

19 Justice and Law

THE Constitution of the Republic of India guarantees, besides other rights, protection of life and personal liberty and provides adequate safeguards against the arbitrary deprivation thereof by the State.

Adoption of a Constitution by India in 1950 did not disturb continuity of existing laws and unified structure of courts. Unity and uniformity of the judicial structure were preserved by placing such areas of law as criminal law and procedure, civil procedure, will, succession, contract including special form of contract, but not including contract relating to agricultural land, registration of deeds and documents, evidence, etc., in the Concurrent List.

SOURCE OF LAW

The main sources of law in India are the Constitution, statutes (legislation), customary law and case law. Statutes are enacted by Parliament, State legislatures and Union Territory legislatures. Besides, there is a vast body of laws known as subordinate legislation in the form of rules, regulations as well as bye-laws made by Central/ State governments and local authorities like municipal corporations, municipalities, gram panchayats and other local bodies. This subordinate legislation is made under the authority conferred or delegated either by Parliament or State or Union Territory legislatures concerned. Judicial decisions of superior courts like Supreme Court and High Courts are important sources of law. Decisions of Supreme Court are binding on all courts within the territory of India. Local customs and conventions which are not against statute, morality, etc., are also recognised and taken into account by courts while administering justice in certain spheres.

ENACTMENT OF LAWS

The Parliament is competent to make laws on matters enumerated in the Union List. State legislatures are competent to make laws on matters enumerated in the State List. Parliament alone has power to make laws on matters not included in the State or Concurrent List. On matters enumerated in the Concurrent List, laws can be made by both Parliament and legislatures. But in the event of repugnancy, law made by Parliament shall prevail and law made by State legislature, to the extent of repugnancy, be void unless the latter law having been reserved for consideration of President, has received his assent, and in that event it shall prevail in that state.

JUDICIARY

At the apex of the entire judicial system exists Supreme Court of India with a High Court for each State or group of States, and under High Courts; there is a hierarchy of subordinate courts. Panchayat courts also function in some States under various names like *Nyaya Panchayat*, *Panchayat Adalat*, *Gram Kachehri*, etc., to decide civil and criminal disputes of petty and local nature. Different State laws provide for jurisdiction of these courts.

Each state is divided into judicial districts presided over by a district and sessions judge, who is the principal civil court of original jurisdiction and can try all offences including those punishable with death. He is the highest judicial authority in a

district. Below him, there are courts of civil jurisdiction, known in different states as *munsifs*, sub-judges, civil judges and the like. Similarly, criminal judiciary comprises chief judicial magistrate and judicial magistrates of first and second class.

SUPREME COURT

The Supreme Court of India consists of 26 Judges (including the Chief Justice of India). The judges hold office until they attain the age of 65 years. The Supreme Court of India has original jurisdiction in any dispute arising: (a) between the Government of India and one or more States; or (b) between the Government of India and any State or States on the one side and one or more states on the other; or (c) between two or more States.

An appeal shall lie to the Supreme Court from any judgment, decree or final order of a High Court in the territory of India, whether in a civil, criminal or other proceeding.

HIGH COURTS

High Court stands at the head of the State's Judicial Administration. There are 21 High Courts in the country, three having jurisdiction over more than one State. Among the Union Territories, Delhi alone has a High Court of its own. Other six Union Territories come under jurisdiction of different State High Courts. Each High Court comprises a Chief Justice and such other Judges as the President may, from time to time, appoint. The Chief Justice of a High Court is appointed by the President in consultation with the Chief Justice of India and the Governor of the state. The procedure for appointing of the High Courts judges is the same except that the recommendation for the appointment of Judges in the High Court is initiated by the Chief Justice of the High Court concerned. They hold office up to 62 years of age. To be eligible for appointment as a judge, one must be a citizen of India and should have held a judicial office in India for 10 years or must have practiced as an advocate of a High Court or two or more such courts in succession for a similar period.

Each High Court has power to issue any person or authority and Government within its jurisdiction, direction, orders or writs, including writs which are in the nature of habeas corpus, mandamus, prohibition, *quo warranto* and certiorari, for enforcement of Fundamental Rights and for any other purpose. This power may also be exercised by any High Court exercising jurisdiction in relation to territories within which the cause of action, wholly or in part arises for exercise of such power, even if the seat of such Government or authority or residence of such person is not within those territories. The total sanctioned strength of Judges and additional judges in different High Courts is 678 against which 587 Judges were in position as on 26 June 2006. Table 19.1 gives the seat and territorial jurisdiction of the High Courts.

TABLE 19.1 : JURISDICTION AND SEAT OF HIGH COURTS

Name	Year	Territorial Jurisdiction	Seat
Allahabad	1866	Uttar Pradesh	Allahabad (Bench at Lucknow)
Andhra Pradesh	1954	Andhra Pradesh	Hyderabad
Bombay	1862	Maharashtra, Goa, Dadra and Nagar Haveli and Daman and Diu	Mumbai (Benches at Nagpur, Panaji and Aurangabad)

Kolkata	1862	West Bengal	Kolkata (Circuit Bench at Port Blair)
Chhattisgarh	2000	Bilaspur	Bilaspur
Delhi	1966	Delhi	Delhi
Guwahati*	1948	Assam, Manipur, Meghalaya, Nagaland, Tripura, Mizoram and Arunachal Pradesh	Guwahati (Benches at Kohima, Aizawl, Imphal, Shillong, Agartala and Itanagar)
Gujarat	1960	Gujarat	Ahmedabad
Himachal Pradesh	1971	Himachal Pradesh	Shimla
Jammu and Kashmir	1928	Jammu and Kashmir	Srinagar and Jammu
Jharkhand	2000	Jharkhand	Ranchi
Karnataka#	1884	Karnataka	Bangaluru
Kerala	1958	Kerala and Lakshadweep	Ernakulam
Madhya Pradesh	1956	Madhya Pradesh	Jabalpur (Benches at Gwalior and Indore)
Madras	1862	Tamil Nadu and Pondicherry	Chennai (Bench at Madurai)
Orissa	1948	Orissa	Cuttack
Patna	1916	Bihar	Patna
Punjab and Haryana@	1966	Punjab, Haryana and Chandigarh	Chandigarh
Rajasthan	1949	Rajasthan	Jodhpur (Bench at Jaipur)
Sikkim	1975	Sikkim	Gangtok
Uttarakhand	2000	Uttarakhand	Nainital

* Originally known as Assam High Court, renamed as Guwahati High Court in 1971.

Originally known as Mysore High Court, renamed as Karnataka High Court in 1973.

@ Originally known as Punjab High Court, renamed as Punjab and Haryana High Court in 1966.

Each High Court has powers of superintendence over all courts within its jurisdiction. It can call for returns from such courts, make and issue general rules and prescribed forms to regulate their practices and proceedings and determine the manner and form in which book entries and accounts shall be kept.

SUBORDINATE COURTS

The structure and functions of subordinate courts are more or less uniform throughout the country. Designations of courts connote their functions. These courts deal with all disputes of civil or criminal nature as per the powers conferred on them. These courts have been derived principally from two important codes prescribing procedures, i.e., the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973 and further strengthened by local statutes. As per direction of Supreme Court in WP (Civil) 1022/1989 in the All India Judges Association case, a uniform designation has been brought about in the subordinate judiciary's judicial officers all over the country viz., District or Additional District Judge, Civil Judge (Senior Division) and Civil Judge (Junior Division) on the civil side and on criminal side, Sessions Judge,

Additional Sessions Judge, Chief Judicial Magistrate and Judicial Magistrate, etc., as laid down in the Cr.P.C. Appropriate adjustment, if any, has been made in existing posts by indicating their equivalent with any of these categories by all State Governments/UT Administrations.

Under Article 235 of the Constitution of India, the administrative control over the members of subordinate judicial service vests with the concerned High Court. Further in exercise of powers conferred under proviso to Article 309 read with Article 233 and 234 of the Constitution, the State Government shall frame rules and regulations in consultation with the High Court exercising jurisdiction in relation to such State. The members of the State Judicial Services are governed by these rules and regulations.

NATIONAL JUDICIAL ACADEMY

The National Judicial Academy has been set up by the Government of India to provide in-service training to Judicial Officers. The Academy was registered on 17 August 1993 under the Societies Registration Act, 1860. The Academy is located in Bhopal with its registered office in New Delhi. The National Judicial Academy building was inaugurated by the President of India on 5 September 2002.

The Academy will provide training and continuing education to judicial officers of States/UTs as well as ministerial officers working in the Supreme Court of India and the High Courts. The Academy will also function as a centre of excellence in judicial education, research and training.

The objectives of programmes of the Academy include Judicial Reform and Policy Development as well as Research Support Services for greater efficiency, fairness, access and productivity. It also includes improvements in Court administration and management for a litigant friendly justice system.

LEGAL AID

Article 39A of the Constitution of India provides for free legal aid to the poor and weaker sections of the society and ensures justice for all. Article 14 and 22(1) of the constitution also make it obligatory for the State to ensure equality before law and a legal system which promotes justice on the basis of equal opportunity to all, In 1987, the Legal Services Authorities Act was enacted by the Parliament which came into force on 9th November, 1995 with an object to establish a nationwide uniform network for providing free and competent legal services to the weaker sections of the society on the basis of equal opportunity. The National Legal Services Authority (NALSA) has been constituted under the Legal Services Authorities Act, 1987 to monitor and evaluate implementation of legal services available under the Act.

Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India is the Patron-in-Chief and Hon'ble Mr. Justice Ashok Bhan, Judge Supreme Court of India is the Executive Chairman of the Authority.

In every State, a State Legal Services Authority and in every High Court, a High Court Legal Services Committee have been constituted. District Legal Services Authorities and Taluka Legal Services Committees have been constituted in the Districts and Most of the Talukas in order to give effect to the policies and directions of the NALSA and to provide free legal services to the people and conduct Lok Adalats in the State/ The State Legal Services Authorities are chaired by Hon'ble Chief Justice

of the respective Districts and the Taluka Legal Services Committees are chaired by the Judicial Officers at the Taluka Level.

Supreme Court Legal Services Committee has been constituted to administer and implement the legal services programme in so far as it relates to the Supreme Court of India.

FUNCTIONING OF NALSA

The NALSA issues guidelines for the State Legal Services Authorities to implement the Legal Aid Programmes and schemes throughout the country.

Primarily, the State Legal Services Authorities, District Legal Services Authorities, Taluka Legal Services Committees, etc. have been asked to discharge the following two main functions on regular basis:-

1. To Provide Free Legal Services to the eligible persons; and
2. To organize Lok Adalats for amicable settlement of disputes.

FREE LEGAL SERVICES

The Free Legal Services include:- (1) Payment of court fee, process fees and all other charges payable or incurred in connection with any legal proceedings; (2) Providing Advocate in legal proceedings; (3). Obtaining and supply of certified copies of orders and other documents in legal proceedings; (4) Preparation of appeal, paper book including printing and translation of documents in legal proceedings.

Eligible persons for getting free legal services include:- (1) Women and children; (2) members of SC/ST; (3) Industrial workmen; (4) Victims of mass disaster; violence, flood, drought, earthquake, industrial disaster; (5) disabled persons; (6) Persons in custody; (7) Persons whose annual income does not exceed Rs. 50,000/- (8) Victims of Trafficking in Human beings.

LOK ADALATS

Lok Adalat is a forum where the disputes/cases pending in the court of law or at pre-litigation stage are settled/compromised amicably. The Lok Adalat has been given statutory status under the Legal Services Authorities Act, 1987. Under this Act, an award made by a Lok Adalat is deemed to be a decree of a civil court and is final and binding on all parties and no appeal lies against thereto before any court.

Lok Adalats are being organized by the Legal Services Authorities/Committees u/s 19 of the Legal Services Authorities Act, 1987. Matters such as Matrimonial/Family disputes. Criminal (Compoundable Offences) cases, Land Acquisition Cases, Labour Disputes, Workmen's Compensation cases, Bank Recovery cases, Pension cases, Housing Board and slum clearance cases & Housing Finance cases. Consumer Grievance cases, Electricity matters, disputes relating to Telephone Bills, Municipal matters including House Tax cases. Disputes with Cellular Companies etc. are being taken up in Lok Adalats.

NALASA SCHEMES

The NALSA has formulated the following schemes to perform its functions under the Legal Services Authorities Act, 1987;

1. LEGAL AND COUNSEL SCHEME

NALSA has initiated Legal Aid Counsel Scheme to provide meaningful legal assistance to undertrial prisoners on account of lack of resources or other disabilities

who cannot engage a counsels to defend them. Now, Legal Aid Counsel have been attached to each Magisterial Court who provide assistance and defend a person who is not able to engage a counsel, right from the stage he/she is produced in the court by the police.

2. PERMANENT AND CONTINUOUS LOK ADALAT SCHEME

A Permanent and Continuous Lok Adalat Scheme has been formulated and implemented to establish Lok Adalats under Section 19 of the Act in all the districts of the country. Under this scheme, the Lok Adalats are now organized regularly at designated venues, even away from court complexes and the cases which remain unsettled are taken up in the next Lok Adalat. Lok Adalats have thus acquired permanency and continuity and are no more occasional.

3. COUNSELLING AND CONCILIATION SCHEME

NALSA has formulated a Counselling and Conciliation Scheme to encourage the settlement of disputes by way of negotiations and conciliation. Under this scheme, Counselling and Conciliation Centres are being set up in all the Districts of the country for guiding and motivating the migrants to resolve their disputes amicably. Such Centres have been set up in most of the Districts.

4. SUPREME COURT MIDDLE INCOME GROUP SCHEME

This scheme has been formulated to provide legal services to the middle income class citizens i.e. citizens whose annual income does not exceed Rs. 2,00,000/-

5. LEGAL LITERACY PROGRAMME

NALSA has formulated a strategy to provide basic and essential knowledge to the vulnerable groups so that they can understand the law and know the scope of their rights under the law and eventually assert their rights as a means to take action, uplift their social status and being in social change.

NALSA has been organizing the Legal Aid Camps through State Legal Services Authorities, Taluka Legal Services Committees, NGOs. etc. in the rural area and slum areas for educating the weaker sections as to their rights and for encouraging them to settle their disputes through ADR Mechanism. The people are educated/made aware of their rights, benefits and privileges guaranteed by social welfare legislations, administration programmes and measures etc.

The NALSA has been organizing meetings, seminars and workshops connected with legal services programmes in different parts of the country. The NALSA has developed audio visual spots and publicity material to make the common man aware of the various aspects of the legal services programmes. Documentary films have also been prepared and are being screened in the different parts of the country through Directorate of Field Publicity, government of India.

6. VICTIMS ASSISTANCE PROGRAMME (VAP)

Victims Assistance Programme (VAP) has been prepared by the NALSA target the most disadvantaged, distraught, disintegrated vulnerable and victimized population. Wherever, the NALSA comes to know about the victims, the Authority tries to provide them legal aid services on the spot.

Nalsa has organized a large number of programmes to achieve its objectives. A brief of some of the programmes is as under:-

CONFERENCE OF CHAIR PERSONS AND SECRETARIES OF DISTRICT LEGAL SERVICES AUTHORITIES OF STATE OF MAHARASHTRA

A Conference of Chairpersons and Secretaries of District Legal Services Authorities of the State of Maharashtra was organized by the Maharashtra State Legal Services Authority under the aegis of NALSA on 19-20 August 2007 at High Court Conference Hall, Mumbai. Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA inaugurated the Conference in the august presence of Hon'ble Mr. Justice Swatanter Kumar, the Chief Justice of Bombay High Court and Other Hon'ble Judges of the Bombay High Court Judicial Officers, representatives of various social institutions and NGOs; Law Students participated in the Conference.

Deliberations were held on various issues, such as need of legal aid, involvement of NGOs in Legal Aid Programmes, concept of Plea Bargaining, training and sensitization of community social workers, legal aid counsels and strengthening of Lok Adalats Mechanism during the Conference.

REGIONAL POLICY DIALOGUE OF JUDGES REGARDING THE PROTECTION OF LEGAL AND HUMAN RIGHTS OF BENEFICIARY GROUPS

The NALSA organized a Judicial colloquium to create a forum for ongoing regional cooperation among Judges focusing on Human Rights and Access to Justice on 8.9 September 2007 at Chandigarh. It was an initiative to have an understanding of common social issues and problems for framing appropriate policies and implementation of Legal Aid Programmes in the States of Punjab, Rajasthan, Himachal Pradesh, Haryana, Jammu & Kashmir, Uttarakhand and Delhi.

The Colloquium was held under the Chairmanship of Hon'ble Mr. Justice Ashok Bhan, Judge, supreme Court of India & Executive chairman, NALSA in the august presence of Hon'ble Dr. Justice Arijit Pasayat, Judge, Supreme Court of India & Chairman, Supreme Court Legal Services Committee. The Executive Chairpersons and Member Secretaries of the respective state Legal Services Authorities, chairpersons of respective High Court Legal Services Committees of the concerned States, Directors of Judicial Academies and District Judges participated in the interation.

LEGAL LITERACY PROGRAMME & MEDIATION CENTRE

A Legal Awareness Programme was organized at Haldi Ghati, District Rajsamand, Rajasthan, under the aegis of NALSA by Rajasthan State Legal Services Authority on 22 September 2007. Dr. Hansraj Bhardwaj, Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA presided over the function in the august presence of Hon'ble Mr. Justice A.K. Mathur, Judge, Supreme Court of India, Hon'ble Mr. Justice J.M. Panchal, the Chief Justice of Rajasthan High Court and other Hon'ble Judges of Rajasthan High Court Judicial Officers, Lawyers, Law Students, representatives from various reputed NGOs and tribes of the district were present on the occasion

The programme was launched to make people aware of their legal and human rights by accessing legal and services available for them.

On the same day a Mediation Centre, under the aegis of NALSA, was also set up at Haldi Ghati Museum, district Rajsamand.

WORLD MENTAL HEALTH DAY

On the occasion of World Mental Health Day, National Legal Aid Week was observed for the Persons suffering from Mental Disabilities from 10 October 2007 for Protection

of Rights of Mentally Sick Persons. During the period, efforts were made to make people aware of the provisions of the Mental Health Act, 1987 by organizing readings in the schools, colleges, police stations, centers run by NGOs etc. The legal aid functionaries visited some of the Mental Hospital and Asylums to assess the needs of the mentally challenged persons.

Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India inaugurated the campaign from His Lordship's Residence on 10 October 2007 and met the groups of mentally sick persons being looked after by various NGOs.

INTERNATIONAL JUDICIAL COLLOQUIUM

An International Judicial Colloquium on "Arbitration and Courts Harmony Amidst Disharmony" was organized in association with Indian Council of Arbitration and International Federation of Commercial Arbitration Institutions on 19 October 2007 at New Delhi.

Hon'ble Mr. Justice Ashok Bhan, Judge Supreme Court of India & Executive Chairman, NALSA was the Chief Guest on the occasion. Hon'ble Dr. Justice Arijit Pasayat, Judge, Supreme court of India & Chairman, Supreme Court Legal Services Committee also graced the occasion. Hon'ble Judges of respective High Courts and Judicial Officers, Lawyers, legal luminaries and arbitrators from all over the country and foreign countries participated in the programme.

NATIONAL LEGAL LITERACY DAY

Ninth November is observed as national Legal Literacy Day Every year. This year too, NALSA observed National Legal Literacy Fortnight from 5 November 2007 to 18 November 2007 through its State Legal Services Authorities all over the country. The main objective of the National Legal Literacy Day was to reaffirm NALSA's commitment, solidarity and support to the disadvantaged people, to make the legal process a surer means to social justice by providing free legal services and making people aware of their legal rights.

During the period, the State Legal Services Authorities organized Lok Adalats; sensitization programmes for Judicial Officers, Legal Aid Counsel, Para Legals etc and also organized legal literacy campaigns in jails/correctional homes, hospitals, melas (fairs), schools and colleges, labour colonies, villages, pilgrim spots, tourist spots, remand homes, railway stations, bus terminals etc targeting the common and indigent people.

NATIONAL CAMPAIGN FOR PROTECTION OF RIGHTS OF CHILDREN

NALSA organized a National Campaign for Protection of Rights of Children affected by terrorism, insurgency, internal conflicts, cross border violence, trafficking, trauma and HIV/AIDS on 14 November 2007 at Supreme Court lawns, New Delhi. Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India and other Hon'ble Judges of the Supreme Court were present on the occasion.

Children from conflict affected areas, such as Jammu & Kashmir, Godhra (Gujarat), North-East, Andhra Pradesh and West Bengal had an interaction with the Hon'ble Chief Justice of India and other Hon'ble Judges of the Supreme Court on the issues of their education, living conditions. etc.

COMMUNITY LEGAL LITERACY CENTRE

A Community Legal Literacy Centre for conducting Legal Literacy Classes at 'Ma

Dham", a Shelter Home for Widows at Vrindaban on 16 November 2007 under the National Legal Literacy Mission has been set up with technical and other support of NALSA. The Chairman, District Legal Services Authority, Mathura, Judicial, Officers, Legal Aid Counsels and other Legal Aid Functionaries were present on the occasion. At this Centre, the focus of the Legal Literacy Class is on Women's Legal Rights, particularly the Rights of the Widows.

NATIONAL CONFERENCE ON ACCESS TO JUSTICE TO PRISONERS

NALSA organized a National Conference on Access to Justice to Prisoners on 19 November 2007 at Teen Murti House, New Delhi.

Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA inaugurated the Conference. Ms. Kiran Bedi, the then Director General, BPRD and DGs and IGs, Prisons from all over the country participated in the Conference. The DGs and IGs deliberated upon the issues pertaining to legal and health right of inmates of prisons and shared their experiences and strategies for bringing about reforms in prisons.

Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India delivered the valedictory address at Sri Fort Auditorium, New Delhi in the august presence of Hon'ble Mr. Justice Ashok Bhan, Executive Chairman, NALSA, Hon'ble Dr. Justice M.K. Sharma, Judge, Supreme Court of India (the then Chief Justice, Delhi High Court), Hon'ble Mr. Justice Mukul Mudgal, Hon'ble Mr. Justice S. Ravindra Bhat and Hon'ble Mr. Justice S. Muralidhar, Judges of Delhi High Court, Shri Ravi Shankarji, Founder and Patron-in-chief of Art of Living on Correctional Methodologies addressed the gathering. The prisoners of Correctional Homes of West Bengal gave a theatre performance on the occasion.

WORLD AIDS DAY

On the occasion of World AIDS Day on 1 December 2007, the Authority organized a Meeting on Access to Justice to HIV/AIDS infected and affected citizens and families at Kirti Mandap, Gandhi Smriti, New Delhi. The main objective of the meeting was to deliberate upon the issues pertaining to basic needs of HIV/AIDS affected and infected citizens and how to accord the best of what a constitutionally guaranteed for the life and existence of the affected and infected citizens.

Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India chaired the Meeting in the august presence of Hon'ble Mr. Justice V.S. Sirpurkar, Judge, Supreme Court of India, Hon'ble Dr. Justice M.K. Sharma, Judge, Supreme Court of India (the then Chief Justice, Delhi High Court). Hon'ble Mr. Justice Mukul Mudgal and Hon'ble Mr. Justice S. Ravindra Bhat, Judges of Delhi High Court Dr. V. Mohini Giri and representatives of various social organizations and local people from all over Delhi were also present on the occasion.

WORLD DISABILITY DAY

The Authority observed World Disability Day on 3 December 2007 at Kamani Auditorium, New Delhi.

Hon'ble Mr. Justice K.G. Balakrishnan, Chief Justice of India. Hon'ble Mr. Justice Ashok Bhan, Executive Chairman, NALSA and Hon'ble Dr. Justice M.K. Sharma, Judge, Supreme Court of India (the then Chief Justice, Delhi High Court) addressed the participants. Hon'ble Mr. Justice Mukul Mudgal, Hon'ble Mr. Justice S. Muralidhar, Hon'ble Mr. Justice S. Ravindra Bhat, Judges of Delhi High Court graced the occasion.

Students of various schools with their Principals, teachers and parents also attended the programme. A group of disabled children from Ability Unlimited, an NGO gave a performance on the stage. A large number of members of social institutions supporting the cause were also present.

The State Legal Services Authorities, District Legal Services authorities and Taluka Legal Services Committees organized Legal Rights Awareness Campaigns for the affected citizens throughout the country.

COLLOQUIUM ON GENDER VIOLENCE AND PROTECTION OF WOMEN'S RIGHTS

NALSA organized a Colloquium on Gender Violence and Protection of Women's Rights at Kirti Mandap, Gandhi Smriti and Darshan Samiti on 1 January 2008. The programme was organized to develop strategies for Women Empowerment. Women representatives from various reputed NGOs and a number of eminent personalities were present on the occasion.

SUMMIT ON SOCIAL JUSTICE

An All India Summit of NGOs on Protection of Environment and Access to Social Justice to Citizens affected by Environmental Hazards and Challenges was organized by NALSA from 31 January 2008 to 2 February 2008 at Bangaluru. Member Secretaries of the State Legal Services Authorities and Chairpersons from the District Legal Services Authorities and Taluka Legal Services Committees from Puducherry, Karnataka, Tamilnadu, Andhra Pradesh, Kerala and Maharashtra participated in the Summit.

Concept of Social Justice, Indian Constitution and Social Justice, Rights of Citizens affected by Environmental Hazards and Challenges and Role of State Legal Services Authorities in Access to Social Justice were the main subjects of discussion in the Summit.

NATIONAL CONCLAVE OF NORTH-EASTERN STATES FOR ACCESS TO JUSTICE TO WOMEN

A National conclave of North-Eastern States for Access to Justice to Women of the Region was organized from 17 February 2008 to 25 February 2008 at New Delhi to promote Access to Justice in the North-Eastern States, namely, Assam, Arunachal Pradesh, Tripura, Manipur, Meghalaya, Mizoram, Nagaland and Sikkim.

The Conclave was inaugurated by Her Excellency the President of India, Smt. Pratibha Devisingh Patil in the august presence of Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India, Hon'ble Union Minister for Law & Justice, Dr. H.R. Bhardwaj, Hon'ble Mr. Justice Ashok Bhan, Judge Supreme Court of India & Executive Chairman, NALSA and Hon'ble Dr. Justice M.K. Sharma, Judge, Supreme court of India (the then chief Justice, Delhi High Court), Intellectuals from universities, Resident Commissioners of all the respective North-Eastern States, representatives from reputed NGOs, students groups and unions of the North-Eastern Region in Delhi were also present on the occasion.

As an outcome of the National Conclave and an action oriented approach towards implementation of NALSA's mandate, the Authority launched a Special Protection Initiative by establishing a Legal Assistance Centre for Legal Support to the Women and girls of North Eastern Region on 25 February 2008 at New Delhi. Shri Mani Shankar Aiyar, Hon'ble Union Minister for Development of North-Eastern States.

Shri M.V. Rajasekharan, Union Minister of State for Planning. Hon'ble Dr. Justice M.K. Sharma, Judge, Supreme Court of India (the then Chief Justice, Delhi High Court), Dr. E.M.S. Natchiappan, Hon'ble Membr of Parliament & Chairman, Parliamentary Standing Committee on Personnel, Public Grivance and Law & Justice, Shri Tejendra Khanna, Lt. Governor of Delhi, Hon'ble Mr. Justice T.S. Thakur, Judge Delhi High Court and Executive Chairman, Delhi Legal Services Authority. Hon'ble Mr. Justice Manmohan Sarin, Judge, Delhi High Court and Chairman, Delhi High Court Legal Services Committee graced the occasion. Distinguished personalities from various fields. Hon'ble Members of Parliament, Judicial Officers, Police Officials, students community from North-Eastern Region participated in the launch event.

REGIONAL MEET OF LEGAL SELF HELP GROUPS AND WOMEN FOR JUSTICE FORUMS

The Authority organized a Regional Meet of Legal Self Help Groups and Women for Justice Forums under the National Legal Literacy Mission on 4 March at Vrindaban to Motivate/encourage the communities to work for people's access to social justice, particularly, the widows of the region. The meet was attended by Hon'ble Member of Planning Commission of India, Judicial Officers, Magistrates, Members of the Bar and representatives from various NGOs of the region.

INTERNATIONAL WOMEN'S DAY

On the occasion of International Women's Day, the Authority organized a Women's Prayer for Peace and Conflict Resolution at the Amar Jawan Jyoti, India Gate and a March for Social Justice from India Gate to the Residence of His Excellency the Vice President of India, Shri Mohammad Hamid Ansari on 8 March 2008 at 8.00 A.M. Smt. Krishna Tirath, Hon'ble Member of Parliament and Chairperson, Parliamentary Standing Committee on Women Empowernment took a lead in the March. Women from various organizations participated in the March.

A Joint Consultative National Meet was organized to highlight the Voices of Women for Justice through a Millenim Development Campaign on Gender Equality and Social Development. Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India, Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India and Executive Chairman, NALSA. Hon'ble Mr. Justice V.S. Sirpurkar, Judge, Supreme Court of India Hon'ble Dr. Justice M. K. Sharma, Judge, Supreme Court of India (the then Chief Justice, Delhi High Court), Shri Tejendra Khanna, Lt. Governor of Delhi and Smt. Krishna Tirath, Hon'ble Member of Parliament graced the occasion.

The object of the Meet was to highlight the women's rights and to break barriers towards the protection of Rights of Muslim Women and prevention of Domestic Violence.

SEMINAR ON RIGHTS OF GIRL CHILD

NALSA in association with All India Federation of Women Lawyers and Chennai Women Lawyers Association organized a Seminar on "The Right of Girl Child - A New Dimension" at High Court Building, Chennai on 15 March 2008. Hon'ble Mr. Justice R.V. Raveendran, Judge, Supreme Court of India inaugurated the Seminar in the august presence of Hon'ble Mr. Justice P. Sathasivam, Judge. Supreme Court and Hon'ble Judges of the Madras High Court Presidents, Secretaries and Members of All India Federation of Women Lawyers and chennai Women Lawyers Association participated in the Seminar.

Different sessions were organized in which issues such as child labour with special reference to girl child, sexual abuse of girl child and Law, CEDAW and Girl Child, Juvenile Justice, Domestic violence and other facets of life of the girl child were discussed.

MEDIATION AND CONFLICT RESOLUTION

A National Meet on Mediation and Conflict Resolution was organized on 25 March 2008 at Vigyan Bhawan, New Delhi. Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India inaugurated the Meet. Shri R.R. Bhardwaj, Hon'ble Union Minister of Law & Justice; Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India & Executive Chairman, NALSA; Hon'ble Mr. Justice S.B. Sinha, Judge, Supreme Court of India; Hon'ble Mr. Justice, M.V. Raveendran, Judge, Supreme Court of India and Shri I.K. Viswanathan, Secretary, Department of Legal Affairs, Ministry of Law & Justice were the dignitaries present on the occasion. Sri Sri Ravi Shankar Ji, the Founder of Art of Living Foundation delivered a special address and answered the queries of the delegates.

People were made aware of the concept of Mediation, its utility and impact of Mediation on the Justice Delivery System.

MEDIA AND ADMINISTRATION OF JUSTICE

NALSA in partnership with Supreme Court Legal Services Committee, Press Council of India, Indian Law Institute and Editors Guild of India organized a workshop on Reporting of Court Proceedings by Media and Administration of Justice for Legal Correspondents/Journalist on 29 - 30 March 2008 at Vigyan Bhawan, New Delhi. Hon'ble Mr. Justice K.G. Balakrishnan, the Chief Justice of India inaugurated the workshop in the esteemed presence of Hon'ble Dr. Justice Ajit Pasayat, Judge, Supreme Court of India & Chairman, Supreme Court Legal Services Committee; Hon'ble Mr. Justice G.N. Ray, Chairman, Press Council of India; Prof K.N. Chandrasekharan Pillai, Director, Indian Law Institute and other Hon'ble Judges of the Supreme Court. Solicitor General of India, Senior Advocates, Secretaries from the Union Government, Senior Editors and Bureau Chief of print and electronic media and also representatives of media regulatory bodies participated in the workshop.

In the two days conference efforts were made to survey and discuss the matters of common concern of Judiciary and Media. A number of useful observations, suggestions and recommendations were made in the six interactive sessions.

INTERNATIONAL LABOUR DAY

The Authority also organized a National Campaign to Prevention of Child Marriage, Child Labour, Foeticide, Dowry and Domestic Violence. At Shramik Referral Centre for People living with HIV / AIDs. Kiri Nagar, Kalkaji, New Delhi. Hon'ble Mr. Justice K.G. Balakrishnan, Chief Justice of India inaugurated the function in the august presence of Hon'ble Mr. Justice Ashok Bhan, Judge, Supreme Court of India and Executive Chairman NALSA & representatives of the various departments.

ALL INDIA MEET OF CHAIRPERSONS & SECRETARIES OF STATE LEGAL SERVICE AUTHORITIES & HIGH COURT LEGAL SERVICES COMMITTEES

The Authority organized All India Meet of Chairpersons and Secretaries of State Legal Services Authorities in association with Delhi Legal Services Authority from 2-4 May 2008 at Vigyan Bhawan, New Delhi on the subject of 1) Role and Contribution of High Court Legal Services Committees and impending coordination of State Legal

Services Authorities and High Court Legal Services Committees for effective implementation of free legal aid programmes for the weaker sections on various issues viz., sharing the views, suggestions, problems faced, achievements. concerning with the functioning of State Legal Services Authorities & High Court Legal Services committees, 2) Legal Sanction behind the 'Socio-legal Audit role of State Legal Services Authorities, 3) Concept of Social Justice and Social Justice Litigation and its relevance to the Legal Services Authorities Act 1987, 4) Environmental issues and Legal Services Authorities Regime, 5) Areas of special concern to weaker sections of the society. 6) Consumer Protection-Social Justice Litigation & Role of State Legal Services authorities.

ACHIEVEMENTS

Up to 31-3-2008, about 92.58 lakh persons have benefited through legal aid and advice throughout the country in which about 13.50 lakh persons belonging to Scheduled Caste and 4.44 Lakh persons of Scheduled Tribe Communities were beneficiaries. More than 9.69 Lakh persons were women and about 2.07 lakh persons in custody were also benefited.

About 6.40 lakh Lok Adalats have been held throughout the country in which more than 2.39 crores cases have been settled in about 15.98 lakh Motor Accident Claim cases, more than Rs. 6986.79 crores has been awarded as compensation.

ATTORNEY GENERAL

The Attorney General for India is appointed by the President and holds office during the pleasure of the President. He must be a person qualified to be appointed as a Judge of the Supreme court. It is the duty of the Attorney-General in India to give advice to the government of India upon such legal matters, and to perform such other duties of a legal character, as may be referred or assigned to him by the President, and to discharge the functions conferred on him by or under the constitution or any other law. In the performance of his duties, he has the right of audience in all courts in India as well as the right to vote. In the discharge of his functions, the Attorney General is assisted by the Solicitor-General and the Additional Solicitors-General

ALTERNATIVE DISPUTE REDRESSAL (ADR)

With the Sleep growth in the number of laws and the number of cases, the Court system is under great pressure. In order to reduce the heavy demand on Court time, efforts need to be made to resolve the disputes by resorting to Alternative Dispute Resolution Methods before they enter the portals of the court.

The Arbitration, Mediation and Conciliation are tools of Alternative Dispute Redressal System.

ARBITRATION

Arbitration is a process in which a neutral third party or parties render a decision based on the merits of the case. In the Indian context the scope of the rules for the arbitration process are set out broadly by the provisions of the arbitration and Conciliation Act 1998 and in the areas uncovered by the Statute the parties are free to design an arbitration process appropriate and relevant to their disputes.

MEDIATION

The Process of mediation aims to facilitate the development of a consensual solution by the disputing parties. The Mediation process is overseen by a non-partisan third

party - the Mediator. The authority of the mediator vests on the consent of the parties that he should facilitate their negotiations.

CONCILIATION

This is a process by which resolution of disputes is achieved by compromise or voluntary agreement. In contrast to arbitration, the conciliator does not render a binding award. The parties are free to accept or reject the recommendations of the conciliator. The conciliator is, in the Indian context, often a Government official whose report contains recommendations. So far as Department of Legal Affairs is concerned, this Department provides annual recurring Grants-in-aid to National Legal Services Authority (NALSA) NALSA is a statutory body. During the financial year 007-08, this Department released Grant-in-aid amounting to Rs. 7.5 crore to NALSA for the implementation of Mediation and Conciliation project in the country under National ADR Plan.

As regards the promotion of alternative methods of dispute resolution, the International Centre for Alternative Dispute Resolution (ICADR) was set up by the Department of Legal Affairs as an autonomous body Registered under the Societies Registration Act, 1860. The Hon'ble Minister for Law & Justice is the Chairman of ICADR. The main object of the ICADR is to promote popularize and propagate Alternative Dispute Resolution to facilitate early resolution of disputes so as to reduce the burden of arrears in the Courts. There was also a proposal for World Bank Assistance (Grant or loan) to popularize and strengthen the Alternative Dispute Resolution Mechanisam through (ICADR), The World Bank has approved a grant amounting to \$ 4.80 lakhs to ICADR during the financial year 2007-2008 for study of ADR status in India and for training of Mediators and Mediators trainers in India.

LEGAL PROFESSION

In India, the law relating to legal profession is governed by the Advocates Act, 1961 and the rules framed there under by the Bar Council of India. It is a self-contained code of law relating to legal practitioners and provides for the constitution of State Bar Councils and Bar Council of India. A person enrolled as an advocate under the Advocates Act, 1961, is entitled to practice law throughout the country. An advocate on the roll of a State Bar Council may apply for transfer to the roll of any other State Bar Council in the prescribed manner. No person can be enrolled as an advocate on the rolls of more than one State Bar Council. There are two classes of advocates, namely, senior advocates and other advocates. An advocate with his consent, may be designated as a senior advocate, if the Supreme Court or a High Court is of the opinion that by virtue of his ability, standing at the Bar or special knowledge or experience in law, he deserves such distinction. A senior advocate cannot appear without an advocate-on-record in the Supreme Court or without some other advocate on the State Roll in any other court or tribunal. Standards of education have been prescribed for enrolment as an advocate. There are also rules regulating standards of professional conduct and etiquette and other matters. State Bar Councils have disciplinary jurisdiction over advocates whose names appear on their rolls. This is subject to right of appeal to the Bar Council of India and a further right of appeal to the Supreme Court of India.

ADVOCATES WELFARE FUND

Social security in the form of financial assistance to junior lawyers and welfare schemes for indigent or disabled advocates, has always been a mater of concern for

the legal fraternity. Certain States enacted thereon legislation on the subject. The Parliament enacted "Advocates Welfare Fund Act, 2001" applicable to the Union Territories and the States which do not have their own enactments on the subject, for consideration of "Advocates Welfare Fund" by the appropriate Government. This Act makes it compulsory for every advocate to affix stamps of the requisite value on every Vakalatnama file in any court, tribunal or other authority. Sum collected by way of sale of "Advocates' Welfare Funds Stamps" constitute an important source of the Advocates' Welfare Fund.

All practicing Advocates shall become members of the Advocates' Welfare Fund on payment of an application fee and annual subscription. The Fund shall vest in and be held and applied by the Trustee Committee established by the appropriate Government. The Fund shall, *inter-alia*, be used for making ex-gratia grant to a member of the fund in case of a serious health problem, payment of a fixed amount on cessation of practice and in case of death of a member, to his nominee or legal heir, medical and educational facilities for the members and their dependants, purchase of books and for common facilities for advocates.

NATIONAL TAX TRIBUNAL

Having realized the need for uniformity, certainty in the administration of taxation laws and on the recommendation of the Chokshi Committee the National Tax Tribunal Act, 2005 was enacted on 21st December, 2005 for lying/hearing appeals, instead of High Courts, against the orders passed by the Income-tax Appellate Tribunal and the Central Excise, Customs and Service Tax appellate Tribunal. The National Tax Tribunal Act, 2005 was brought into force by the notification of the Government of India S.O. 1826(E) on 28th December, 2005. However, the National Tax Tribunal could not be made functional due to pendency of case before the Hon'ble Supreme Court.

LAW COMMISSION OF INDIA

The 18th Law Commission was reconstituted on 1 September 2006 for a period of three years with Hon'ble Dr. Justice A.R. Lakshmanan as its Chairman. A.R. Lakshmanan has been appointed its Chairman w.e.f. 28.5.2007 and Dr. D.P. Sharma as its Member-Secretary w.e.f. 31 March 2006. The terms of reference of the 18th Law Commission are: (a) Review/Repeal of obsolete laws: (i) to identify laws which are no longer needed or relevant and can be immediately repealed; (ii) to identify laws which are in harmony with the existing climate of economic liberalisation which need no change; (iii) to identify laws which require changes or amendments and to make suggestions for their amendment; (iv) to consider in a wider perspective the suggestions for revision/amendment given by Expert Groups in various Ministries/Departments with a view to coordinating and harmonising them; (v) to consider references made to it by Ministries/Departments in respect of legislation having bearing on the working of more than one Ministry/Department; (vi) to suggest suitable measures for quick redressal of citizens grievances, in the field of law; (b) Law and Poverty: (i) to examine the Law which affect the poor and carry out post-audit for socio-economic legislation; (ii) to take all such measures as may be necessary to harness law and the legal process in the service of the poor; (c) to keep under review the system of judicial administration to ensure that it is responsive to the reasonable demands of the time and in particular to secure: (i) elimination of delays, speedy clearance of arrears and reduction in costs so as to secure quick and economical disposal of cases without affecting the cardinal principle that decisions should be

just and fair; (ii) simplification of procedure to reduce and eliminate technicalities and devices for delay so that it operates not as an end in itself but as a means of achieving justice; (iii) improvements of standards of all concerned with the administration of justice; (d) to examine the existing laws in the light of Directive Principles of State Policy and to suggest ways of improvement and reform and also to suggest such legislation as might be necessary to implement the Directive Principles and to attain the objective set out in the Preamble to the Constitution; (e) to revise the Central Acts of General Importance so as to simplify them and to remove anomalies, ambiguities and inequities; (f) to recommend to the Government measure of bringing the statute book up-to-date by repealing obsolete laws and enactments or parts thereof which have outlived their utility; (g) to consider and to convey to the Government its views on any other subject relating to law and judicial administration that may be referred to it by the Government through Ministry of Law and Justice (Department of Legal Affairs).

Various subjects were taken up by the Commission *suo motu* in view of the importance of the issues while some subjects were taken up on a reference from the Government/Supreme Court of India. The Commission has so far submitted 201 reports.

ENFORCEMENT AGENCIES

POLICE

The Police force in the country is entrusted with the responsibility of maintenance of public order and prevention and detection of crimes. Public order and police being state subjects under the Constitution, police is maintained and controlled by States.

The Police force in State is headed by the Director General of Police/Inspector General of Police. State is divided into convenient territorial divisions called ranges and each police range is under the administrative control of a Deputy Inspector General of Police. A number of districts constitute the range. District police is further sub-divided into police divisions, circles and police-stations. Besides the civil police, states also maintain their own armed police and have separate intelligence Branches, crime branches, etc. Police set up in big cities like Delhi, Kolkata, Mumbai, Chennai, Bangaluru, Hyderabad, Ahmedabad, Nagpur, Pune, etc. is directly under a Commissioner of Police who enjoys magisterial powers. All senior police posts in various States are manned by the Indian Police Service (IPS) cadres, recruitment to which is made on all-India basis.

The Central Government maintains Central Police forces, Intelligence Bureau (IB), Central Bureau of Investigation (CBI), Institutions for training of police officers and forensic science institutions to assist the states in gathering intelligence, in maintaining law and order, in investigating special crime cases and in providing training to the senior police officers of the State governments.

INDO-TIBETAN BORDER POLICE

The Indo-Tibetan Border Police (ITBP) was raised on 21 October 1962 after the Chinese aggression as an integrated intelligence/signal/pioneer/engineering/medical and guerrilla unit and was initially placed under the Intelligence Bureau for operational control. In 1975 the primary task of the ITBP was re-defined as security of northern borders, to check illegal immigration and trans-border crimes.

ITBP is given the responsibility of providing security/communication/medical

cover to the pilgrims during Kailash-Mansarovar Yatra besides being the Nodal Agency Disaster Management in the Central and Western Himalayan region. The ITBP has 29 battalions including four specialist battalions.

BORDER SECURITY FORCE

Border Security Force (BSF) raised in 1965, is entrusted with the task of maintaining permanent vigilance on India's international borders. The present strength of BSF is 157 battalions and guards a total of 6,385.36 km of international borders, spread over mountains, inhospitable deserts, riverine, snow bound and marshy areas. BSF has been assigned the role of promoting a sense of security amongst the people living in the border areas and preventing trans-border crimes, such as smuggling, infiltration/exfiltration and other illegal activities.

ASSAM RIFLES

The Assam Rifles raised as Catchar Levy in 1835 is the oldest Police Force in the country. The force has 46 battalions. The force has a dual role of maintaining internal security in the North-Eastern region and guarding the Indo-Myanmar Border. The Assam Rifles contribution towards assimilation of the people of north-east into the national mainstream is truly monumental. The force is fondly called "The Sentinels of the North-East" and "Friends of the Hill People."

NATIONAL SECURITY GUARDS

The National Security Guards (NSG) modelled on the pattern of SAS of the UK and GSG-9 of Germany has been set up in 1984 for handling counter terrorists and counter hijacking operations including VIP security. It is a highly trained and motivated Force for effectively dealing with terrorist activities in the country. It also trains state police commandos to upgrade their capability to meet the terrorist threats and carry out bomb detection/defusion operations. The NSG maintains the only National Bomb Data Centre of the country. A counter terrorist operation was carried out by the commandos of NSG at Akshar Dham Temple, Ahmedabad in September 2002 and they were successful in eliminating the terrorists who took refuge in the temple complex. NSG has been presented Presidential colour on 16 October 2004.

CENTRAL RESERVE POLICE FORCE

The Central Reserve Police Force (CRPF) is an Armed Force of the Union of India for internal security management. This Force was raised in 1939 at Nimuch (MP) as the Crown Representative's Police and was renamed as the Central Reserve Police Force in 1949.

At present, CRPF has 191 Battalions including Rapid Action Force (RAF). The Force remained committed to internal security and counter insurgency-cum-anti-terrorist operations in various parts of the country. This is a Force with ladies contingents organised in two Mahila Battalions.

RAPID ACTION FORCE

Rapid Action Force (RAF) is an integral part of the Central Reserve Police Force. With 10 battalions it has been conceived in 1992 as a specially trained and equipped to be an effective strike force mainly to tackle communal riots and riot-like situations. Unlike the conventional force of law and order, the RAF in addition to its law enforcing role has got post-riot role in rescue and relief.

CENTRAL INDUSTRIAL SECURITY FORCE

The Central Industrial Security Force (CISF) was established in 1969 to provide security to industrial undertakings of the government. The Force numbering over 96057 has the responsibility to protect and safeguard the industrial undertakings owned by the Central government together with such installations as are specified as vital by the government. CISF is presently providing security cover to 267 public sector undertakings. The security of 54 Airports and the government buildings in Delhi together with such installations as specified vital has also been entrusted to the CISF. The CISF has launched security and fire protection consultancy services in 2001.

SARDAR VALLABHBHAI PATEL NATIONAL POLICE ACADEMY

The Sardar Vallabhbhai Patel National Police Academy is the premier police training institutions in the country which imparts basic as well as in-service training to Indian Police Service (IPS) officers. Established in 1948 at Mount Abu, Rajasthan, the Academy was shifted to Hyderabad in 1975. The Academy also promotes study and research on police-related topics.

SASHASTRA SEEMA BAL

Special Service Bureau (SSB) was set up in the early 1963 under Cabinet Secretariat in the wake of India China conflict of 1962 to build peoples' morale and inculcate spirit of resistance in the border population against threats of subversion, infiltration and sabotage from across the border. It is now under the administrative control of the Ministry of Home Affairs with effect from 15 January 2001 and assigned the responsibility to guard along the Indo-Nepal and Indo-Bhutan Borders. Name of SSB has been changed as "Sashastra Seema Bal" from 15 December 2003. For its dedicated and distinguished service, SSB was presented President's Colours in March 2004.

CIVIL DEFENCE

Civil Defence includes any measures not amounting to actual combat, for affording protection to any person, property, place or thing in India of any part of the territory thereof against any hostile attack whether from air, land, sea or other places or for operating/mitigating the effect of any such attack; whether such measures are taken before, during or after the time of such attack. Civil Defence is to be organised as an integral part of the defence of the country. Civil Defence aims at saving life, minimise damage to the property, maintaining continuity of industrial production and keeping the public morale high in the event of a hostile attack. Central financial assistance to the States for Civil Defence measures is confined to categorised Civil Defence towns only. Civil Defence is primarily organised on voluntary basis except for a small nucleus of paid staff and establishment which is augmented during emergencies. Civil Defence activities are restricted to 225 categorised towns spread all over the country. The present target of Civil Defence volunteers is 13 lakh, of which 6.64 lakh have already been raised and 5 lakh trained.

Civil Defence volunteers are also deployed, on a voluntary basis, in various constructive and nation building activities, including providing assistance to the administration in undertaking social and welfare services and in the prevention/mitigation of natural/man-made disasters as well as in post-disaster response and relief operations. The training of Civil Defence organisation is carried out in three tier levels. The training of Trainers and specialised training is conducted at the National Civil Defence College, Nagpur and Team/Leadership training is conducted at State

Civil Defence Institutes. Training of the volunteers in Civil Defence Organisation is carried out at Local/Town levels by trained trainers in the form of short-term training programmes.

The Civil Defence has reached out to over 200 schools and colleges besides residential areas in Delhi and has trained over more than 10,000 women and girl students in self-defence.

HOME GUARDS

Home Guards is a voluntary force, first raised in India in December 1946, to assist the police in controlling civil disturbance and communal riots. Subsequently, the concept of the voluntary citizens force was adopted by several States. In the wake of Chinese aggression in 1962, the Centre advised the States and Union Territories to merge their existing voluntary organisations into one uniform voluntary force known as Home Guards. The role of Home Guards is to serve as an auxiliary to the police in maintenance of internal security, help the community in any kind of emergency such as an air-raid, fire, cyclone, earthquake, epidemic, etc., help in maintenance of essential services, promote communal harmony and assist the administration in protecting weaker sections, participate in socio-economic and welfare activities and perform Civil Defence duties. Home Guards are of two types—rural and urban. In border States, Border Wing Home Guards Battalions, have also been raised, which serve as an auxiliary to the Border Security Force. As against a targeted strength of 5,73,793, the raised strength is 4,90,842 Home Guards. The organisation is spread over in all States and Union Territories except in Kerala.

Eighteen Border Wing Home Guards (BWHG) Battalions have been raised in the border States viz. Punjab (6 Bns), Gujarat (4 Bns) and one each of Battalions for Assam, Meghalaya, Tripura and West Bengal to serve as an auxiliary to Border Security Force for preventing infiltration on the international border/coastal areas, guarding of VVIPs and lines of communication in vulnerable areas at the time of external aggression.

Home Guards are raised under the Home Guards Act and Rules of the States/ Union Territories. They are recruited from various cross sections of the people such as doctors, engineers, lawyers, private sector organisations, college and University students, agricultural and industrial workers, etc., who give their spare time to the organisation for betterment of the community. All citizens of India, who are in the age group of 18-50, are eligible to become members of Home Guards. Normal tenure of membership in Home Guards is 3 to 5 years. Amenities and facilities given to Home Guards include free uniform for gallantry, distinguished and meritorious services. A Home Guard, whenever called out for duty/training, is paid duty/training allowance at prescribed rates to meet out-of-pocket expenses. Members of Home Guards with three years service in the organisation are trained in police in maintenance of law and order, prevention of crime, anti-decoity measures, border patrolling, prohibition, flood relief, fire-fighting, election duties and social welfare activities. In the event of national emergency, some portion of Civil Defence work is also entrusted to the Home Guards.

The Ministry of Home Affairs formulates the policy in respect of role, target, raising, training, equipping, establishment and other important matters of Home Guards Organisation. Expenditure on Home Guards is generally shared between Centre and State Governments as per existing financial policy on discrete financial terms.

FIRE SERVICE

Fire is a State subject and fire services are administered by the States/Union Territories. The Ministry of Home Affairs renders technical advice to States/Union Territories and Central Ministries on fire protection, fire prevention and fire legislation. For the modernisation of fire service in the states, the Ministry of Home Affairs arranges GIC loans through the Ministry of Finance. A sum of Rs 404.97 crore as GIC has been arranged for development of State Fire Services since 1980-81. In addition, Xth Finance Commission allocated Rs 80 crore as grant-in-aid for the modernisation of fire service in various States during the period 1995-2000. Eleventh Finance Commission further allocated Rs 201 crore as grant-in-aid for 2000-05. The training of the firemen is conducted in State Fire Training Centres—at present 14 in numbers. But the training of the Officers cadre is conducted at National Fire Service College, Nagpur. The National Fire Service College, Nagpur since its inception in 1956, trained 13794 fire officers including 71 foreign trainees from twelve countries.

LOK NAYAK JAYAPRAKASH NARAYAN (LNJN) NATIONAL INSTITUTE OF CRIMINOLOGY AND FORENSIC SCIENCE

A premier institution for Criminology, the National Institute of Criminology and Forensic Science (MHA) was set up in 1972. It has been named as “Lok Nayak Jayaprakash Narayan National Institute of Criminology and Forensic Science” on 3 October 2003 and continues to function as the country’s nodal institution for training of functionaries of Criminal Justice System in the twin fields of Criminology and Forensic Science, as well as for research related to these fields.

Teaching Programmes/Training and Research : The Institute is affiliated with the Guru Gobind Indraprastha University, Delhi for running M.A/M.Sc programme in Criminology and Forensic Science. The courses started w.e.f. 3 August 2004. A DNA Lab with state-of-the-art equipments like Bio-robot workstation has been set up.

PERSONAL LAW

The people of India are of different religions and faiths. They are governed by different sets of personal laws in respect of matters relating to family affairs, i.e., marriage, divorce, succession, etc.

MARRIAGE

Law relating to marriage and/or divorce has been codified in different enactments applicable to people of different religions. These are :

1. The Converts’ Marriage Dissolution Act, 1866;
2. The Indian Divorce Act, 1869;
3. The Indian Christian Marriage Act, 1872;
4. The Kazis Act, 1880;
5. The Anand Marriage Act, 1909;
6. The Indian Succession Act, 1925;
7. The Child Marriage Restraint Act, 1929;
8. The Parsi Marriage and Divorce Act, 1936;
9. The Dissolution of Muslim Marriage Act, 1939;
10. The Special Marriage Act, 1954;
11. The Hindu Marriage Act, 1955;

12. The Foreign Marriage Act, 1969; and
13. The Muslim Women (Protection of Rights on Divorce) Act, 1986.

The Special Marriage Act, 1954 extends to the whole of India except the State of Jammu and Kashmir, but also applies to the citizens of India domiciled in Jammu and Kashmir. Persons governed by this Act can specifically register marriage under the said Act even though they are of different religious faiths. The Act also provides that the marriage celebrated under any other form can also be registered under the Special Marriage Act, if it satisfies the requirements of the Act. The section 4(b) (iii) of the Act was amended to omit the words "or epilepsy." Sections 36 and 38 have been amended to provide that an application for alimony *pendente lite* or the maintenance and education of minor children be disposed of within 60 days from the date of service of notice on the respondent.

An attempt has been made to codify customary law which is prevalent among Hindus by enacting the Hindu Marriage Act, 1955. The Hindu Marriage Act, 1955, which extends to the whole of India, except the State of Jammu and Kashmir, applies also to Hindus domiciled in territories to which the Act extends and those who are outside the said territories. It applies to Hindus (in any of its forms or development) and also to Buddhists, Sikhs, Jains and also those who are not Muslims, Christians, Parsis or Jews by religion. However, the Act does not apply to members of any scheduled tribes unless the Central Government by notification in the official Gazette otherwise directs.

Provisions in regard to divorce are contained in section 13 of the Hindu Marriage Act and section 27 of the Special Marriage Act. Common ground on which divorce can be sought by a husband or a wife under these Acts fall under these broad heads: Adultery, desertion, cruelty, unsoundness of mind, venereal disease, leprosy, mutual consent and being not heard of as alive for seven years.

As regards the Christian community, provisions relating to marriage and divorce are contained in the Indian Christian Marriage Act, 1872 and in section 10 of the Indian Divorce Act, 1869 respectively. Under that section the husband can seek divorce on grounds of adultery on the part of his wife and the wife can seek divorce on the ground that the husband has become convert to another religion and has gone through marriage with another woman or has been guilty of (a) incestuous adultery; (b) bigamy with adultery; (c) marriage with another woman with adultery; (d) rape, sodomy or bestiality; (e) adultery coupled with such cruelty as without adultery would have entitled her to a divorce, a *mensa etoro* (a system of divorce created by the Roman Catholic Church equivalent to judicial separation on grounds of adultery, perverse practices, cruelty, heresy and apostasy) and (f) adultery coupled with desertion without reasonable excuse for two years or more.

In the Indian Divorce Act, 1869 comprehensive Amendments were made through the Indian Divorce (Amendment) Act, 2001 (No. 51 of 2001) to remove discriminatory provisions against women in the matter of Divorce. Further, sections 36 and 41 of the Act were amended by the Marriage Laws (Amendment) Act, 2001 to provide that an application for alimony *pendente lite* or the maintenance and education of minor children be disposed of within 60 days from the date of service of notice on the respondent.

As regards Muslims, marriages are governed by the Mohammedan Law prevalent in the country. As regards divorce, i.e., *Talaq*, a Muslim wife has a much restricted right to dissolve her marriage. Unwritten and traditional law tried to

ameliorate her position by permitting her to see dissolution under the following forms : (a) *Talaq-I-Tafwid*: This is a form of delegated divorce. According to this, the husband delegates his right to divorce in a marriage contract which may stipulate, *inter alia*, on his taking another wife, the first wife has a right to divorce him; (b) *Khula* : this is a dissolution of agreement between the parties to marriage on the wife's giving some consideration to the husband for her release from marriage ties. Terms are a matter of bargain and usually take the form of the wife giving up her *mehr* or a portion of it, and (c) *Mubarat* : this is divorce by mutual consent.

Further, by the Dissolution of Muslim Marriage Act, 1939, a Muslim wife has been given the right to seek dissolution of her marriage on these grounds; (i) whereabouts of the husband have not been known for a period of four years; (ii) husband is not maintaining her for a period of two years; (iii) imprisonment of husband for a period of seven years or more; (iv) failure on the part of husband to perform his marital obligations, without a reasonable cause, for a period of three years; (v) impotency of husband; (vi) two-year long insanity; (vii) suffering from leprosy or virulent venereal disease' (viii) marriage took place before she attained the age of 15 years and not consummated; and (x) cruelty.

The Parsi Marriage and Divorce Act, 1936 governs the matrimonial relations of Parsis. The word 'Parsi' is defined in the Act as a Parsi Zoroastrian. A Zoroastrian is a person who professes the Zoroastrian religion. It has a racial significance. Every marriage as well as divorce under this Act is required to be registered in accordance with the procedure prescribed in the Act. However, failure to fulfil requirements on that behalf does not make marriage invalid. The Act provides only for monogamy. By the Parsi Marriage and Divorce (Amendment) Act, 1988, scope of certain provisions of the Parsi Marriage and Divorce Act, 1936 have been enlarged so as to bring them in line with the Hindu Marriage Act, 1955. Recently, sections 39 and 49 of the Parsi Marriage and Divorce Act, 1936 were amended by the Marriage Laws (Amendment) Act, 2001 to provide that an application for alimony *pendent lite* or the maintenance and education of minor children be disposed of within 60 days from the date of service of notice on the wife or the husband as the case may be.

As for the matrimonial laws of Jews, there is no codified law in India. Even today, they are governed by their religious laws. Jews do not regard marriage as a civil contract, but as a relation between two persons involving very sacred duties. Marriage can be dissolved through courts on grounds of adultery or cruelty. Marriages are monogamous.

CHILD MARRIAGE

The Child Marriage Restraint Act, 1929, from 1 October 1978, provides that marriage age for males will be 21 years and for females 18 years.

ADOPTION

Although there is no general law of adoption, it is permitted by the Hindu Adoption and Maintenance Act, 1956 amongst Hindus and by custom amongst a few numerically insignificant categories of persons. Since adoption is legal affiliation of a child, it forms the subject matter of personal law. Muslims, Christians and Parsis have no adoption laws and have to approach the court under the Guardians and Wards Act, 1890. Muslims, Christians and Parsis can take a child under the said Act only under foster care. Once a child under foster care becomes major, he is free to

break away all these connections. Besides, such a child does not have the legal right of inheritance. Foreigners, who want to adopt Indian children have to approach the court under the aforesaid Act.

Hindu law relating to adoption has been amended and codified into the Hindu Adoptions and Maintenance Act, 1956, under which a male or female Hindu having legal capacity, can take a son or daughter in adoption. In dealing with the question of guardianship of a minor child, as in other spheres of family law, there is no uniform law. Hindu law, Muslim Law and the Guardians and Wards Act, 1890 are three distinct legal systems which are prevalent. A guardian may be a natural guardian, testamentary guardian or a guardian appointed by the court. In deciding the question of guardianship two distinct things have to be taken into account—person of the minor and his property. Often the same person is not entrusted with both.

The Hindu Minority and Guardianship Act, 1956 has codified laws of Hindus relating to minority and guardianship. As in the case of uncodified law, it has upheld the superior right of father. It lays down that a child is a minor till the age of 18 years. Natural guardian for both boys and unmarried girls is first the father and then the mother. Prior right of mother is recognised only for the custody of children below five. In case of illegitimate children, the mother has a better claim than the putative father. The act makes no distinction between the person of the minor and his property and therefore guardianship implies control over both.

Under the Muslim Law, the father enjoys a dominant position. It also makes a distinction between guardianship and custody. For guardianship, which has usually reference to guardianship of property, according to Sunnis, the father is preferred and in his absence his executor. If not executor has been appointed by the father, the guardianship passes on to the paternal grandfather to take over responsibility and not that of the executor. Both schools, however, agree that father while alive is the sole guardian. Mother is not recognised as a natural guardian even after the death of the father.

As regards rights of a natural guardian, there is no doubt that father's right extends both to property and person. Even when mother has the custody of minor child. Father's general right of supervision and control remains. Father can, however, appoint mother as a testamentary guardian. Thus, though mother may not be recognised as natural guardian, there is no objection to her being appointed under the father's will.

Muslim law recognises that mother's right to custody of minor children (*Hizanat*) is an absolute right. Even the father cannot deprive her of it. Misconduct is the only condition which can deprive the mother of this right. As regards the age at which the right of mother to custody terminates, the Shia school holds that mother's right to the *Hizanat* is only during the period of rearing which ends when the child completes the age of two, whereas Hanafi school extends the period till the minor son has reached the age of seven. In case of girls, Shia law upholds mother's right till the girl reaches the age of seven and Hanafi school till she attains puberty.

The general law relating to guardians and wards is contained in the Guardians and Wards Act, 1890. It clearly lays down that father's right is primary and no other person can be appointed unless the father is found unfit. This Act also provides that the court must take into consideration the welfare of the child while appointing a guardian under the Act.

MAINTENANCE

Obligation of a husband to maintain his wife arises out of the status of the marriage. Right to maintenance forms a part of the personal law.

Under the Code of Criminal Procedure, 1973, (2 of 1974), right of maintenance extends not only to the wife and dependent children, but also to indigent parents and divorced wives. Claims of the wife, etc., however, depends on the husband having sufficient means. Claim of maintenance for all dependent persons was limited to Rs 500 per month. But, this limit was removed by the Code of Criminal Procedure (Amendment) Act, 2001 (No. 50 of 2001). Inclusion of the right of maintenance under the Code of Criminal Procedure has the advantage of making the remedy both speedy and cheap. However, divorced wives who have received money payable under the customary personal law are not entitled to claim maintenance under the Code of Criminal Procedure.

Under Hindu Law, the wife has an absolute right to claim maintenance from her husband. But she loses her right if she deviates from the path of chastity. Her right to maintenance is codified in the Hindu Adoptions and Maintenance Act, 1956. In assessing the amount of maintenance, the court takes into account various factors like position and liabilities of the husband. It also judges whether the wife is justified in living apart from husband. Justifiable reasons are spelt out in the Act. Maintenance *pendente lite* (pending the suit) and even expenses of a matrimonial suit will be borne by either, husband or wife, if the other spouse has no independent income for his or her support. The same principle will govern payment of permanent maintenance.

Under the Muslim Law, the Muslim Women (Protection of Rights on Divorce) Act, 1986 protects rights of Muslim women who have been divorced by or have obtained divorce from their husbands and provides for matters connected therewith or incidental thereto. This Act, *inter alia*, provides that a divorced Muslim woman shall be entitled to (a) reasonable and fair provision and maintenance to be made and paid to her within the *iddat* period by her former husband; (b) where she herself maintains children born to her before or after her divorce, a reasonable and fair provision and maintenance to be made and paid by her former husband for a period of two years from the respective dates of birth of such children; (c) an amount equal to the sum of *mehr* or dower agreed to be paid to her at the time of her marriage or at any time thereafter according to the Muslim Law; and (d) all property given to her before or at the time of marriage or after her marriage by her relatives or friends or by husband or any relatives of the husband or his friends.

In addition, the Act also provides that where a divorced Muslim woman is unable to maintain herself after the period of *iddat*, the magistrate shall order directing such of her relatives as would be entitled to inherit her property on her death according to the Muslim Law, and to pay such reasonable and fair maintenance to her as he may determine fit and proper, having regard to the needs of the divorced woman, standard of life enjoyed by her during her marriage and means of such relatives, and such maintenance shall be payable by such relatives in proportion to the size of their inheritance of her property and at such periods as he may specify in his order.

Where such divorced woman has children, the magistrate shall order only such children to pay maintenance to her, and in the event of any such children being unable to pay such maintenance, the magistrate shall order parents of such divorced woman to pay maintenance to her.

In the absence of such relatives or where such relatives are not in a position to maintain her, the magistrate may direct State Wakf Board established under Section 13 of the Wakf Act, 1995 functioning in the area in which the woman resides, to pay such maintenance as determined by him.

The Parsi Marriage and Divorce Act, 1936 recognises the right of wife to maintenance—both alimony *pendente lite* and permanent alimony. The maximum amount that can be decreed by the court as alimony during the time a matrimonial suit is pending in court, is one-fifth of the husband's net income. In fixing the quantum as permanent maintenance, the court will determine what is just, bearing in mind the ability of husband to pay, wife's own assets and conduct of the parties. The order will remain in force as long as wife remains chaste and unmarried.

The Indian Divorce Act, 1869 *inter alia* governs maintenance rights of a Christian wife. The provisions are the same as those under the Parsi Law and the same considerations are applied in granting maintenance, both alimony *pendente lite* and permanent maintenance.

SUCCESSION

The Indian Succession Act was enacted in 1925. The object of the Act was to consolidate the large number of laws which were in existence at that time. Laws governing succession to Muslims and Hindus were excluded from the purview of the Act. While consolidating the law in respect of succession, two schemes, one relating to succession to property of persons like Indian Christians, Jews and persons married under the Special Marriage Act, 1954 and the other relating to succession rights or Parsis, were adopted.

In the first scheme, applying to those other than Parsis, in the case of a person dying intestate leaving behind a widow and lineal descendants, the widow would be entitled to a fixed share of one-third of property and lineal descendants shall be entitled to the remaining two-third. This law was amended subsequently with the object of improving rights of widows and it was provided that where the intestate dies leaving behind his widows and it was provided that where the intestate dies leaving behind his widow and no lineal descendant and the net value of the estate does not exceed Rs 5,000, the widow would be entitled to the whole of this property. Where the net value of the estate exceeds Rs 5,000 she is entitled to charge a sum of Rs 5,000 with interest at four per cent payment and in the residue, she is entitled to her share. The Act imposes no restriction on the power of a person to will away his property.

Under the second scheme, the Act provides for Parsi intestate succession. By the Indian Succession (Amendment) Act, 1991 (51 of 1991), the Act was amended to provide equal shares for both sons and daughters in their parental properties, irrespective of the fact that it was that of the father or that of the mother. It also enables the Parsis to bequeath their property to religious or charitable purposes, etc., without any restrictions. In effect the amended law provides that where a Parsi dies intestate leaving behind a widow or widower as the case may be, and children, the property shall be divided so that the widow or widower and each child receives equal share. Further, where a Parsi dies leaving behind one or both parents in addition to children, or widow widower and children, the property shall be so divided that the parent or each of the parents shall receive a share equal to half the share of each child.

This Act was amended by the Indian Succession (Amendment) Act, 2002. It was felt that section 32 of the principal Act is discriminatory to widows and as such

the proviso to section 32 was omitted to remove discrimination in this regard. Section 213 was also amended by this amending Act to make Christians at par with other communities.

The law relating to intestate succession among Hindus is codified in the Hindu Succession Act, 1956 (30 of 1956). It extends to the whole of India except the State of Jammu and Kashmir. The remarkable features of the Act are the recognition of the right of women to inherit property of an intestate equally with men and abolition of the life estate of female heirs.

A vast majority of Muslims in India follow Hanafi doctrines of Sunni law. Courts presume that Muslims are governed by Hanafi law unless it is established to be the contrary. Though there are many features in common between Shia and Sunni schools, yet there are differences in some respects. Sunni law regards Koranic verses of inheritance as an addendum to pre-Islamic customary law and preserves the superior position of male agnates. Unlike Hindu and Christian laws, Muslim law restricts a person's right of testation. A Muslim can bequeath only one-third of his estate. A bequest to a stranger is valid without the consent of heirs if it does not exceed a third of the estate, but a bequest to an heir without the consent of other heirs is invalid. Consent of heirs to a bequest must be secured after the succession has opened and any consent given to a bequest during the lifetime of the testator can be retracted after his death. Shia law allows Muslims the freedom of bequest within the disposable third.