by putting the person, or any other person in whom the person is interested in fear of death or of hurt; or
- ▣ D) fabricating records of such land;

- ▣ (h) makes a member of a Scheduled Caste or a Scheduled Tribe to do “begar” or other forms of forced or bonded labour other than any compulsory service for public purposes imposed by the Government;
- ▣ (i) compels a member of a Scheduled Caste or a Scheduled Tribe to dispose or carry human or animal carcasses, or to dig graves;
- ▣ (j) makes a member of a Scheduled Caste or a Scheduled Tribe to do manual scavenging or employs or permits the employment of such member for such purpose;

- ▣ (k) performs, or promotes dedicating a Scheduled Caste or a Scheduled Tribe woman to a deity, idol, object of worship, temple, or other religious institution as a deva dasi or any other similar practice or permits aforementioned acts;
- ▣ (l) forces or intimidates or prevents a member of a Scheduled Caste or a Scheduled Tribe —
 - ▣ (A) not to vote or to vote for a particular candidate or to vote in a manner other than that provided by law;
 - ▣ (B) not to file a nomination as a candidate or to withdraw such nomination; or
 - ▣ (C) not to propose or second the nomination of a member of a Scheduled Caste or a Scheduled Tribe as a candidate in any election;

- ▣ (m) forces or intimidates or obstructs a member of a Scheduled Caste or a Scheduled Tribe, who is a member or a Chairperson or a holder of any other office of a Panchayat under Part IX of the Constitution or a Municipality under Part IXA of the Constitution, from performing their normal duties and functions;
- ▣ (n) after the poll, causes hurt or grievous hurt or assault or imposes or threatens to impose social or economic boycott upon a member of a Scheduled Caste or a Scheduled Tribe or prevents from availing benefits of any public service which is due to him;

- ▣ (o) commits any offence under this Act against a member of a Scheduled Caste or a Scheduled Tribe for having voted or not having voted for a particular candidate or for having voted in a manner provided by law;
- ▣ p) institutes false, malicious or vexatious suit or criminal or other legal proceedings against a member of a Scheduled Caste or a Scheduled Tribe;
- ▣ (q) gives any false or frivolous information to any public servant and thereby causes such public servant to use his lawful power to the injury or annoyance of a member of a Scheduled Caste or a Scheduled Tribe;
- ▣ (r) intentionally insults or intimidates with intent to humiliate a member of a Scheduled Caste or a Scheduled Tribe in any place within public view;

- ▣ (s) abuses any member of a Scheduled Caste or a Scheduled Tribe by caste name in any place within public view;
- ▣ (t) destroys, damages or defiles any object generally known to be held sacred or in high esteem by members of the Scheduled Castes or the Scheduled Tribes.
- ▣ (u) by words either written or spoken or by signs or by visible representation or otherwise promotes or attempts to promote feelings of enmity, hatred or ill-will against members of the Scheduled Castes or the Scheduled Tribes

- ▣ ; (v) by words either written or spoken or by any other means disrespects any late person held in high esteem by members of the Scheduled Castes or the Scheduled Tribes;
- ▣ (w) (i) intentionally touches a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe, when such act of touching is of a sexual nature and is without the recipient's consent;
- ▣ (ii) uses words, acts or gestures of a sexual nature towards a woman belonging to a Scheduled Caste or a Scheduled Tribe, knowing that she belongs to a Scheduled Caste or a Scheduled Tribe.

- ▣ (x) corrupts or fouls the water of any spring, reservoir or any other source ordinarily used by members of the Scheduled Castes or the Scheduled Tribes so as to render it less fit for the purpose for which it is ordinarily used;
- ▣ (y) denies a member of a Scheduled Caste or a Scheduled Tribe any customary right of passage to a place of public resort or obstructs such member so as to prevent him from using or having access to a place of public resort to which other members of public or any other section thereof have a right to use or access to;

- ▣ (z) forces or causes a member of a Scheduled Caste or a Scheduled Tribe to leave his house, village or other place of residence: Provided that nothing contained in this clause shall apply to any action taken in discharge of a public duty;
- ▣ (za) obstructs or prevents a member of a Scheduled Caste or a Scheduled Tribe in any manner with regard to –
- ▣ (A) using common property resources of an area, or burial or cremation ground equally with others or using any river, stream, spring, well, tank, cistern, water-tap or other watering place, or any bathing ghat, any public conveyance, any road, or passage;

- ▣ (B) mounting or riding bicycles or motor cycles or wearing footwear or new clothes in public places or taking out wedding procession, or mounting a horse or any other vehicle during wedding processions;
- ▣ (C) entering any place of worship which is open to the public or other persons professing the same religion or taking part in, or taking out, any religious, social or cultural processions including jatras;
- ▣ (D) entering any educational institution, hospital, dispensary, primary health centre, shop or place of public entertainment or any other public place; or

- ▣ using any utensils or articles meant for public use in any place open to the public; or
- ▣ (E) practicing any profession or the carrying on of any occupation,
- ▣ trade or business or employment in any job which other members of the public, or any section thereof, have a right to use or have access to;
- ▣ (zb) causes physical harm or mental agony of a member of a Scheduled Caste or a Scheduled Tribe on the allegation of practicing witchcraft or being a witch; or

- ▣ (zc) imposes or threatens a social or economic boycott of any person or a family or a group belonging to a Scheduled Caste or a Scheduled Tribe,
- ▣ shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to five years and with fine.
- ▣ (2) Whoever, not being a member of a Scheduled Caste or a Scheduled Tribe, —
- ▣ (i) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste

- ▣ or a Scheduled Tribe to be convicted of an offence which is capital by the law for the time being in force shall be punished with imprisonment for life and with fine;
- ▣ And if an innocent member of a Scheduled Caste or a Scheduled Tribe be convicted and executed in consequence of such false or fabricated evidence, the person who gives or fabricates such false evidence, shall be punished with death;
- ▣

- (ii) gives or fabricates false evidence intending thereby to cause, or knowing it to be likely that he will thereby cause, any member of a Scheduled Caste or a Scheduled Tribe to be convicted of an offence which is not capital but punishable with imprisonment for a term of seven years or upwards, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years or upwards and with fine;

- ▣ (iii) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause damage to any property belonging to a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine;

- ▣ (iv) commits mischief by fire or any explosive substance intending to cause or knowing it to be likely that he will thereby cause destruction of any building which is ordinarily used as a place of worship or as a place for human dwelling or as a place for custody of the property by a member of a Scheduled Caste or a Scheduled Tribe, shall be punishable with imprisonment for life and with fine;

- ▣ (v) commits any offence under the Indian Penal Code (45 of 1860) punishable with imprisonment for a term of ten years or more against a person or property
- ▣ 1 [knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such member], shall be punishable with imprisonment for life and with fine;
- 2 [(va) commits any offence specified in the Schedule, against a person or property, knowing that such person is a member of a Scheduled Caste or a Scheduled Tribe or such property belongs to such

- ▣ member, shall be punishable with such punishment as specified under the Indian Penal Code (45 of 1860) for such offences and shall also be liable to fine;]
- ▣ (vi) knowingly or having reason to believe that an offence has been committed under this Chapter, causes any evidence of the commission of that offence to disappear with the intention of screening the offender from legal punishment, or with that intention gives any information respecting the offence which he knows or believes to be false, shall be punishable with the punishment provided for that offence;

- ▣ vii) being a public servant, commits any offence under this section, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.
- ▣ 1 [4. Punishment for neglect of duties. —
- ▣ (1) Whoever, being a public servant but not being a member of a Scheduled Caste or a Scheduled Tribe, wilfully neglects his duties required to be performed by him under this Act and the rules made thereunder, shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to one year.

- ▣ (2) The duties of public servant referred to in sub-section (1) shall include--
- ▣ (a) to read out to an informant the information given orally, and reduced to writing by the officer in charge of the police station, before taking the signature of the informant;
- ▣ (b) to register a complaint or a First Information Report under this Act and other relevant provisions and to register it under appropriate sections of this Act;
- ▣ (c) to furnish a copy of the information so recorded forthwith to the informant;
- ▣ (d) to record the statement of the victims or witnesses;

- ▣ (e) to conduct the investigation and file charge sheet in the Special Court or the Exclusive Special Court within a period of sixty days, and to explain the delay if any, in writing;
- ▣ (f) to correctly prepare, frame and translate any document or electronic record;
- ▣ (g) to perform any other duty specified in this Act or the rules made thereunder: Provided that the charges in this regard against the public servant shall be booked on the recommendation of an administrative enquiry.

- ▣ (3) The cognizance in respect of any dereliction of duty referred to in sub-section (2) by a public servant shall be taken by the Special Court or the Exclusive Special Court and shall give direction for penal proceedings against such public servant.
- ▣ 5. Enhanced punishment subsequent conviction. —
Whoever, having already been convicted of an offence under this Chapter is convicted for the second offence or any offence subsequent to the second offence, shall be punishable with imprisonment for a term which shall not be less than one year but which may extend to the punishment provided for that offence.

- ▣ 6. Application of certain provisions of the Indian Penal Code. —
- ▣ Subject to the other provisions of this Act, the provisions of section 34, Chapter III, Chapter IV, Chapter V, Chapter VA, section 149 and Chapter XXIII of the Indian Penal Code (45 of 1860), shall,
- ▣ so far as may be, apply for the purposes of this Act as they apply for the purposes of the Indian Penal Code.

- ▣ 7. Forfeiture of property of certain persons. —
- ▣ (1) Where a person has been convicted of any offence punishable under this Chapter, the Special Court may, in addition to awarding any punishment, by order in writing, declare that any property, movable or immovable or both, belonging to the person, which has been used for the commission of that offence, shall stand forfeited to Government
- ▣ (2) Where any person is accused of any offence under this Chapter, it shall be open to the Special Court trying him to pass an order that all or any of the properties, movable or immovable or both,

- ▣ belonging to him, shall, during the period of such trial, be attached, and where such trial ends in conviction, the property so attached shall be liable to forfeiture to the extent it is required for the purpose of realisation of any fine imposed under this Chapter,

- ▣ 8. Presumption as to offences. — In a prosecution for an offence under this Chapter, if it is proved that —
 - (a) the accused rendered
- ▣ 1 any financial assistance in relation to the offences committed by a person accused of or reasonably suspected of, committing, an offence under this Chapter, the Special Court shall presume, unless the contrary is proved, that such person had abetted the offence;

- ▣ (b) a group of persons committed an offence under this Chapter and if it is proved that the offence committed was a sequel to any existing dispute regarding land or any other matter, it shall be presumed that the offence was committed in furtherance of the common intention or in prosecution of the common object
- ▣ 2 [(c) the accused was having personal knowledge of the victim or his family, the Court shall presume that the accused was aware of the caste or tribal identity of the victim, unless the contrary is proved

- ▣ 9. Conferment of powers. —
- ▣ (1) Notwithstanding anything contained in the Code or in any other provision of this Act, the State Government may, if it considers it necessary or expedient so to do, —
- ▣ (a) for the prevention of and for coping with any offence under this Act, or
- ▣ (b) for any case or class or group of cases under this Act, in any district or part thereof, confer, by notification in the Official Gazette, on any officer of the State Government, the powers exercisable by a police officer under the Code in such district or part thereof or, as the case may be, for such case or class or group of cases, and in particular, the powers of arrest, investigation and prosecution of persons

- ▣ before any Special Court.
- ▣ (2) All officers of police and all other officers of Government shall assist the officer referred to in sub-section (1) in the execution of the provisions of this Act or any rule, scheme or order made thereunder.
- ▣ (3) The provisions of the Code shall, so far as may be, apply to the exercise of the powers by an officer under sub-section (1).

▣ CHAPTER III EXTERNMENT

▣ 10. Removal of person likely to commit offence. —

▣ (1) Where the Special Court is satisfied, upon a complaint or a police report that a person is likely to commit an offence under Chapter II of this Act in any area included in 'Scheduled Areas' or 'tribal areas', as referred to in article 244 of the Constitution, 3 [or any area identified under the provisions of clause (vii) of sub-section (2) of section 21], it may, by order in writing, direct such person to remove himself beyond the limits of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he was directed to remove himself for such period, not exceeding

- ▣ 4 [three years], as may be specified in the order.
- ▣ (2) The Special Court shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.
- ▣ (3) The Special Court may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his behalf within thirty days from the date of the order.

- ▣ 11. Procedure on failure of person to remove himself from area and enter thereon after removal. —
- ▣ (1) If a person to whom a direction has been issued under section 10 to remove himself from any area — (a) fails to remove himself as directed; or
- ▣ (b) having so removed himself enters such area within the period specified in the order,
- ▣ otherwise than with the permission in writing of the Special Court under sub-section (2),
- ▣ the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.

▣ (2) The Special Court may, by order in writing, permit any person in respect of whom an order under section 10 has been made, to return to the area from which he was directed to remove himself for such temporary period and subject to such conditions as may be specified in such order and may require him to execute a bond with or without surety for the due observation of the conditions imposed.

(3) The Special Court may at any time revoke any such permission.

(4) Any person who, with such permission, returns to the area from which he was directed to remove himself shall observe the conditions imposed, and at the expiry of the temporary period for which he was permitted to return, or on the revocation of such permission before the expiry of such temporary period, shall remove himself outside such area and shall not return thereto within the unexpired portion specified under section 10 without a fresh permission

- ▣ (5) If a person fails to observe any of the conditions imposed or to remove himself accordingly or having so removed himself enters or returns to such area without fresh permission the Special Court may cause him to be arrested and removed in police custody to such place outside such area as the Special Court may specify.
- ▣ 12. Taking measurements and photographs, etc., of persons against whom order under section 10 is made. —
- ▣ (1) Every person against whom an order has been made under section 10 shall, if so required by the Special Court, allow his measurements and photographs to be taken by a police officer.
- ▣ (2) If any person referred to in sub-section (1), when required to allow his measurements or photographs to be taken, resists or refuses to allow the taking of such measurements or photographs, it shall be lawful to use all necessary means to secure the taking thereof

- . (3) Resistance to or refusal to allow the taking of measurements or photographs under sub-section (2) shall be deemed to be an offence under section 186 of the Indian Penal Code (45 of 1860).
- (4) Where an order under section 10 is revoked, all measurements and photographs (including negatives) taken under sub-section (2) shall be destroyed or made over to the person against whom such order is made.
- 13. Penalty for noncompliance of order under section 10. —
- Any person contravening an order of the Special Court made under section 10 shall be punishable with imprisonment for a term which may extend to one year and with fine.

- ▣ CHAPTER IV SPECIAL COURTS 1 [14. Special Court and Exclusive Special Court. —
- ▣ (1) For the purpose of providing for speedy trial, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, establish an Exclusive Special Court for one or more Districts:
 - ▣ Provided that in Districts where less number of cases under this Act is recorded, the State Government shall, with the concurrence of the Chief Justice of the High Court, by notification in the Official Gazette, specify for such Districts, the Court of Session to be a Special Court to try the offences under this Act:
 - ▣ Provided further that the Courts so established or specified shall have power to directly take cognizance of offences under this Act.

- ▣ (2) It shall be the duty of the State Government to establish adequate number of Courts to ensure that cases under this Act are disposed of within a period of two months, as far as possible.
- ▣ (3) In every trial in the Special Court or the Exclusive Special Court, the proceedings shall be continued from day-to-day until all the witnesses in attendance have been examined, unless the Special Court or the Exclusive Special Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded in writing:
 - ▣ Provided that when the trial relates to an offence under this Act, the trial shall, as far as possible, be completed within a period of two months from the date of filing of the charge sheet.]

- ▣ 14A. Appeals. —
- ▣ (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie, from any judgment, sentence or order, not being an interlocutory order, of a Special Court or an Exclusive Special Court, to the High Court both on facts and on law.
- ▣ (2) Notwithstanding anything contained in sub-section (3) of section 378 of the Code of Criminal Procedure, 1973 (2 of 1974), an appeal shall lie to the High Court against an order of the Special Court or the Exclusive Special Court granting or refusing bail.
- ▣ (3) Notwithstanding anything contained in any other law for the time being in force, every appeal under this section shall be preferred within a period of ninety days from the date of the judgment, sentence or order appealed from:

- ▣ Provided that the High Court may entertain an appeal after the expiry of the said period of ninety days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the period of ninety days:
- ▣ Provided further that no appeal shall be entertained after the expiry of the period of one hundred and eighty days.
- ▣ 4) Every appeal preferred under sub-section (1) shall, as far as possible, be disposed of within a period of three months from the date of admission of the appeal.

- ▣ 15. Special Public Prosecutor and Exclusive Public Prosecutor. —
- ▣ (1) For every Special Court, the State Government shall, by notification in the Official Gazette, specify a Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as a Special Public Prosecutor for the purpose.

- (2) For every Exclusive Special Court, the State Government shall, by notification in the Official Gazette, specify an Exclusive Special Public Prosecutor or appoint an advocate who has been in practice as an advocate for not less than seven years, as an Exclusive Special Public Prosecutor for the purpose of conducting cases in that Court.

- **CHAPTER IVA RIGHTS OF VICTIMS AND WITNESSES**

- 15A. Rights of victims and witnesses. —
- (1) It shall be the duty and responsibility of the State to make arrangements for the protection of victims, their dependents, and witnesses against any kind of intimidation or coercion or inducement or violence or threats of violence.
- (2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

- ▣ (3) A victim or his dependent shall have the right to reasonable, accurate, and timely notice of any Court proceeding including any bail proceeding and the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.
- ▣ (4) A victim or his dependent shall have the right to apply to the Special Court or the Exclusive Special Court, as the case may be, to summon parties for production of any documents or material, witnesses or examine the persons present.
- ▣ (5) A victim or his dependent shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submission on conviction, acquittal or sentencing.

- (6) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the Special Court or the Exclusive Special Court trying a case under this Act shall provide to a victim, his dependent, informant or witnesses--
 - (a) the complete protection to secure the ends of justice;
 - (b) the travelling and maintenance expenses during investigation, inquiry and trial;
 - (c) the social-economic rehabilitation during investigation, inquiry and trial; and
 - (d) relocation.

- ▣ (7) The State shall inform the concerned Special Court or the Exclusive Special Court about the protection provided to any victim or his dependent, informant or witnesses and such Court shall periodically review the protection being offered and pass appropriate orders.
- ▣ (8) Without prejudice to the generality of the provisions of subsection (6), the concerned Special Court or the Exclusive Special Court may, on an application made by a victim or his dependent, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including--
 - ▣ (a) concealing the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;

- ▣ (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- ▣ (c) take immediate action in respect of any complaint relating to harassment of a victim, informant or witness and on the same day, if necessary, pass appropriate orders for protection:
- ▣ Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by such Court and concluded within a period of two months from the date of receipt of the complaint:
- ▣ Provided further that where the complaint under clause (c) is against any public servant, the Court shall restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the permission of the Court.

- ▣ (9) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a photocopy of the First Information Report shall be immediately given to them at free of cost.
- ▣ (10) All proceedings relating to offences under this Act shall be video recorded.
- ▣ (11) It shall be the duty of the concerned State to specify an appropriate scheme to ensure implementation of the following rights and entitlements of victims and witnesses in accessing justice so as--
 - ▣ (a) to provide a copy of the recorded First Information Report at free of cost;
 - ▣ (b) to provide immediate relief in cash or in kind to atrocity victims .

- ▣ (c) to provide necessary protection to the atrocity victims or their dependents, and witnesses;
- ▣ (d) to provide relief in respect of death or injury or damage to property;
- ▣ (e) to arrange food or water or clothing or shelter or medical aid or transport facilities or daily allowances to victims;
- ▣ (f) to provide the maintenance expenses to the atrocity victims and their dependents;
- ▣ (g) to provide the information about the rights of atrocity victims at the time of making complaints and registering the First Information Report;
- ▣ (h) to provide the protection to atrocity victims or their dependents and witnesses from intimidation and harassment.

- ▣ (i) to provide the information to atrocity victims or their dependents or associated organisations or individuals, on the status of investigation and charge sheet and to provide copy of the charge sheet at free of cost;
- ▣ (j) to take necessary precautions at the time of medical examination;
- (k) to provide information to atrocity victims or their dependents or associated organisations or individuals, regarding the relief amount;
- (l) to provide information to atrocity victims or their dependents or associated organisations or individuals, in advance about the dates and place of investigation and trial;
- ▣ (m) to give adequate briefing on the case and preparation for trial to atrocity victims or their dependents or associated organisations or individuals and to provide the legal aid for the said purpose;

- ▣ (n) to execute the rights of atrocity victims or their dependents or associated organisations or individuals at every stage of the proceedings under this Act and to provide the necessary assistance for the execution of the rights.
- ▣ (12) It shall be the right of the atrocity victims or their dependents, to take assistance from the Non-Government Organisations, social workers or advocates.]

▣ CHAPTER V MISCELLANEOUS

- ▣ 16. Power of State Government to impose collective fine. —
- ▣ The provisions of section 10A of the Protection of Civil Rights Act, 1955 (22 of 1955) shall, so far as may be, apply for the purposes of imposition and realisation of collective fine and for all other matters connected therewith under this Act.
- ▣ 17. Preventive action to be taken by the law and order machinery. —
(1) A District Magistrate or a Sub-divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of a Deputy Superintendent of Police may, on receiving information and after such inquiry as he may think necessary,
 - ▣ has reason to believe that a person or a group of persons not belonging to the Scheduled Castes or the Scheduled Tribes, residing in or frequenting any place within the local limits of his jurisdiction is likely to commit an offence

- ▣ or has threatened to commit any offence under this Act and is of the opinion that there is sufficient ground for proceeding, declare such an area to be an area prone to atrocities and take necessary action for keeping the peace and good behaviour and maintenance of public order and tranquility and may take preventive action.
- ▣ (2) The provisions of Chapters VIII, X and XI of the Code shall, so far as may be, apply for the purposes of sub-section (1).
- ▣ (3) The State Government may, by notification in the Official Gazette, make one or more schemes specifying the manner in which the officers referred to in sub-section (1) shall take appropriate action specified in such scheme or schemes to prevent atrocities and to restore the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes.

- ▣ 18. Section 438 of the Code not to apply to persons committing an offence under the Act. —
- ▣ Nothing in section 438 of the Code shall apply in relation to any case involving the arrest of any person on an accusation of having committed an offence under this Act.
- ▣ 18A. No enquiry or approval required. —
- ▣ (1) For the purposes of this Act, — (a) preliminary enquiry shall not be required for registration of a First Information Report against any person; or
- ▣ (b) the investigating officer shall not require approval for the arrest, if necessary, of any person, against whom an accusation of having committed an offence under this Act has been made and no procedure other than that provided under this Act or the Code shall apply.

- ▣ (2) The provisions of section 438 of the Code shall not apply to a case under this Act, notwithstanding any judgment or order or direction of any court.
- ▣ 19. Section 360 of the Code or the provisions of the Probation of Offenders Act not to apply to persons guilty of an offence under the Act. —
- ▣ The provisions of section 360 of the Code and the provisions of the Probation of Offenders Act, 1958 (20 of 1958) shall not apply to any person above the age of eighteen years who is found guilty of having committed an offence under this Act.

- ▣ 20. Act to override other laws. —
- ▣ Save as otherwise provided in this Act, the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any custom or usage or any instrument having effect by virtue of any such law.
- ▣ 21. Duty of Government to ensure effective implementation of the Act. —
- ▣ (1) Subject to such rules as the Central Government may make in this behalf, the State Government shall take such measures as may be necessary for the effective implementation of this Act.

- ▣ (2) In particular, and without prejudice to the generality of the foregoing provisions, such measures may include, —
- ▣ (i) the provision for adequate facilities, including legal aid, to the persons subjected to atrocities to enable them to avail themselves of justice;
- ▣ (ii) the provision for travelling and maintenance expenses to witnesses, including the victims of atrocities, during investigation and trial of offences under this Act;
- ▣ (iii) the provision for the economic and social rehabilitation of the victims of the atrocities;
- ▣ (iv) the appointment of officers for initiating or exercising supervision over prosecutions for the contravention of the provisions of this Act;

- ▣ (v) the setting up of committees at such appropriate levels as the State Government may think fit to assist that Government in formulation or implementation of such measures;
- ▣ (vi) provision for a periodic survey of the working of the provisions of this Act with a view to suggesting measures for the better implementation of the provision of this Act;
- ▣ (vii) the identification of the areas where the members of the Scheduled Castes and the Scheduled Tribes are likely to be subjected to atrocities and adoption of such measures so as to ensure safety for such members.
- ▣ (3) The Central Government shall take such steps as may be necessary to co-ordinate the measures taken by the State Governments under sub-section (1).

- ▣ (4) The Central Government shall, every year, place on the table of each House of Parliament a report on the measures taken by itself and by the State Governments in pursuance of the provisions of this section.
- ▣ 22. Protection of action taken in good faith. —
- ▣ No suit, prosecution or other legal proceedings shall lie against the Central Government or against the State Government or any officer or authority of Government or any other person for anything which is in good faith done or intended to be done under this Act.

- ▣ 23. Power to make rules. —
- ▣ (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.
- ▣ (2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

▣ **The Scheduled Castes and Scheduled Tribes:(Prevention of Atrocities) Rules, 1995**

- ▣ - In exercise of the powers conferred by sub-Section (1) of Sec. 23 of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. 1989 (33 of 1989), the Central Government hereby makes the following rules, namely:
 - ▣ **3. Precautionary and preventive measures.-**
 - ▣ With a view to prevent atrocities on the Scheduled Castes and the Scheduled Tribes the State Government shall,-
 - ▣ (i) identify the area where it has reason to believe that atrocity may take place or there is an apprehension of reoccurrence of an offence under the Act ;
 - ▣ (ii) order the District Magistrate and Superintendent of Police or any other officer to visit the identified area and review the law and order

- ▣ situation;
- ▣ (iii) if deem necessary, in the identified area cancel the arm licenses of the persons, not being member of the Scheduled Castes or Scheduled Tribes, their near relations, servants or employees and family friends and get such arms deposited in the Government Armory;
- ▣ (iv) seize all illegal fire-arms and prohibit any illegal manufacture of fire-arms;
- ▣ (v) with a view to ensure the safety of person and property, if deem necessary, provide arms licenses to the members of the Scheduled Castes and the Scheduled Tribes;
- ▣ (vi) constitute a high power State-level committee, district and divisional level committees or such number of other committees as deem proper and necessary for assisting the Government in implementation of the provisions of the Act.

- ▣ (vii) set up a vigilance and monitoring committee to suggest effective measures to implement the provisions of the Act;
- ▣ (viii) set up Awareness Centers and organize Workshops in the identified area or at some other place to educate the persons belonging to the Scheduled Castes and the Scheduled Tribes about their rights and the protection available to them under the provisions of various Central and State enactments or rules, regulations and schemes framed thereunder;
- ▣ (ix) encourage Non-Government Organizations for establishing and maintaining Awareness Centers and organizing Workshops and provide them necessary financial and other sort of assistance;
- ▣ (x) deploy special police force in the identified area;
- ▣ (xi) by the end of every quarter, review the law and order situation, functioning of different committees, performance of Special Public Prosecutors, Investigating

- ▣ Officers and other Officers responsible for implementing the provisions of the Act and the cases registered under the Act.
- ▣ **5. Information to Police Officer in-charge of a Police Station.-**
- ▣ (1) Every information relating to the commission of an offence under the Act, if given orally to an officer in-charge of a police station shall be reduced to writing by him or under his direction. and be read over to the informant, and every such information, whether given in writing or reduced to writing as aforesaid, shall be signed by the persons giving it, and the substance thereof shall be entered in a book to be maintained by that police station.
- ▣ (2) A copy of the information as so recorded under sub-rule (1) above shall be given forthwith, free of cost, to the informant.
- ▣ (3) Any person aggrieved by a refusal on the part of an officer in charge of a police station to record the information referred in sub-rule (1) may send the substance of such information

- , in writing and by post, to the Superintendent of Police concerned who after investigation either by himself or by a police officer not below the rank of Deputy Superintendent of Police, shall make an order in writing to the officer in-charge of the concerned police station to enter the substance of that information to be entered in the book to be maintained by the police station.

- **7. Investigating Officer.-**

- (1) An offence committed under the Act shall be investigated by a police officer not below the rank of a Deputy Superintendent of Police. The investigating officer shall be appointed by the State Government, Director-General of Police, Superintendent of Police after taking into account his past experience, sense of ability and justice to perceive the implications of the case and investigate it along with right lines within the shortest possible time.

- ▣ (2) The investigating officer so appointed under sub-rule (1) shall complete the investigation on top priority within thirty days and submit the report to the Superintendent of Police who in turn will immediately forward the report to the Director-General of Police of the State Government.
- ▣ (3) The Home Secretary and the Social Welfare Secretary to the State Government, Director of Prosecution the officer-in-charge of Prosecution and the Director-General of Police shall review by the end of every quarter the position of all investigations done by the investigating officer.

- **8. Setting up of the Scheduled Castes and the Scheduled Tribes Protection Cell.-**
- The State Government shall set up a Scheduled Castes and the Scheduled Tribes Protection Cell at the State headquarter under the charge of Director of Police, Inspector-General of Police. This Cell shall be responsible for,-
 - (i) conducting survey of the identified area;
 - (ii) maintaining public order and tranquillity in the identified area;
 - (iii) recommending to the State Government for deployment of special police force or establishment of special police post in the identified area;
 - (iv) making investigations about the probable causes leading to an offence under the Act;

- ▣ (v) restoring the feeling of security amongst the members of the Scheduled Castes and the Scheduled Tribes;
- ▣ (vi) informing the nodal officer and special officer about the law and order situation in the identified area;
- ▣ (vii) making enquiries about the investigation and spot inspections conducted by various officers;
- ▣ (viii) making enquiries about the action taken by the Superintendent of Police in the cases where an officer in-charge of the police station has refused to enter an information in a book to be maintained by that police station under sub-rule (3) of rule 5;
- ▣ (ix) making enquiries about the wilful negligence by a public servant;
- ▣ (x) reviewing the position of cases registered under the Act, and

- ▣ (xi) submitting a monthly report on or before 20th day of each subsequent month to the State Government, nodal officer about the action taken proposed to be taken, in respect of the above.
- ▣ **9. Nomination of Nodal Officer.-**
- ▣ The State Government shall nominate a nodal officer of the level of a Secretary to the Government preferably belonging to the Scheduled Castes or the Scheduled Tribes, for coordinating the functioning of the District Magistrates and Superintendent of Police or other officers authorized by them investigating officers and other officers responsible for implementing the provisions of the Act. By the end of the every quarter, the nodal officer shall review,-
 - ▣ (i) the reports received by the State Government under sub-rules (2) and (4) of rule 4, rule 6, Cl. (xi) of rule 8.
 - ▣ (ii) the position of cases registered under the Act;
 - ▣ (iii) law and order situation in the identified area;

- ▣ iv) various kinds of measures adopted for providing immediate relief in cash or kind or both to the victims of atrocity or his or her dependent;
- ▣ (v) adequacy of immediate facilities like rationing, clothing, shelter, legal aid, travelling allowance, daily allowance and transport facilities provided to the victims of atrocity of his/her dependents;
- ▣ (vi) performance of non-Governmental organizations, the Scheduled Castes and the Scheduled Tribes Protection Cell, various committees and the public servants responsible for implementing the provisions of the Act.

▣ **12. Measures to be taken by the District Administration.-**

- ▣ (1) The District Magistrate and the Superintendent of Police shall visit the place or area where the atrocity has been committed to assess the loss of life and damage to the property and draw a list of victim, their family members and dependents entitled for relief.
- ▣ (2) Superintendent of Police shall ensure that the First Information Report is registered in the book of the concerned police station and effective measures for apprehending the accused are taken.
- ▣ (3) The Superintendent of Police, after spot inspection, shall immediately appoint an investigation officer and deploy such police force in the area and take such other preventive measures as he may deem proper and necessary.

- ▣ (4) The District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate shall make arrangements for providing immediate relief in cash or in kind or both to the victims of atrocity, their family members and dependents according to the scale as in the schedule annexed to these Rules (Annexure-I read with Annexure-II). Such immediate relief shall also include food, water, clothing, shelter, medical aid, transport facilities and other essential items necessary for human beings.
- ▣ (5) The relief provided to the victim of the atrocity or his /her dependent under sub-rule (4) in respect of death, or injury to, or damage to property shall be in addition to any other right to claim compensation in respect thereof under any other law for the time being in force.

- ▣ (6) The relief and rehabilitation facilities mentioned in sub-rule (4) above shall be provided by the District Magistrate or the Sub-Divisional Magistrate or any other Executive Magistrate in accordance with the scales provided in the Schedule annexed to these rules.
- ▣ (7) A report of the relief and rehabilitation facilities provided to the victims shall also be forwarded to the Special Court by the District Magistrate or the Sub-Divisional Magistrate or the Executive Magistrate or Superintendent of Police. In case the Special Court is satisfied that the payment of relief was not made to the victim or his/her dependent in time or the amount of relief or compensation was not sufficient or only a part of payment of relief or compensation was made, it may order for making in full or part the payment of relief or any other kind of assistance.

▣ **14. Specific responsibility of the State Government.-**

- ▣ The State Government shall make necessary provisions in its annual budget for providing relief and rehabilitation facilities to the victims of atrocity. It shall review at least twice in a calendar year, in the month of January and July the performance of the Special Public Prosecutor specified or appointed under Sec. 15 of the Act, various reports received, investigation made and preventive steps taken by the District Magistrate, Sub-Divisional Magistrate and Superintendent of Police, relief and rehabilitation facilities provided to the victims and the reports in respect of lapses on behalf of the concerned officers.

▣ 16. Constitution of State-level Vigilance and Monitoring Committee.-

- ▣ (1) The State Government shall constitute high power vigilance and monitoring committee of not more than 25 members consisting of the following:
 - ▣ (i) Chief Minister/ Administrator-Chairman (in case of a State under President's Rule Governor-Chairman).
 - ▣ (ii) Home Minister, Finance Minister and Welfare Minister-Members (in case of a State under the President's Rule Advisors-Members);
 - ▣ (iii) all elected Members of Parliament and State Legislative Assembly and Legislative Council from the State belonging to the Scheduled Castes and the Scheduled Tribes- Members
 - ▣ (iv) Chief Secretary, the Home Secretary, the Director-General of Police, Director/ Deputy Director, National Commission for the Scheduled Castes and the Scheduled Tribes- Members;

- v) the Secretary in-charge of the welfare and development of the Scheduled Castes and the Scheduled Tribes- Convener.
- **17. Constitution of District Level Vigilance and Monitoring Committee.-**
- (1) In each district within the State, the District Magistrate shall set up a vigilance and monitoring committee in his district to review the implementation of the provisions of the Act, relief and rehabilitation facilities provided to the victims and other matters connected therewith, prosecution of cases under the Act, role of different officers / agencies responsible for implementing the provisions of the Act and various reports received by the District Administration.
- (2) The district level vigilance and monitoring committee shall consist of the elected Members of the Parliament and State Legislative Assembly and Legislative Council, Superintendent of Police, three-group 'A' Officers,

- ▣ Gazetted Officers of the State Government belonging to the Scheduled Castes and the Scheduled Tribes, not more than 5 non-official members belonging to the Scheduled Castes and the Scheduled Tribes and not more than 3 members from the categories other than the Scheduled Castes and the Scheduled Tribes having association with Non-Government Organizations. The District Magistrate and District Social Welfare Officer shall be Chairman and Member-Secretary respectively.
- ▣ (3) The district level committee shall meet at least once in three months.
- ▣ **18. Material for Annual Report.-**
- ▣ The State Government shall every year before the 31st March, forward the report to the Central Government about the measures taken for implementing provisions of the Act and various schemes/plans framed by it during the previous calendar year.