

## Unit 52. Mechanisms, Laws, Institutions and Bodies for Vulnerable Sections



Mechanisms, Laws, Institutions and Bodies constituted for the development and betterment of Vulnerable Sections is a topic listed under UPSC Mains General Studies Paper 2 (GS2) syllabus (Topic : Social Justice). As there is a shortage of relevant text books for Social Justice (suitable for UPSC exam) in the market, we are attempting to provide online notes for the same. We may update this post as when new laws or bodies or mechanisms are created for vulnerable sections.

### To start, who are the vulnerable sections?

**Vulnerability** refers to the inability to withstand the effects of a hostile environment. And, vulnerable are those who are exposed to the possibility of being attacked or harmed, either physically or emotionally.



1. Women
2. Children
3. **OBC.**
4. **SC.**
5. ST.
6. Minority.
7. **Differently Abled.**
8. **Senior Citizens.**
9. **Victims of Substance Abuse.**
10. Unhealthy.
11. Illiterate.
12. Unorganized workers.
13. Poor migrants.
14. People living with HIV/AIDS.

15. Sexual Minorities (LGBT).

16. Poor in general.

NB: Vulnerable sections marked in bold are those who are taken care by Ministry of Social Justice and Empowerment.

### **Mechanisms to protect the interests of vulnerable sections**

1. Constitution : Various provisions for safeguarding the interests of vulnerable sections.
2. Legislature : Union and State levels : Various bills for vulnerable sections.
3. Executive : Various Ministries under Central and State Governments.
4. Judiciary : For delivering social justice.
5. Decentralized Administration (extending to Panchayati Raj Level to reach vulnerable sections).
6. National and State commissions for vulnerable sections (Like National Commission for Women).

#### **Also there are administrative mechanisms like :**

1. Reservation.
2. Subsidy.
3. PDS.
4. Scholarships.
5. Centrally Sponsored Schemes.

#### **Ministries related to social Justice**

1. **Ministry of Social Justice and Empowerment.**
2. Ministry for Development of North-East Region.
3. Ministry of Labour & Employment.
4. Ministry of Law & Justice.
5. Ministry of Minority Affairs.
6. Ministry of Personnel, Public Grievances & Pensions.
7. Ministry of Tribal Affairs.
8. Ministry of Women and Child Development.

### **Laws for the development and betterment of vulnerable sections**

Laws about vulnerable sections can be seen in two dimensions.

1. Constitutional
2. Statutory

### **Constitutional Provisions for Vulnerable Sections**

There are certain constitutional provisions which cover all vulnerable sections (common to all). Also, there are provisions which deals only with specific sections.

Constitutional Provisions relevant to Social Justice & Empowerment as a whole

1. Preamble
2. Article 23 : Prohibition of traffic in human beings and forced labour.
3. Article 24 : Prohibition of employment of children in factories, etc.

4. Article 37 : Application of the principles contained in this Part (DPSP).
5. Article 38 : State to secure a social order for the promotion of welfare of the people.
6. Article 39 : Certain principles of policy to be followed by the State.
7. Article 39A : Equal justice and free legal aid.
8. Article 46 : Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.

### Constitutional Provisions relating to SCs

#### *Definition and Specification of SCs*

1. Article 341 : Scheduled Castes.
2. Article 366 : Definitions .

#### *Social Safeguards*

1. Article 17 : Abolition of Untouchability.
2. Article 25 : Freedom of conscience and free profession, practice and propagation of religion.

#### *Educational, Economic and Public Employment – related Safeguards*

1. Article 15 : Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
2. Article 16 : Equality of opportunity in matters of public employment.
3. Article 46 : Promotion of Educational and Economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections.
4. Article 320 : Functions of Public Service Commissions.
5. Article 335 : Claims of Scheduled Castes and Scheduled Tribes to services and posts.

#### *Political Safeguards*

1. Article 330 : Reservation of seats for Scheduled Castes and Scheduled Tribes in the House of the People.
2. Article 332 : Reservation of seats for Scheduled Castes and Scheduled Tribes in the Legislative Assemblies of the States.
3. Article 334 : Reservation of seats and special representation to cease after sixty years.
4. Article 243D : Reservation of seats (in Panchayats).
5. Article 243T : Reservation of seats (in Municipalities).

#### *Agency for monitoring safeguards*

1. Article 338 : National Commission for Scheduled Castes.

### Constitutional Provisions relating to Socially & Educationally Backward Classes (OBCs)

The constitution does not define the term backward classes. It is up to the center and the states to specify the classes that belong to this group. However, it is understood that classes that are not represented adequately in the services of the state can be termed backward classes. Further, the President can, under Art. 340, constitute a commission to investigate the condition of socially and educationally backward classes. Based on this report, the president may specify the backward classes.

#### *Commission for Enquiring into Conditions of Backward Classes*

1. Article 340 : Appointment of a Commission to investigate the conditions of backward classes.

#### *Safeguards relating to Educational & Public Employment*

1. Article 15 : Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
2. Article 16 : Equality of opportunity in matters of public employment.
  - Art. 15 (4): “Nothing in this article or in article 29(2) shall prevent the state from making any provisions for the advancement of any socially and economically backward **classes** of citizens or for Scheduled Castes and Scheduled Tribes.” This clause started the era of reservations in India. You may please note that Art. 15(4) talks about backward classes and not backward castes thus caste is not the only criterion for backwardness and other criteria must also be considered.
  - Art. 15 (5) : This clause was added in 93rd amendment in 2005 and allows the state to make special provisions for backward classes or SCs or STs for admissions in private educational institutions, aided or unaided.
  - Art. 16(4): This clause allows the state to reserve vacancies in public service for any backward classes of the state that are not adequately represented in the public services.
  - Art. 16 (4A): This allows the state to implement reservation in the matter of promotion for SCs and STs.
  - Art. 16(4B): This allows the state to consider unfilled vacancies reserved for backward classes as a separate class of vacancies not subject to a limit of 50% reservation.

#### *Agency for Monitoring Safeguards*

1. Article 338 : National Commission for Scheduled Castes.

#### Constitutional Provisions relating to Persons with Disability and the Old

1. Article 41 : Right to work, to education and to public assistance in certain cases. In Constitution of India, entry 24 in list III of Schedule IV deals with the “Welfare of Labour, including conditions of work, provident funds, liability for workmen’s compensations, invalidity and Old age pension and maternity benefits. Further, Item No. 9 of the State List and Item No. 20, 23 and 24 of the Concurrent List relates to old age pension, social security and social insurance, and economic and social planning.

Article 41 of the Directive Principle of the State Policy has particular relevance to Old Age Social Security. According to this Article, “the State shall, within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public assistance in case of undeserved want.”

#### Constitutional Provisions relating to Prevention of Substance Abuse

1. Article 47 : Duty of the State to raise the level of nutrition and the standard of living and to improve public health.

#### Constitutional Provisions relating to Children

Art. 19 A: Education up to 14 yrs has been made a fundamental right. Thus, the state is required to provide school education to children.

In the case of Unni Krishnan vs State of AP, SC held that right to education for children between 6 to 14 yrs of age is a fundamental right as it flows from Right to

Life. After this decision, education was made a fundamental right explicitly through 86th amendment in 2002.

Art. 24: Children have a fundamental right against exploitation and it is prohibited to employ children below 14 yrs of age in factories and any hazardous processes. Recently the list of hazardous processes has been update to include domestic, hotel, and restaurant work.

Several PILs have been filed in the benefit of children. For example, MC Mehta vs State of TN, SC has held that children cannot be employed in match factories or which are directly connected with the process as it is hazardous for the children.

In the case of Lakshmi Kant Pandey vs Union of India, J Bhagvati has laid down guidelines for adoption of Indian children by foreigners

Art. 45: Urges the state to provide early childhood care and education for children up to 6 yrs of age.

### Constitutional Provisions relating to Women

Art. 15(3): It allows the state to make special provisions for women and children. Several acts such as Dowry Prevention Act have been passed including the most recent one of Protection of women from domestic violence Act 2005.

Art. 23: Under the fundamental right against exploitation, flesh trade has been banned.

Art. 39: Ensures equal pay to women for equal work.

In the case of Randhir Singh vs Union of India, SC held that the concept of equal pay for equal work is indeed a constitutional goal and is capable of being enforced through constitutional remedies under Art. 32.

Art. 40: Provides 1/3 reservation in panchayat.

Art. 42: Provides free pregnancy care and delivery.

Art. 44: It urges the state to implement uniform civil code, which will help improve the condition of women across all religions. It has, however, not been implemented due to politics. In the case of Sarla Mudgal vs Union of India, SC has held that in Indian Republic there is to be only one nation i.e. Indian nation and no community could claim to be a separate entity on the basis of religion. There is a plan to provide reservation to women in parliament as well.

### Some General Provisions

*Definition of "State"*

1. Article 12 : Definition [Part III : Fundamental Rights].
2. Article 36 : Definition [Part IV : Directive Principles of State Policy].

#### *Division of Legislative & Executive Powers Between The Union & The States*

1. Article 246 : Subject-matter of laws made by Parliament and by the Legislatures of States.
2. Article 73 : Extent of executive power of the Union.
3. Article 162 : Extent of executive power of the State.

#### *Devolution of Powers and Responsibilities on Panchayat & Municipalities*

1. Article 243G : Powers, Authority and Responsibilities of Panchayat.
2. Article 243W : Powers, Authority and Responsibilities of Municipalities, etc.

Seventh Schedule(See Art.246)

- Union List Entries 59, 97.
- State List Entries 8, 9.
- Concurrent List Entries 15, 16, 19, 20, 23.

Eleventh Schedule(See Art.243G)

- Entries 16, 17, 18, 19, 23, 24, 25, 26, 27, 28.

Twelfth Schedule(See Art.243W)

- Entries 3, 6, 9, 10, 11.

### **Statutory Provisions for Vulnerable Sections**

1. The Protection of Civil Rights( PCR) Act, 1955 : For SC.
2. The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 : For SC and ST.
3. The National Commission for Backward Classes Act, 1993 : For Backward Classes.
4. Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.
5. National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability Act, 1999.
6. Rehabilitation Council of India Act, 1992. : For PWD.
7. Maintenance and Welfare of Parents and Senior Citizens Act, 2007 : For Social Defense.
8. Dowry Prevention Act.
9. Protection of women from domestic violence Act 2005.

PS : The proposed Rights of Persons with Disabilities Bill, a comprehensive measure that covers a whole spectrum of problems from physical disabilities to mental illness and multiple disabilities will replace the Persons with Disabilities (Equal Opportunity Protection of Rights and Full Participation) Act of 1995.

### **Institutions for the development of vulnerable sections**

1. **National Institute of Social Defence.**
2. **Deen Dayal Upadhyaya Institute of Physically Handicapped, New Delhi.**
3. **National Institute for the Orthopaedically Handicapped, Kolkata.**
4. **National Institute of Visually Handicapped, Dehradun.**
5. **National Institute of Mentally Handicapped, Secunderabad.**

6. **Ali Yavar Jung National Institute for the Hearing Handicapped, Mumbai.**
7. **National Institute of Rehabilitation Training and Research, Cuttack.**
8. **National Institute for the Empowerment of Persons with Multiple Disabilities, Chennai.**
9. **Swami Vivekanand National Institute of Rehabilitation, Training & Research (SVNIRTAR), Orissa.**
10. The Indian Sign Language Research and Training Centre, New Delhi.
11. The National Scheduled Castes Finance and Development Corporation.
12. The National Safai Karamcharis Finance and Development Corporation.
13. The National Backward Classes Finance and Development Corporation.
14. The National Handicapped Finance and Development Corporation.
15. Artificial Limbs Manufacturing Corporation, Kanpur.
16. Dr. Ambedkar Foundation.
17. Babu Jagjivan Ram National Foundation

### **Bodies for the development of vulnerable sections**

1. National Commission for Scheduled Castes.
2. National Commission for Backward Classes.
3. National Commission for Safai Karamcharis.
4. National Commission for Scheduled Tribes – NCST.

### **Statutory Bodies for vulnerable sections**

1. The Rehabilitation Council of India.
2. The Chief Commissioner for Persons with Disabilities.
3. The National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities.
4. National Commission for Women, New Delhi, India.
5. National Commission for Protection of Child Rights.
6. National Consumer Disputes Redressal Commission.
7. National Human Rights Commission, New Delhi, India.





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