

**PREVENTION OF COMMUNAL AND TARGETED VIOLENCE (ACCESS TO JUSTICE AND REPARATIONS) BILL, 2011**

A

*BILL*

*To respect, protect and fulfill the right to equality before law and equal protection of law by imposing duties on the Central Government and the State Governments, to exercise their powers in an impartial and non-discriminatory manner to prevent and control targeted violence, including mass violence, against Scheduled Castes, Scheduled Tribes and religious minorities in any State in the Union of India, and linguistic minorities in any State in the Union of India; to thereby uphold secular democracy; to help secure fair and equal access to justice and protection to these vulnerable groups through effective provisions for investigation, prosecution and trial of offences under the Act; to provide for restorative relief and reparation, including rehabilitation and compensation to all persons affected by communal and targeted violence; and for matters connected herewith and incidental thereto.*

*CHAPTER I*  
**PRELIMINARY**

**1. Short title, extent and commencement.-** (1) This Act is called “Prevention of Communal and Targeted Violence (Access to Justice and Reparations) Act, 2011”.

(2) It extends to the whole of India excluding the State of Jammu and Kashmir.

(3) It shall come into force within one year from the date of the passing of this Act.

**2. Punishment of offences committed beyond, but which by law may be tried within, India.-** Any person liable under any Indian law including this Act, to be tried for an offence committed beyond India shall be dealt in accordance with the provisions of this Act for any act committed beyond India in the same manner as if such act had been committed within India.

**3. Definitions.-** In this Act, unless the context otherwise so requires:-

(a) **“Armed Forces or Security Forces”** means Armed Forces of the Union or Security Forces or Police Forces, as specified in Schedule I.

(b) **“association”** means any combination or body of individuals, whether or not registered or incorporated under any law for the time being in force;

(c) **“communal and targeted violence”** means and includes any act or series of acts, whether spontaneous or planned, resulting in injury or harm to the person and or property, knowingly directed against any person by virtue of his or her membership of any group.

(d) **“fund”** means the Communal and Targeted Violence Relief and Rehabilitation Fund established under this Act;

(e) **“group”** means a religious or linguistic minority, in any State in the Union of India, or Scheduled Castes and Scheduled Tribes within the meaning of clauses (24) and (25) of Article 366 of the Constitution of India;

(f) **“hostile environment against a group”** means an intimidating or coercive environment that is created when a person belonging to any group as defined under this Act, by virtue of his or her membership of that group, is subjected to any of the following acts:

- (i) boycott of the trade or businesses of such person or making it otherwise difficult for him or her to earn a living; or,
- (ii) publicly humiliate such person through exclusion from public services, including education, health and transportation or any act of indignity; or,
- (iii) deprive or threaten to deprive such person of his or her fundamental rights; or,
- (iv) force such person to leave his or her home or place of ordinary residence or livelihood without his or her express consent; or,

(v) any other act, whether or not it amounts to an offence under this Act, that has the purpose or effect of creating an intimidating, hostile or offensive environment.

(g) **“internally displaced person”** means and includes any person, whether or not he or she belongs to a group as defined under this Act, who has been forced or obliged to leave his or her home or place of ordinary residence as a result of or in order to avoid the effects of organized communal or targeted violence to any other location within India. The term ‘internal displacement’ shall be construed accordingly;

(h) **“prescribed”** means prescribed by rules or regulation, as the case may be, made under this Act;

(i) **“public servant”** means a public servant as defined under section 21 of the Indian Penal Code, 1860 as well as any other person deemed to be a public servant under any other law including this Act for the time being in force and includes any person acting in his or her official capacity under the Central Government or the State Government;

(j) **“State”** shall carry the same meaning as in Article 1 of the Constitution of India read with Schedule I thereunder;

(k) **“victim”** means any person belonging to a group as defined under this Act, who has suffered physical, mental, psychological or monetary harm or harm to his or her property as a result of the commission of any offence under this Act, and includes his or her relatives, legal guardian and legal heirs, wherever appropriate;

(l) **“witness”** means person who is acquainted with the facts and circumstances, or is in possession of any information or has knowledge, necessary for the purpose of investigation, inquiry or trial of any crime involving an offence under this Act, and who is or may be required to give information or make a statement or produce any document during investigation, inquiry or trial of such case and includes a victim of such offence;

(m) All words and expressions used but not defined in the Act and defined in the Indian Penal Code 1860, the Indian Evidence Act 1872 or in the Code of Criminal Procedure 1973, as the case may be, shall be deemed to have the meanings assigned to them in the said enactments.

**4. Knowledge.-** A person is said to knowingly direct any act against a person belonging to a group by virtue of such person’s membership of that group where:

(a) he or she means to engage in the conduct against a person he or she knows belongs to that group; or,

(b) with the knowledge that the person belongs to a group, he or she means to cause injury or harm to such person because of the membership of such person to that group.

*CHAPTER II*  
**OFFENCES**

**5. Offences of communal and targeted violence.-** Offences under section 7 to 12 (both inclusive) shall be offences of communal and targeted violence.

**6. Applicability of SC/ST Atrocities Act.-** (1) In relation to offences against Scheduled Castes and Scheduled Tribes, this Act shall apply in addition and not in derogation of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 except to the extent mentioned in sub-section (2) and (3).

(2) The provision of rule 6 and 7 framed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Rules, 1995 in relation to investigation of offences under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 shall apply to all investigation under that Act to the exclusion of section 62 and section 85 of this Act.

(3) The provisions of Chapter VII of this Act shall apply to members of the Scheduled Castes and Scheduled Tribes against whom offences are committed under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 to the extent relevant.

Provided that any amounts paid under the said Act shall be set off against any amounts paid under this Act.

**7. Sexual assault.-** A person is said to commit sexual assault if he or she commits any of the following acts against a person belonging to a group by virtue of that person's membership of a group:

(a) against a woman,

(i) rape;

(ii) gang rape;

(iii) rape or gang rape as part of or in the course of organised communal and targeted violence.

(b) against any person, without their consent or against their will,

(i) the introduction by a man of his penis or any other body part or an object into vagina, mouth or anus, to any extent;

(ii) causing harm or hurt to reproductive organs or genital organs;

(iii) exposing one's sexual organs in front of any person;

(iv) sexual contact of any sort, including the performance of sexual acts for any length of time;

(v) removing the persons clothes, partially or fully, or compelling that person to undress himself or herself, partially or fully, in public view or otherwise, or parading that person in undressed state in public view or otherwise;

(vi) any other act or conduct that subjects that person to sexual indignity.

Provided that where sexual assault under sub-section (a) or (b) is committed as part of or in the course of organised communal and targeted violence, it shall not be necessary to prove that the said act was committed against the victim without their consent or against their will.

*Explanation* – For the purposes of this section, consent shall mean–

- (a) The unequivocal voluntary agreement where the person has by words, gestures, or any form of non-verbal communication, communicated willingness to participate in the act referred to in this section;
- (b) “Unequivocal voluntary agreement” means willingness given for specific and be limited to the express act consented to under this section.

*Explanation 2* – For the purposes of this section, consent obtained by duress, threat, terror, fear, coercion, undue influence, misrepresentation or mistake of fact shall not be unequivocal voluntary agreement.

- 8. Hate propaganda.**- Notwithstanding anything contained in any other law for the time being in force, whoever publishes, communicates or disseminates by words, either spoken or written, or by signs or by visible representation or by electronic or other means of mass communication or otherwise acts inciting hatred causing clear danger of violence against a group or persons belonging to that group, in general or specifically, or disseminates or broadcasts any information, or publishes or displays any advertisement or notice, that could reasonably be construed to demonstrate an intention to promote or incite hatred or expose or is likely to expose the group or persons belonging to that group to such hatred, is said to be guilty of hate propaganda.

Provided that nothing will be deemed to be hate propaganda, which is done in furtherance of or promotes fundamental rights enshrined in Chapter III of the Constitution of India.

- 9. Organised Communal and Targeted Violence.**- (1) Whoever, being an individual, singly or jointly with others or being a part of an association or on behalf of an association or acting under the influence of an association, engages in continuing unlawful activity of a widespread or systematic nature knowingly directed against a group or part thereof, by virtue of their membership of that group, by use of violence or threat of violence or intimidation or coercion or by committing sexual assault or other unlawful means, is said to commit the offence of organised communal and targeted violence.

*Explanation* - for the purposes of this section, ‘continuous unlawful activity of a widespread or systematic nature knowingly directed against a group or part thereof’ means the course of conduct involving the multiple or mass commission of acts referred to in this section, whether spontaneously or planned, whether over a short or prolonged period or in one place or a number of places simultaneously or otherwise, against any group or part thereof.

(2) Where it is shown that continuing unlawful activity of a widespread or systematic nature has occurred, it may be presumed that the public servant charged with the duty to prevent communal and targeted violence has failed to act to prevent the widespread or systematic unlawful activity.

**10. Aiding financially, materially or in kind for commission of offence under this Act.-**

Whoever knowingly expends or supplies any money or any material or aids in kind thereof, in furtherance or in support of an act which is an offence under this Act is said to be guilty of aiding financially in the commission of an offence under this Act.

**11. Offence under the Indian Penal Code, 1860.-** The offences under the Indian Penal Code, 1860 provided in:

(a) Schedule II, Part A of this Act; or

(b) Schedule II, Part B of this Act, when committed against any person belonging to a group by virtue of his or her membership to that group,

shall be deemed to be offences of communal and targeted violence under this Act and shall be dealt with accordingly.

**12. Torture.-** Whoever, being a public servant, or under the control or direction of or with the acquiescence of a public servant, intentionally inflicts pain or suffering, whether mental or physical, or inflicts cruel, inhuman or degrading treatment, on a person belonging to a group by virtue of his or her membership of a group, including causing grievous hurt or danger to life, limb or health or sexual assault, for the purposes of obtaining from him or her or a third person information or a confession or punishing him or her for an act he or she or a third person committed or is suspected of having committed, or intimidating or coercing him or her or a third person or for any other purpose, is said to inflict torture.

Provided that nothing contained in this section shall apply to any pain, hurt or danger as aforementioned caused or inflicted in accordance with law.

**13. Dereliction of duty.-** When any person who is or was a public servant not removable from his or her office save by or with the sanction of the Central Government or State Government, as the case may be, authorized to act under any provision of this Act:

(a) exercises the authority vested in him or her colourably or in a manner otherwise than provided under law for the time being in force, which causes or is likely to lead to an offence of communal and targeted violence or by which he or she intends to screen or knowing it to be likely that he or she will thereby screen any person from legal punishment; or,

(b) omits to exercise lawful authority vested in him or her under law, without reasonable cause, thereby fails to prevent the commission of communal and targeted violence, breach of public order or disruption in the maintenance of services and supplies essential to a group,

shall be guilty of dereliction of duty.

*Explanation* - For the purpose of this section, dereliction of duty shall also include the following:

- (i) being charged as such public servant with the duty, who refuses to:
  - (a) protect or provide protection to any victim of communal and targeted violence;
  - (b) record any information under sub-section (1) of section 154, Code of Criminal Procedure, 1973 relating to the commission of any scheduled offence or any other offence under this Act; or prepares, frames or translates any document or electronic record incorrectly;
  - (c) investigate or prosecute any scheduled offence or any other offence under this Act;
- (ii) being charged as such public servant, failing to perform his or her duties under section 18 of this Act, to take all reasonable steps to prevent any act of communal and targeted violence including its build-up, incitement, outbreak and spread, and to discharge his or her duties without delay in a fair, impartial and non-discriminatory manner;
- (iii) being charged as such public servant, failing to perform his or her duties under section 63 of this Act, to conduct a medical examination without any delay in relation to a victim who has suffered physical injury including sexual assault;
- (iv) being charged as such public servant, failing to perform his or her duties under section 65 of this Act, to take all reasonable steps to preserve relevant documents and records;
- (v) being charged as such public servant, failing to perform his or her duties under sections 66, 83 and 84 of this Act, to take all reasonable steps to protect victims, informants and witnesses;
- (vi) furnishes false information on any issue within his or her purview and responsibility. If the information which the public servant is legally bound to give, is with respect to the commission of an offence under this Act, or is required for the purpose of preventing the commission of an offence under this Act,
- (vii) exercises his or her legal authority corruptly or maliciously to register a false case against a person, or arrest or confine a person
- (viii) being legally bound as such public servant, intentionally omits to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence under this Act, or intentionally suffers such person to escape or intentionally aids such person in escaping;
- (ix) knowingly or intentionally omits to furnish assistance that he or she is legally bound to provide to any public servant for the purpose of executing any process, summons or warrant lawfully issued by a Court of Justice, or of preventing the commission of an offence under this Act or of suppressing affray, or of apprehending a person charged with or guilty of an offence;

- (x) where a public servant gives any information which he knows or believes to be false or suppresses any information or omits to give any information intending thereby to cause or knowing it to be likely that it will thereby cause injury or harm to any person belonging to a group;
  - (xi) being charged as such public servant, failing to take all reasonable steps to exercise duties under Chapter VII of under this Act;
- shall be guilty of dereliction of duty.

**14. Offences by public servants for breach of command responsibility.**- (1) Whoever, being a public servant in command, control or supervision of the armed forces or security forces as defined under clause (a) of section 3 of this Act or assuming command whether lawfully or otherwise, fails to exercise control over persons under his or her command, control, or supervision and as a result of such failure offences under this Act are committed, by persons under his or her command, control or supervision, or as a result of such failure the said persons fail to discharge their duties under this Act or any other law for the time being in force, shall be guilty of the offence of breach of command responsibility, where:-

- (a) such public servant either knew or ought to have known having regard to the circumstances at the time that the persons under his or her command, control or supervision would commit or be likely to commit such offences; and,
- (b) such public servant failed to take necessary and reasonable measures within his or her power to prevent or repress the commission of said offences or failed to submit the matter to the competent authorities for investigation and prosecution.

**15. Offences by other superiors for breach of command responsibility.**- (1) Whoever, being any non-state actor or superior or office-bearer of any association as defined under clause (b) of section 3 of this Act and other than those mentioned under section 14, in command, control or supervision of any association or assuming command vested in him or her or otherwise, fails to exercise control over subordinates under his or her command, control, supervision and as a result of such failure offences under this Act are committed by subordinates under his or her command, control or supervision, shall be guilty of offences committed by such subordinates under his or her command, where:

- (a) such non-state actor or superior or office-bearer of any association either knew, or consciously disregarded information which clearly indicated that his or her subordinates were committing or about to commit such offences;
- (b) the offences concerned activities that were within the effective responsibility and control of such non-state actor or superior or office-bearer of any association; and
- (c) such non-state actor or superior or office-bearer of any association failed to take all necessary and reasonable measures within his or her power to prevent or repress their commission or to submit the matter to the competent authorities for investigation and prosecution.



**16. Superior orders and prescription of law.-** Where an offence has been committed under this Act, the fact that it was committed by a person pursuant to an order of a superior, shall not relieve that person of criminal responsibility unless:

- (a) the person was under a legal obligation to obey orders of the superior in question; and
- (b) the order was not manifestly unlawful.

**17. Abetment of an offence.-** A person abets an offence, who –

First – Instigates any person to do that offence; or

Secondly – Engages with one or more other person or persons in any conspiracy for the doing of that offence, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that offence; or

Thirdly – Intentionally aids, by any act or illegal omission, the doing of that offence.

*Explanation –* A person who, by willful misrepresentation, or by willful concealment of a material fact, which he or she is bound to disclose, voluntarily causes or procures, or attempt to cause or procure a thing to be done, is said to instigate the doing of that offence.

*Explanation 2 –* Whoever, either prior to or at the time of commission of an act, does anything in order to facilitate the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

### *CHAPTER III*

### **PREVENTION OF COMMUNAL AND TARGETED VIOLENCE**

**18. Duty to prevent communal and targeted violence.-** (1) Every public servant charged with the duty of maintenance of public order and tranquility including duties under sections 129 to 144A of the Code of Criminal Procedure, 1973, shall take all reasonable steps to prevent any act of communal and targeted violence including its build-up, incitement, outbreak and spread; and to that end -

- (i) make all possible efforts to identify patterns of violence in the State or any part thereof, that indicate occurrence of communal and targeted violence, including the creation or existence of hostile environment against a group;
- (ii) obtain information regarding the likelihood of occurrence of communal or targeted violence; and,
- (iii) act in furtherance of the duty to prevent communal and targeted violence in accordance with the powers vested in them;

(2) Every police officer shall take action, to the best of his or her ability, to prevent the commission of all offences under this Act.

(3) Every public servant exercising powers under this Act in discharge of his or her duties shall act without any delay in a fair, impartial and non-discriminatory manner.

**19. Duty to exercise authority against unlawful assemblies.-** A public servant being charged with any duty under Sections 129 to 144A of the Code of Criminal Procedure, 1973 shall exercise his or her duty in a fair, impartial and non-discriminatory manner.

*CHAPTER IV*

**NATIONAL AUTHORITY FOR COMMUNAL HARMONY, JUSTICE AND REPARATION**

**20. Constitution of National Authority for Communal Harmony, Justice and Reparation.-** (1) The Central Government shall constitute a body known as the National Authority for Communal Harmony, Justice and Reparation to exercise the powers and perform the functions assigned to it under this Act.

(2) The National Authority shall be a body corporate with the name aforesaid having perpetual succession and a common seal with the power, subject to the provisions of this Act to acquire, hold and dispose of property and to contract, and may, by the aforesaid name, sue or be sued.

(3) The National Authority shall consist of a Chairperson, a Vice-Chairperson and five other Members.

Provided that, at all times, not less than four Members, including the Chairperson and Vice-Chairperson, shall belong to a group as defined under this Act.

Provided further that, at all times, there shall be -

1. one Member belonging to Scheduled Castes or Scheduled Tribes;
2. four women, whether Chairperson, Vice-Chairperson or Member;

Provided further that, at all times, one woman, whether Chairperson, Vice-Chairperson or Member, shall belong to a religious or linguistic minority.

Provided further that, at all times, not more than two Members, including the Chairperson and Vice-Chairperson, shall be retired public servants.

(4) There shall be a Secretary-General, who shall be an officer of the rank of the Secretary to the Government of India, appointed in consultation with the Chairperson of the National Authority, who shall be the Chief Executive Officer of the National Authority and shall exercise such powers and discharge such functions of the National Authority as it may delegate to him or her.

(5) The headquarters of the National Authority shall be at Delhi and the Authority may, with the previous approval of the Central Government, establish offices at other places in India.

**21. Appointment of Chairperson, Vice-Chairperson and other Members.-** (1) The Chairperson, Vice-Chairperson and Members shall be appointed by the President by warrant under his or her hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendations of a Selection Committee consisting of:

- |  |                      |
|--|----------------------|
| (i) The Prime Minister                                   | <b>- Chairperson</b> |
| (ii) Leader of the Opposition in the House of the People | <b>- Member</b>      |

- (iii) Leader of the Opposition in the Council of States - **Member**
- (iv) Minister in-charge of the Ministry of Home Affairs in the Government of India - **Member**
- (v) Chairperson of National Human Rights Commission - **Member**

*Explanation* - For the purposes of this sub-section, “the Leader of the Opposition in the House of the People” shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the House of the People.

*Explanation 2* - For the purposes of this sub-section, “the Leader of the Opposition in the Council of States” shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the Council of States.

(2) The process of selection shall be initiated by the office of the Prime Minister of India within three months of the coming into force of this Act in the first instance and three months prior to the completion of tenure of the existing Chairperson, Vice-Chairperson or Member and shall be concluded within two months.

(3) The decisions of the Selection Committee shall be by a simple majority.

**22. Qualifications.-** (1) The Chairperson, Vice-Chairperson and Members of the National Authority shall have the following qualifications and shall be chosen from amongst persons:

- (a) having expertise in relation to law or criminal justice or human rights or sociology or any other related social science;
- (b) having a record of promoting communal harmony;
- (c) being of high moral character, impartiality and integrity; and,
- (d) who have not been members of any political party for a period of one year prior to their selection.

(2) No person shall be eligible to be appointed as a Chairperson, Vice-Chairperson or Member of the National Authority if:

- (a) an inquiry into an offence under any law for the time being in force, including any offence provided under the Prevention of Corruption Act, 1988, is pending against him or her or he or she has been convicted for such offence;
- (b) he or she has, in any manner, exhibited bias against any group, by acts or in writing or otherwise; or
- (c) if subject to any disciplinary control, whether a public servant or otherwise, a disciplinary proceeding is pending against him or her, or he or she has been found guilty in any such proceeding.

(3) The Chairperson, Vice-Chairperson and Members of the National Authority shall not contest elections for a period of two years after completion of their term either under the Government of India or under the Government of any State except to the office of President or Vice President of the Union of India.

**23. Term of office of Members.-** (1) The Members of the National Authority shall serve on a full-time basis for a six year term.

Provided that at the first selection, two members shall be appointed for a term of two years, two members for a term of four years, and the remainder appointed for a term of six years.

(2) A person appointed as Chairperson or Vice-Chairperson shall hold office for a term of two years from the date on which he or she enters upon his or her office.

(3) A person appointed as Chairperson or Vice-Chairperson shall not be eligible for re-appointment in the same capacity.

(4) Except at the first instance, members with two years service in the National Authority alone will be qualified to be Chairperson or Vice Chairperson.

**24. Resignation and removal of Chairperson, Vice-Chairperson and Members.-** (1) The Chairperson, Vice-Chairperson or any Member may, by notice in writing under his or her hand addressed to the President of India, resign from his or her office.

(2) Subject to the provisions of sub-section (2) of section 22, the Chairperson, the Vice-Chairperson or any Member of the National Authority shall only be removed from his or her office by order of the President on the grounds of proven misbehavior or functional incapacity after the Supreme Court in a reference made to it by the President, has on inquiry, held, in accordance with the procedure prescribed in that behalf that the person ought on any such ground be removed.

(3) Notwithstanding anything sub-section (2), the President may by order remove from office the Chairperson, Vice-Chairperson or any other Member if the Chairperson, Vice-Chairperson or any other Member, as the case may be -

(a) engages during his or her term of office in any paid employment outside the duties of his or her office; or

(b) is unfit to continue in office by reasons of infirmity of mind or body; or

(c) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

**25. Vacancies in the Authority.-** (1) No act or proceedings of the National Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the National Authority.

(2) In the event of the occurrence of any vacancy in the office of the National Authority caused by any reason, a selection shall be held in accordance with section 21 to fill the vacancy within two months of the vacancy arising.

(3) A member so appointed to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is two years or less, shall be eligible for re-selection for a full term.

**26. Terms and conditions of service of Chairperson, Vice-Chairperson and Members.-** The salaries and allowances payable to, and other terms and conditions of services of the Chairperson, Vice-Chairperson and Members shall be such as may be prescribed.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Vice-Chairperson or any Member shall be varied to his or her disadvantage during his or her tenure.

**27. Procedure to be regulated by the National Authority.-** (1) Subject to the provisions of this Act and the rules made thereunder, the National Authority shall have the power to lay down its own procedure.

(2) All orders and decisions of the National Authority shall be authenticated by the Secretary-General or any other officer of the National Authority duly authorized by the Chairperson in this behalf.

**28. Officers and other staff of the National Authority.-** (1) The Central Government shall make available to the National Authority such police and investigative staff under an officer not below the rank of a Director General of Police and such other officers and staff as the National Authority may deem necessary for the efficient performance of its functions.

(2) Subject to such rules as may be made by the Central Government in this behalf, the National Authority may appoint such other administrative, technical staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed.

(4) The National Authority shall perform its functions on its own or through the State Authorities appointed under this Act, or through any persons appointed by it or through such other procedures and mechanisms it may adopt.

**29. Functions of the National Authority.-** The National Authority shall perform all or any of the following functions, namely:-

(a) receive and collect information on:

- (i) any acts that indicate a build up by State or non-state actors of offences under this Act;
- (ii) any form of communication, propaganda, mobilisation or the activities of persons, which may promote enmity or hatred against groups;
- (iii) occurrence or likely occurrence of offences of communal and targeted violence in the manner prescribed by rules under this Act;

- (iv) negligence in the prevention of communal and targeted violence by public servants.
- (b) entertain appeals against decisions of the State Assessment Committee in relation to non-inclusion of names of persons under section 95.
- (c) issue advisories and make recommendations, in relation to clause (a) above and section 30, to State and non-state actors;
- (d) frame, in consultation with the Central Government, schemes for making reparations to all persons entitled under section 87 including those registered under section 95;
- (e) frame, in consultation with the Central Government, guidelines in relation to the prevention and control of communal and targeted violence;
- (f) receive regular reports at least once every quarter on incidents, outbreaks and patterns of communal and targeted violence from all State Authorities constituted under this Act;
- (g) visit, under intimation to the State Government, any relief camp under the control of the State Government, where internally displaced persons reside, to review the living conditions of such persons;
- (h) visit, under intimation to the Central Government or the State Government, any jails or any other institution under the control of the Central Government or the State Government, as the case may be, where persons are detained or lodged for the purposes of inquiry or investigation into any offence under this Act;
- (i) observe proceedings in court in relation to any offence punishable under this Act either through Members of the State Authority or by appointing independent observers;
- (j) intervene in any proceeding, involving any allegation of communal and targeted violence pending before a court, with approval of such court;
- (k) such other functions that it may consider necessary for the preservation of communal harmony and prevention and control of communal and targeted violence.

Provided that where any State Authority has commenced an inquiry under powers vested under this Act, the National Authority shall not inquire into the same.

Provided further that the National Authority shall inquire into complaints of organised communal and targeted violence and no State Authority shall have the power to inquire into such complaints.

**30. Monitoring and review by National Authority of performance of duties.-** The National Authority shall observe, monitor and review the performance of duties by public servants in relation to the following:

- (i) effectiveness of steps taken by public servant for prevention of offences of communal and targeted violence;
- (ii) recording of information where offences under this Act have been committed by public servants;
- (iii) timely and effective investigation and prosecution of offences under this Act, including offences by public servants;
- (iv) provision of timely and adequate measures related to relief, rehabilitation, reparation and restitution of all persons entitled to such benefits under section 87 including those registered under section 95, in accordance with provisions of this Act.

**31. Powers of the National Authority.-** (1) The National Authority in the fulfillment of its objectives and in furtherance of its functions shall have the following powers, namely:-

- (a) requisitioning information from the:
  - (i) Central government, any State government or concerned Union Territory or any of their officers or departments; or
  - (ii) non-state actors;
- (b) appointing any person to observe, gather facts and information, inquire on its behalf;
- (c) issue directions to State Authorities in relation to the conduct of any inquiry.

Provided that any direction issued by the National Authority to any State Authority shall be binding on the State Authority.

(2) The National Authority shall, while inquiring or investigating, have the powers of a Civil Court trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) any other matter which may be prescribed.

(3) The National Authority shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force, to furnish information on such matters as, in the opinion of the Authority, may be useful or relevant to, the inquiry and any person so required shall be deemed to be legally bound to furnish such information within the meaning of section 176 and section 177 of the Indian Penal Code.

(4) The National Authority through any other Gazetted Officer specially authorized in this behalf by the National Authority may enter any building or place where the National Authority has reason to believe that any document relating to the subject matter of the inquiry or investigation may be found, and may enter and seize any such document or take extracts or copies there from subject to the provisions of section 100, Code of Criminal Procedure, 1973, in so far as it may be applicable.

(5) The National Authority shall be deemed to be a civil court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Indian Penal Code, 1860 is committed in the view or presence of the Authority, the Authority may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1973, forward the case to a Magistrate or the Designated Judge as the case may be, having jurisdiction to try the same and the Magistrate or the Designated Judge to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case has been forwarded to him under section 346, Code of Criminal Procedure, 1973.

(6) Every proceeding in relation to an inquiry or investigation before the National Authority shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228, and for the purposes of section 196, of the Indian Penal Code, and the Authority shall be deemed to be a civil court for all the purposes of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973.

**32. Investigation.-** (1) The National Authority may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer or investigation agency of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be.

(2) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the National Authority –

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(3) The provision of section 40 shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-section (1) as they apply in relation to any statement made by a person in the course of giving evidence before the National Authority.

(4) The officer or agency whose services are utilized under sub-section (1) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the National Authority within such period as may be specified by the National Authority in this behalf.

(5) The National Authority shall satisfy itself about the correctness of the facts stated and the conclusion, if any, arrived at in the report submitted to it under sub-section (4) and for this purpose the National Authority may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.

**33. Inquiry into complaints.-** The National Authority while inquiring into the complaints of offences under this Act may –

- (i) Call for information or report from the Central Government or any State Government or any other authority or organisation subordinate thereto within such time as may be specified by it:

Provided that –

- (a) If the information or report is not received within the time stipulated by the National Authority, it may proceed to inquire into the complaint on its own;
- (b) If, on receipt of information or report, the National Authority is satisfied either that no further inquiry is required or that the required action has been initiated or



- taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;
- (ii) without prejudice to anything contained in clause (i), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

**34. Steps after inquiry.-** The National Authority may take any of the following steps upon the completion of an inquiry held under this Act, namely,

(1) where the inquiry discloses violations of the provisions of this Act or negligence in the prevention of communal and targeted violence by a public servant, it may recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the National Authority may deem fit against the concerned person or persons;

(2) approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(3) the National Authority shall send a copy of its inquiry report together with its recommendations to the concerned Government or authority and the concerned government or authority shall, within a period of one month, or such further time as the National Authority may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the National Authority;

(4) The National Authority shall publish its inquiry report together with the comments of the concerned government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the National Authority.

**35. Copy of inquiry report to be given to complainant.-** It shall be the duty of the National Authority to provide a copy of the inquiry report under sub-section (3) of section 34 to the complainant or his or her representative.

**36. Procedure with respect to armed forces or security forces.-** (1) Notwithstanding anything contained in this Act, while dealing with complaints of offences under this Act by members of the armed forces or security forces, the National Authority shall adopt the following procedures, namely:

(a) it may, either on its own motion or on receipt of a petition, seek a report from the Central Government;

(b) after the receipt of the report, it may, either not proceed with the complaint or, as the case may be, make its recommendations to that government.

(2) The Central Government shall inform the National Authority of the action taken on the recommendations within three months or such further time as the National Authority may allow.

(3) The National Authority shall publish its report together with its recommendations made to the Central Government and the Action taken by the Government on such recommendations.

(4) The National Authority shall provide a copy of the report published under sub-section (3) to the complainant or his or her representative.

**37. Duty to respond to advisories or recommendations of the National Authority.-** It shall be the duty of the Central government, the State Government and public servant at all levels, to take appropriate action on all advisories and recommendations issued to them by the National Authority under clause (c) of section 29 and submit an Action Taken Report within thirty days.

Provided that in the event of any disagreement with the advisories or recommendations of the National Authority, the appropriate government or the public servant shall give reasons in writing to the National Authority within seven days of the receipt of the advisory or recommendation.

**38. Identity of victim and informant to be protected.-** The National Authority shall take appropriate action to protect the identity of the victim or informant at all times.

**39. Statutory Information.-** (1) It shall be the duty of any District Magistrate or Police Commissioner having knowledge or information of patterns and incidents of outbreaks of communal and targeted violence or anticipating any of these, to report to the National Authority in writing without any delay.

(2). All reports received by the Ministry of Home Affairs, the Home Departments of all State Governments, and District Magistrates relating to communal and targeted violence, build-up and possibilities thereof and advisories related therein shall be sent to the National Authority without any delay.

**40. Statements made by persons to the National Authority.-** No statement made by a person in the course of giving evidence before the National Authority, shall subject him or her to, or be used against him or her in, any civil or criminal proceedings;

Provided that the statement –

- (i) is made in reply to the question which he or she is required by the National Authority to answer; or
- (ii) is relevant to the subject matter of the inquiry.

**41. Annual Report.-** (1) The National Authority shall prepare an Annual Report giving details of:

- (a) all specific advisories and recommendations issued by the National Authority under this Act;
- (b) details of compliance or non-compliance with the advisories, and recommendations of the National Authority, by the Central or State Government along with reasons for the same; and,
- (c) details of any other guideline, programme or activity performed by the National Authority

during the year.

(2) The Annual Report shall be tabled in the Parliament in the monsoon session of each calendar year.

#### *CHAPTER V*

### **STATE AUTHORITIES FOR COMMUNAL HARMONY, JUSTICE AND REPARATION**

**42. Constitution of State Authorities for Communal Harmony, Justice and Reparation.-** (1)

Each State Government shall constitute a body to be known as the ..... (name of State) State Authority for Communal Harmony, Justice and Reparation, to exercise the powers conferred upon, and to perform the functions assigned to a State Authority under this Act.

(2) The State Authority shall be a body corporate with the name aforesaid having perpetual succession and a common seal with the power, subject to the provisions of this Act to acquire, hold and dispose of property and to contract, and may, by the aforesaid name, sue or be sued.

(3) The State Authority shall, with effect from such date as the State Government may by notification specify, consist of a Chairperson, a Vice-Chair-person and five other Members.

Provided that, at all times, not less than four Members, including the Chairperson and Vice-Chairperson, shall belong to a group as defined under this Act.

Provided further that, at all times, there shall be -

1. one Member belonging to Scheduled Castes or Scheduled Tribes;
2. four women, whether Chairperson, Vice-Chairperson or Member;

Provided further that, at all times, one woman, whether Chairperson, Vice-Chairperson or Member, shall belong to a religious or linguistic minority.

Provided further that, at all times, not more than two Members, including the Chairperson and Vice-Chairperson, shall be retired public servants.

(4) There shall be a Secretary, who shall be an officer of the rank of the Secretary to the Government of the State, appointed in consultation with the Chairperson of the State Authority, who shall be the Chief Executive Officer and shall exercise such powers and discharge such functions of the State Authority as it may delegate to him or her.

(5) The headquarters of the State Authority shall be at such place as the State Government may, by notification, specify.

**43. Appointment of Chairperson, Vice-Chairperson and Members of the State Authority.-** (1)

The Chairperson, Vice-Chairperson and Members of the State Authority shall be appointed by the Governor by warrant under his or her hand and seal:

Provided that every appointment under this sub-section shall be made after obtaining the recommendation of a Committee consisting of:

- (i) The Chief Minister of the State **- Chairperson**

- (ii) Leader of Opposition in the Legislative Assembly of the State - **Member**
- (iii) Leader of Opposition in the Legislative Council of the State - **Member**
- (iv) Minister in-charge of the Ministry of Home Affairs in the Government of the State **Member**
- (v) Chairperson of the State Human Rights Commission - **Member**

Provided further that in States that do not have a Legislative Council, the Speaker of the Legislative Assembly shall be a member of the Selection Committee.

*Explanation* - For the purposes of this sub-section, "Leader of the Opposition in the Legislative Assembly of the State" shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the Legislative Assembly.

*Explanation 2* - For the purposes of this sub-section, "the Leader of the Opposition in the Legislative Council" shall, when no such Leader has been so recognised, include the Leader of the single largest group in opposition of the Government in the Legislative Council.

(2) The process of selection shall be initiated by the State Government within three months of its constitution in the first instance and three months prior to the completion of tenure of the existing State Authority and shall be concluded within three months.

(3) The decisions of the Selection Committee shall be by majority.

**44. Qualifications.-** (1) The Chairperson, Vice-Chairperson and Members of the State Authority shall have the following qualifications and shall be chosen from amongst persons:

- (a) having expertise in relation to law or criminal justice or human rights or sociology or any other related social science;
- (b) having a record of promoting communal harmony;
- (c) being of high moral character, impartiality and integrity; and,
- (d) who have not been members of any political party for a period of one year prior to their selection.

(2) No person shall be eligible to be appointed as a Chairperson, Vice-Chairperson or Member of the State Authority if:

- (a) an inquiry into an offence under any law for the time being in force, including any offence provided under the Prevention of Corruption Act, 1988, is pending against him or her or he or she has been convicted for such offence;
- (b) he or she has, in any manner, exhibited bias against any group, by acts or in writing or otherwise; or
- (c) if subject to any disciplinary control, whether a public servant or otherwise, a disciplinary proceeding is pending against him or her, or he or she has been found guilty in any such proceeding.

(3) The Chairperson, Vice-Chairperson and Members of the State Authority shall not contest elections for a period of two years after completion of their term either under the Government

of India or under the Government of any State except to the office of President or Vice President of the Union of India.

**45. Terms of the Members of the State Authority.-** (1) The Members of the State Authority shall serve on a full-time basis for a six year term.

Provided that at the first selection, two members shall be appointed for a term of two years, two members for a term of four years, and the remainder appointed for a term of six years.

(2) A person appointed as Chairperson or Vice-Chairperson shall hold office for a term of two years from the date on which he or she enters upon his or her office.

(3) A person appointed as Chairperson or Vice-Chairperson shall not be eligible for re-appointment in the same capacity.

(4) Except for the first election, members with two years service in the State Authority alone will be qualified to be Chairperson or Vice Chairperson.

**46. Resignation and removal of Chairperson, Vice-Chairperson and Members.-** (1) The Chairperson, Vice-Chairperson or any Member may, by notice in writing under his or her hand addressed to the Governor of the State, resign from his or her office.

(2) Subject to the provisions of sub-section (2) of section 44, the Chairperson, the Vice-Chairperson or any Member of the National Authority shall only be removed from his or her office by order of the President on the grounds of proven misbehavior or functional incapacity after the Supreme Court in a reference made to it by the President, has on inquiry, held, in accordance with the procedure prescribed in that behalf that the person ought on any such ground be removed.

(3) Notwithstanding anything sub-section (2), the President may by order remove from office the Chairperson, Vice-Chairperson or any other Member if the Chairperson, Vice-Chairperson or any other Member, as the case may be -

- (a) engages during his or her term of office in any paid employment outside the duties of his or her office; or
- (b) is unfit to continue in office by reasons of infirmity of mind or body; or
- (c) is convicted and sentenced to imprisonment for an offence which in the opinion of the President involves moral turpitude.

**47. Vacancies in the State Authority.-** (1) No act or proceedings of the State Authority shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the State Authority.

(2) In the event of the occurrence of any vacancy in the office of the State Authority caused by

any reason, a selection shall be held in accordance with section 43 to fill the vacancy within two months of the vacancy arising.

(3) A Member so appointed to fill a vacancy shall serve for the remainder of the predecessor's term and, if that period is two years or less, shall be eligible for re-selection for a full term.

**48. Terms and conditions of service of Chairperson, Vice-Chairperson and Members of the State Authority.-** The salaries and allowances payable to, and other terms and conditions of services of the Chairperson, Vice-Chairperson and Members shall be such as may be prescribed by the State Government.

Provided that neither the salary and allowances nor the other terms and conditions of service of the Chairperson, Vice-Chairperson or a Member shall be varied to his or her disadvantage after his or her appointment.

**49. Procedure to be regulated by the State Authority.-** (1) Subject to the provisions of this Act and the rules made thereunder, the State Authority shall have the power to lay down, its own procedure.

(2) All orders and decisions of the State Authority shall be authenticated by the Secretary or any other officer of the State Authority duly authorized by the Chairperson of the State Authority in this behalf.

**50. Officers and other staff of the State Authority.-** (1) The State Government shall make available to the State Authority such police and investigative staff under an officer not below the rank of Inspector General of Police and such other officers and staff as may be necessary for the efficient performance of the functions of the State Authority.

(2) Subject to such rules as may be made by the State Government in this behalf, the State Authority may appoint such other administrative, technical staff as it may consider necessary.

(3) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (2) shall be such as may be prescribed by the State Government.

**51. Functions of the State Authority.-** The State Authority shall perform all or any of the following functions on its own or through persons appointed by it, namely:-

(a) receive and collect information, through any means in whatsoever manner including under directions issued by the National Authority, on:

(i) any acts that indicate a build up by State or non-state actors towards communal and targeted violence;

(ii) any form of communication, propaganda, mobilisation or the activities of persons, which may promote enmity or hatred against groups.

(b) issue advisories and recommendations to State and non-state actors in relation to clause (a) and section 52;

Provided that where the information received pertains to organised communal and targeted violence, the State Authority shall not issue any advisories or recommendations to the State or non-state actors but may recommend to the National Authority that such advisories or recommendations be issued;

Provided further that where any State Authority has not commenced an inquiry in accordance with powers vested under this Act or has not submitted an inquiry report to the National Authority within ninety days from the date of commencement of inquiry, the National Authority shall inquire into the matter.

Provided further that where the National Authority has commenced an inquiry or investigation into any information received through any source, in relation to any matter relating to its functions under this Act, no State Authority shall inquire or investigate into the same.

- (c) implement schemes made by the National Authority under clause (d) of section 29;
- (d) appoint such number of Human Rights Defender for Justice and Reparations in accordance with section 54 as may be deemed necessary;
- (e) prepare regular reports at least once every quarter on incidents, outbreaks and patterns of communal and targeted violence and submit it before the National Authority;
- (f) visit, under intimation to the State Government, any relief camp under the control of the State Government, where internally displaced persons reside, to study the living conditions of such persons;
- (g) visit, under intimation to State Government, any jails or any other institution under the control of the State Government where persons are detained or lodged for the purposes of inquiry or investigation into any offence under this Act;
- (h) ensure timely and effective investigation and prosecution of offences under this Act, including offences by public servants;
- (i) intervene in any proceeding, involving any allegation of communal and targeted violence pending before a court, with approval of such court;
- (j) such other functions that the National Authority may consider necessary and entrust to the State Authority for the preservation of communal harmony and prevention and control of communal and targeted violence.

**52. Monitoring and review by State Authority of performance of duties.-** The State Authority shall observe, monitor and review the performance of duties by public servants in relation to the following:

- (i) effectiveness of steps taken by public servant for prevention of communal and targeted violence;
- (ii) recording of information where offences under this Act have been committed;
- (iii) provision of timely and adequate measures related to relief, rehabilitation, reparation and restitution of all persons entitled under section 87 including those registered under section 95, in accordance with provisions of this Act.

**53. Application of certain provisions relating to the National Authority to the State Authority.-** The provisions of section 31 shall apply to a State Authority and shall have effect,

subject to the modification that references to “National Authority” shall be construed as references to “State Authority”.

**54. Defender for Justice and Reparations.-** (1) The State Authority may invite nominations from non-governmental organisations, civil society or individuals to appoint, for each district, such number of non-governmental organisations or individuals as it may be necessary, who shall be known as the ‘Human Rights Defender for Justice and Reparations’ to perform the functions assigned to it under this Act.

(2) The nominations received under sub-section (1) shall be duly examined by the State Authority to appoint a Human Rights Defender for Justice and Reparations for a period of three years and who shall be a non-governmental organisation or individual who has expertise in relation to law or human rights and has a record of preserving communal harmony.

(3) The Human Rights Defender for Justice and Reparations shall function to ensure that all persons, whether or not they belong to a group as defined under this Act, affected by communal and targeted violence and entitled to benefits under section 87, are able to access their rights under the Constitution of India or this Act or any other law for the time being in force, and for the aforesaid purpose, do all such things as may be necessary to achieve that objective of access to justice.

(4) The Human Rights Defender for Justice and Reparations may bring to the notice of the concerned State Authority any act or omission that amounts to an offence under this Act and shall strive towards building and maintaining communal harmony.

#### *CHAPTER VI* **INVESTIGATION, PROSECUTION AND TRIAL**

**55. Application of Code of Criminal Procedure, 1973.-** Provisions of the Code of Criminal Procedure, 1973, shall apply to this Act, save and except as amended or supplemented to the extent provided under this Chapter, in relation to offences committed under this Act.

**56. Offences to be cognizable and non-bailable.-** Unless otherwise specified under Schedule I of the Code of Criminal Procedure, 1973, all offences specified under this Act, shall be cognizable and non-bailable.

**57. Translated true copy of information to be given within seven days. –** (1) A true translated copy of information recorded under sub-section (2) of section 154 of the Code of Criminal Procedure, 1973, shall be supplied forthwith, free of cost, to the informant or victim in the language understood by him or her.

(2) Where any information is received through electronic communication including electronic mail or fax, such electronic communication shall be recorded fully and accurately in such a



manner that the original content of such electronic communication is not lost in translation and a copy of such electronic communication shall be appended to the true translated copy of information recorded and supplied to the informant or victim under sub-section (1).

**58. Inaccurate recording of information.-** Any informant who believes that the information referred to in sub-section (1) of section 154 of the Code of Criminal Procedure, 1973 was not recorded accurately or fully, or who fails to get a copy of the recorded information if submitted orally or through electronic communication, may send the substance of such information, in writing and by post, to the concerned Superintendent of Police or Deputy Commissioner of Police as the case may be, who, if satisfied that such information discloses the commission of an offence under this Act, shall either investigate the case himself or herself or direct an investigation to be made by a police officer subordinate to him or her, in the manner provided under this Act, and such officer shall have all the powers of an officer in-charge of the station in relation to that offence.

**59. Recording of information in relief camps.-** (1) It shall be the duty of a police officer not below the rank of Deputy Superintendent of Police to visit every relief camp within three days of its establishment to conduct an inquiry and record statements into the circumstances and cause of each individual being displaced and put in a relief camp.

(2) The statements under sub-section (1) shall be recorded in the presence of two respectable citizens belonging to the same group as the informant or victim and must be attested by them and all such statements shall be treated as being statements under sub-section (3) of section 161 of the Code of Criminal Procedure, 1973.

Provided that where the victim of sexual assault is a woman or child, the information shall be recorded by a Deputy Superintendent of Police or Assistant Commissioner of Police, as the case may be, who is a woman.

Provided further that where any statement recorded under this section discloses a cognizable offence, it shall be deemed to be information recorded under section 154, Code of Criminal Procedure, 1973.

**60. Investigation by Senior Police Officers.-** No police officer below the rank of Deputy Superintendent of Police or Assistant Commissioner of Police, as the case may be, shall investigate any offence contained in sections 7 to 17 (both inclusive) of this Act.

**61. Women Police Officers.-** Where the offence of sexual assault is committed against a woman or a child, the investigation, as far as possible, shall be conducted by a woman police officer.

**62. Recording of statements or evidence during investigation.-** (1) The Investigating Officer may, during investigation into any offence under this Act, produce the victim or the informant, when such informant is victim, before a Metropolitan Magistrate or a Judicial Magistrate, as the case may be, for recording his or her statement under section 164 of the Code of Criminal Procedure, 1973.

Provided that the victim shall have the right to have his or her advocate present at the time of recording of such statement and a copy of the statement so recorded should be provided to him or her.

(2) Any statement of a person other than the person mentioned in sub-section (1) may be recorded by the Investigating Officer under section 161 of the Code of Criminal Procedure, 1973 or by the Metropolitan Magistrate or Judicial Magistrate under section 164 thereof, as the case may be.

(3) Any Metropolitan Magistrate or Judicial Magistrate may, whether or not he or she has territorial jurisdiction in the case, shall on a request, record any statement under section 164 of the Code of Criminal Procedure, 1973 or receive affidavit from any victim, informant or witnesses made to him or her during the investigation under this Act but before the commencement of the inquiry or trial:

- (a) Any statement (other than a confession) made under sub-section (2) shall be recorded in the manner provided for the recording of evidence, or in the opinion of the said Magistrate best suited to the circumstances of the case; and the said Magistrate shall have the power to administer oath to the person whose statement is so recorded.
- (b) The Magistrate recording a statement under this section shall forward it to the Designated Judge by whom the case is to be inquired into or tried.

(4) The victim, informant or witness may also send such statement to the National Authority or the State Authority for necessary action.

**63. Medical Examination of victim.-** (1) For investigation of offences under this Act causing any physical injury to a victim, the medical examination shall be conducted without any delay by at least two registered medical practitioners employed in a hospital run by the government or a local authority and in the absence of such practitioners by any other registered medical practitioners, with the consent of such victim or of a person competent to give such consent on behalf of the victim.

(2) In cases of sexual assault, the medical examination shall be conducted by at least two registered medical practitioners of whom one shall be a woman in the manner prescribed under section 164A of the Code of Criminal Procedure, 1973 and the expression "woman" thereunder shall be read to include a "man".

(3) For investigation of offences under this Act resulting in death, the post-mortem shall be conducted by a Board consisting of three registered medical practitioners one of whom shall be a woman.

(4) The post-mortem conducted under sub-section (3) shall be done in the presence of a representative of the victim if so requested by him or her and the entire procedure shall be videographed and photographed and a copy of which shall be attached with the Medical Report.

(5) The copy of the report of the medical examination under sub-section (1) and (2) or report of the post-mortem under sub-section (3), shall be given within forty-eight hours of completion of the medical examination or post-mortem, to the investigating agency and the victim or his or her representatives, as the case may be.

Provided that where chemical analysis is done, the report of the chemical analysis shall be made available to the investigating agency and the victim within fifteen days.

**64. Videographic and photographic evidence.-** The collection of evidence relating to an offence under this Act shall include videographing and or photographing of the scene of crime and the same shall form a part of the report of the case under section 173 of the Code of Criminal Procedure, 1973.

Provided that in the event of any failure to record such evidence, the same shall not vitiate the trial in any manner.

**65. Preservation of records and documents.-** (1) Where any offence under this Act has been committed, the concerned police officer within whose jurisdiction such offence has been committed shall preserve records including records of the police control room, case diary, station diary or any other record that is in any way concerned with the investigation of the offence.

(2) Where any offence under this Act has been committed, the Superintendent of Police, within whose jurisdiction such offence has been committed, shall notify all hospitals, whether public or private, to preserve all medical and hospital records and all such hospitals shall be bound to preserve such records.

(3) Where any offence under this Act has been committed, the Superintendent of Police within whose jurisdiction such offence has been committed, shall notify all telecommunication service providers, whether public or private, to preserve all records in appropriate data storage form and all such service providers shall be bound to preserve such records in the appropriate data form.

Provided that records under this section shall be preserved for a minimum period of fifty years or after the conclusion of legal proceedings in the concerned case, whichever is later.

Provided further that such preserved records may be destroyed on or after the expiry of the fifty year period, with the prior approval of the Ministry of Home Affairs in the Central Government or in the Government of the State, as the case may be.

**66. Right of victim to information during investigation.-** (1) The Superintendent of Police, or officer designated by him or her shall inform the victim in writing about the progress of investigations into the offence, whether or not the offender has been arrested, charge-sheeted, granted bail, charged, convicted or sentenced, and if a person has been charged with the offence, then the name of the suspected offender.

(2) The victim shall have the right to receive a copy of any statement of the witness recorded during trial, and a copy of all statements and documents filed under section 173 of the Code of Criminal Procedure, 1973 including the charge-sheet or closure report submitted by police.

**67. Information to National Authority or State Authority regarding delayed or biased investigations.-** (1) A victim or informant aggrieved about any procedure of investigation including the lack of impartiality or fairness, the biased nature or the failure of the investigating agency to receive evidence or examine witnesses in relation to offences committed under the Act shall have the right to make a complaint in this regard to the National Authority or the State Authority constituted under this Act.

(2) Where on a complaint received under sub-section (1), it appears that there has been a lack of impartiality or fairness or was biased on the part of the investigating agency or that it failed to receive evidence or examine a witness in course of investigation, the National Authority or the State Authority may request the State Government to order a further investigation or re-investigation in the manner provided under section 68 to investigate offences under this Act.

**68. Further Investigation or re-investigation.-** (1) Where:

(a) no report under section 173 of the Code of Criminal Procedure, 1973, is filed within a period of ninety days from the date of recording of information under Section 154 of the Code of Criminal Procedure, 1973; or,

(b) the National Authority or the State Authority on an inquiry made under sub-section (2) of section 67 has come to the conclusion that the investigation of an offence under this Act was not carried out in a fair, impartial or unbiased manner requests the State Government to order a further investigation or re-investigation,

the investigating officer shall file a report with the Inspector General of Police in relation to the investigation so conducted, giving reasons for the failure to file within the prescribed time, such report as contained in clause (a) or the circumstances leading to the request under clause (b) and action taken thereon.

(2) The report filed under sub-section (1) shall be reviewed the Directorate of Prosecution where such Directorate is constituted under section 25A of the Code of Criminal Procedure, 1973, or where no such Directorate is constituted, by a committee constituted by the State Government, headed by an officer of the level of an Inspector General of Police, and which may pass such orders for further investigation or a re-investigation by another officer not below the rank of Deputy Superintendent of Police wherever it comes to the conclusion that, having regard to the nature of investigation already carried out, such investigation would be necessary.

(3) The Directorate of Prosecution or the review committee constituted under sub-section (2), as the case may be, may also review cases of such offences where the trial ends in acquittal or in an inappropriate sentence and issue orders for filing appeal, wherever required.

**69. Judicial inquiry into occurrence of organised communal and targeted violence.-** (1)

Where the offence of organised communal and targeted violence, contained under section 9, occurs, the State Government shall order an inquiry to be conducted by a Judge of the High Court of the State in which such violence occurs, in addition to the investigation held by the police, into the discharge of public functions by the public servants legally bound to prevent the occurrence of such violence.

(2) The inquiry referred to in sub-section (1) shall, in no case, commence later than ninety days from the date of occurrence of organised communal and targeted violence.

(3) All the powers under the Commissions of Inquiry Act, 1952 as if the Judge of the High Court were holding an inquiry under the said Act.

(4) The Judge of the High Court holding an inquiry under this section shall *inter alia* inquire into whether due diligence was exercised by such public servant in the discharge of duty.

(5) Where the Judge of the High Court holding an inquiry under this section finds upon evidence that the conduct of the public servant constitutes dereliction of duty as defined under this Act, he or she shall direct that information be recorded under section 154, Code of Criminal Procedure, 1973, against such public servant.

*EVIDENCE*

**70. Evidentiary standard for sexual assault.-** Upon the sole testimony of the victim of sexual assault, the Designated Judge appointed under this Act may conclude that an offence of sexual assault has been committed by the accused against the said victim.

Provided that in a prosecution for the offence of sexual assault, it shall not be permissible to put questions in the cross-examination of the victim as to his or her general immoral character or to rely on any evidence of such victim's previous sexual conduct.

**71. Inference from nature and circumstances of the act.-** Where any question arises whether an offence committed against a member of a group was committed against him or her by virtue of his or her membership of a group, it shall be inferred that it was so directed from the nature and circumstances of the act.

**72. Presumptions as to offences under this Act.-** (1) If in a prosecution for any offence committed under this Act, it is shown that the accused committed or abetted or conspired to commit the offence of hate propaganda under section 8, it shall be presumed, unless the contrary is proved, that the offence committed was knowingly directed against a person by virtue of his or her membership of a group.

(2) Whenever an offence of organised communal and targeted violence is committed and it is shown that a hostile environment against a group exists or the offence of hate propaganda under section 8 was committed against a group, it shall be presumed, unless the contrary is

proved, that the said offence was knowingly directed against persons belonging to the group by virtue of their membership of the group.

*INITIATION OF PROCEEDINGS*

**73. Waiver of immunity.-** (1) Save and excepting those provided under the Constitution or under this Act, immunities or special procedural rules which may attach to the official capacity of any person, shall not bar any proceedings under this Act.

(2) The defence of sovereign immunity will not be available for offences committed under this Act.

**74. Sanction not required for certain offences.-** The provision of section 196 and 197 of the Code of Criminal Procedure, 1973 shall not apply to offences by public servants under Schedule III and the Designated Judge may take cognizance of such offence when satisfied that the said offence has been committed.

Provided that prosecution of an offence by a public servant other than those requiring sanction under section 196 and 197 of the Code of Criminal Procedure, 1973 shall not be held up for want of sanction for a related offence by the same public servant.

**75. Prosecution for offences by the state and public servants.-** (1) Where an application for sanction for prosecution of a public servant has been made under section 196 and 197 of the Code of Criminal Procedure, 1973 and the Central Government in relation to the Union Territories or the State Government, as the case may be, does not communicate the order granting or refusing sanction to prosecute such public servant within a period of thirty days from the date on which such application is made, the sanction applied for shall be deemed to have been granted on the expiration of the said period of thirty days and the Designated Judge appointed under this Act shall take cognizance of any offence under this Act.

(2) For the purposes of sub-section (1), sanction shall not be refused, except with reasons to be recorded in writing.

**76. Special Public Prosecutors.-** (1) For every State, the concerned State Government shall, by notification in the official gazette, appoint a panel of Special Public Prosecutors for prosecuting offences under this Act, and who shall be deemed to be Special Public Prosecutors under sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 within the meaning of clause (u) of section 2 thereof.

(2) Special Public Prosecutors shall conduct the prosecution of offences under this Act in a fair and impartial manner and in the interest of justice. In the event the Special Public Prosecutor conducts the prosecution in a biased manner against the interest of the informant or the victim, the State Government may, on its own or on information received from a victim or informant, replace the Special Public Prosecutor.

*DESIGNATED JUDGES*

**77. Power to appoint Designated Judges.-** (1) The Central Government in relation to the Union Territories or the State Government may, by notification in the Official Gazette appoint as many Designated Judges in consultation with the Chief Justice of the High Court as it may be necessary for such case or group of cases as may be specified in the notification to try the following offences:

- (a) any offence punishable under this Act; and
- (b) any conspiracy to commit or any attempt to commit or any abetment of any of the offences specified in clause (a).

(2) Notwithstanding anything contained in sub-section (1), if, having regard to the exigencies of the situation prevailing in a State, the Government is of the opinion that it is expedient to appoint, Additional Designated Judges outside the State, for the trial of such offences specified under sub-section (1), the trial whereof within the State –

- (a) is not likely to be fair or impartial or completed with utmost dispatch; or
  - (b) is not likely to be feasible without occasioning a breach of peace or grave risk to the safety of the accused, the witnesses, the Public Prosecutor and the Judge or any of them;
- or
- (c) is not otherwise in the interests of justice,

it may request the Central Government to appoint, in relation to such offences under sub-section (1), an Additional Designated Judge outside the State and thereupon the Central Government may, after taking into account the information furnished by the State Government and making such inquiry, if any, as it may deem fit, appoint, by notification, such Additional Designated Judge at such place outside the State as may be specified in the notification.

(3) A person shall not be qualified for appointment as a Designated Judge or Additional Designated Judge under this Act unless he or she is or has been a Sessions Judge under the Code of Criminal Procedure, 1973.

**78. Cases triable by Designated Judges.-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, or in any other law for the time being in force, the offences specified under this Act shall be tried by Designated Judges appointed under this Act.

(2) Every offence specified under this Act shall be tried by the Designated Judge for the area within which it was committed, or, as the case may be, by the Designated Judge appointed for the case, or where there are more Designated Judges than one for such area, by such one of them as may be specified in this behalf by the State Government.

(3) When trying the accused person, a Designated Judge may also try any offence, other than an offence specified under this Act, with which the accused may, under the Code of Criminal Procedure, 1973, be charged at the same trial if the offence is connected with the offence under this Act.

(4) If, in the course of any trial under this Act, it is found that the accused person has committed any offence, the Special Court may, whether such offence is or is not an offence under this Act, convict such person of such offence and pass any sentence authorised by law for the punishment thereof.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a Designated Judge shall hold the trial of an offence on day-to-day basis save and except for reasons beyond the control of anyone.

**79. Procedure and power of the Designated Judge.-** (1) A Designated Judge, appointed under this Act may take cognizance of offences without the accused being committed to him or her for trial.

(2) In trying the accused persons, the Designated Judge shall follow the procedure for the trial of warrant cases prescribed by the Code of Criminal Procedure, 1973.

(3) Save as provided in sub-sections (1) or sub-section (2), the provisions of the Code of Criminal Procedure, 1973, shall, so far as they are not inconsistent with this Act, apply to the proceedings before a Designated Judge; and for the purposes of the said provisions, the Court of the Designated Judge shall be deemed to be a Court of Session and the person conducting a prosecution before a Designated Judge shall be deemed to be a Special Public Prosecutor as provided under this Act.

(4) A Designated Judge may pass upon any person convicted by him or her any sentence authorized under this Act for the punishment of the offence of which such person is convicted.

**80. Attachment of property.-** (1) Where the charge has been framed in relation to an offence under this Act, the Designated Judge may direct that the property of the accused person, which has been gained by him or her as a result of the commission of that offence, to be attached during the pendency of the trial and until conviction or acquittal, as the case may be.

(2) The provision under section 60 of the Code of Civil Procedure, 1908 shall apply in relation to property being attached under this section.

**81. Sale of attached property on conviction.-** Where upon conviction, the Designated Judge imposes a fine in addition to any other sentence under this Act, he or she may direct the property attached under section 80 to be sold and proceeds thereof to be paid and the amount so recovered be applied in defraying the expenses properly incurred by the Central Government or the State Government in discharge of its functions under sections 89, 90, 95, 96, and 104 of this Act.

**82. Removal of person likely to commit an offence under this Act.-** (1) Where a Designated Judge is satisfied, *suo moto* or upon a complaint or a police report that a person is likely to



commit an offence under this Act in any area in a State, it may, by order in writing, direct such person to remove himself or herself beyond the limit of such area, by such route and within such time as may be specified in the order, and not to return to that area from which he or she was directed to remove himself or herself for such period, not exceeding six months, as may be specified in the order.

(2) The Designated Judge shall, along with the order under sub-section (1), communicate to the person directed under that sub-section the grounds on which such order has been made.

(3) The Designated Judge may revoke or modify the order made under sub-section (1), for the reasons to be recorded in writing, on the representation made by the person against whom such order has been made or by any other person on his or her behalf within thirty days from the date of the order.

**83. Rights of victims during trial under this Act.-** (1) It shall be the duty and responsibility of the State for making arrangements for the protection of victims, and witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence.

(2) A victim shall be treated with fairness, respect and dignity and with due regard to any special need that arises because of the victim's age or gender or educational disadvantage or poverty.

(3) A victim shall have the right to reasonable, accurate, and timely notice of any court proceeding including any bail proceeding.

Provided that the Special Public Prosecutor or the State Government shall inform the victim about any proceedings under this Act.

(4) A victim shall have the right to apply to the Court to summon parties for production of any documents or material witnesses or examine persons present.

(5) A victim shall be entitled to be heard at any proceeding under this Act in respect of bail, discharge, release, parole, conviction or sentence of an accused or any connected proceedings or arguments and file written submissions on conviction, acquittal or sentencing.

(6) A victim shall be entitled to receive free legal aid and to engage any advocate who he or she chooses from among those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987 or any other advocate of their choice and the Legal Aid Services Authority established under the said Act shall pay all costs, expenses and fees of the advocate appointed by the victim or informant at a rate not less than the fees payable to the Special Public Prosecutor.

**84. Protection of victims, informants and witnesses.-** (1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, the Designated Judge trying a case under this Act shall provide to a victim, informant or witness complete protection to secure the ends of justice.

(2) Without prejudice to the generality of sub-section (1), such protection for the victim, informant or witness may extend to the following provisions:

- (a) relocation;
- (b) travelling and maintenance expenses during investigation and trial; and,
- (c) social-economic rehabilitation during investigation and trial.

(3) The State shall inform the concerned Designated Judge under sub-section (1) of section 77 about the protection provided to any victim, informant or witnesses and the Designated Judge shall periodically review the protection being offered under this section and pass appropriate orders.

(4) Without prejudice to the generality of the provisions of sub-section (1), a Designated Judge may, on an application made by a victim, informant or witness in any proceedings before it or by the Special Public Prosecutor in relation to such victim, informant or witness or on its own motion, take such measures including:

- (a) not mentioning the names and addresses of the witnesses in its orders or judgments or in any records of the case accessible to the public;
- (b) issuing directions for non-disclosure of the identity and addresses of the witnesses;
- (c) immediately dealing with any complaint of harassment of a victim, informant or witness and on the same day, pass appropriate orders for protection;

Provided that inquiry or investigation into the complaint received under clause (c) shall be tried separately from the main case by the Designated Judge and concluded within six months from the date of receipt of the complaint;

Provided further that where the complaint under clause (c) is against any public servant, the court shall forthwith restrain such public servant from interfering with the victim, informant or witness, as the case may be, in any matter related or unrelated to the pending case, except with the specific permission of the Designated Judge.

(5) It shall be the duty of the Investigating Officer and the Station House Officer to record the complaint of victim, informant or witnesses against any kind of intimidation, coercion or inducement or violence or threats of violence, whether given orally or in writing, and a copy of the same shall be sent to the State Authority within twenty-four hours of recording it. A victim shall also be entitled to lodge the said complaint with the District legal Services Authority.

(6) The officers in charge of the District Legal Services Authority upon receipt of any complaint under sub-section (5) shall forward the same to the concerned Designated Judge within twenty-four hours.

(7) The Member of the State Authority, if such a Member is available preferably from the concerned district, shall visit the office of the District Legal Services Authority once in a week to monitor complaints of intimidation, coercion or violence on victim, informant or witness and scrutinize the follow-up action taken on the same. To ensure effective follow up action and

protection, the said Member of the State Authority shall have the power to move the concerned Designated Judge as and when required.

**85. Record of court proceedings.-** All proceedings related to offences under this Act shall be video recorded.

**86. Appeal and revision.-** (1) Subject to the provisions of this Act, the High Court may exercise, so far as they may be applicable, all powers of appeal and revision conferred by the Code of Criminal Procedure, 1973, on a High Court as if the court of the Designated Judge were a Court of Session trying cases within local limits of the High Court.

(2) Every appeal under this section shall be preferred within sixty days from the date of the judgment, sentence or order.

Provided that the High Court having jurisdiction may entertain an appeal after the expiry of the said sixty days if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period of sixty days.

#### *CHAPTER VII* **REMEDY AND REPARATIONS**

**87. Right to remedy and reparations.-** (1) Any person, whether or not he or she belongs to a group as defined under this Act, who has suffered physical, mental, psychological or monetary harm or harm to his or her property as a result of the commission of any offence under this Act, or when death has occurred as a consequence thereof, the next of kin of such deceased person shall be entitled to remedy and reparations including compensation, restitution and rehabilitation as applicable to them in accordance with the provisions under this Chapter.

(2) Where the death of any person has occurred as a consequence of the commission of an offence under this Act, the compensation for such death shall be paid to the next of kin being the wife or husband, as the case may be, parent and child, if any, and shall be divided amongst the before-mentioned parties, or any of them, in equal parts.

**88. Duty to provide remedy and reparations.-** (1) The State Government through the office of the Collector shall provide remedy and reparations including compensation, restitution and rehabilitation to all persons entitled under section 87 in accordance with the provisions of this Chapter.

(2) Notwithstanding anything contained in this Act, or under any other law for the time being in force, it shall be the duty of each Collector, either by himself or herself or through his or her subordinates, to ensure that there is adequate supervision and control over the performance of the obligations under this Chapter.

**89. Duty to ensure immediate safety of persons and property.-** (1) The State Government in co-ordination with the Chief-Secretary of the State, the Inspector General of Police, Superintendents of Police or Commissioner of Police, as the case may be, and the Collector shall ensure that any person mentioned under section 87, whose life, liberty or property is threatened, or where he or she apprehends such threat, is immediately provided security including creating police outposts and pickets in the vicinity of the affected area and providing temporary relocation if necessary.

(2) The State Government and the Collector shall ensure that that all properties of such person mentioned in section 87, whether movable or immovable are protected, in particular, against destruction, vandalism, appropriation, occupation, waste, damage, alienation, misuse, sale or transfer by any means.

(3) Any alienation of property of such persons attributable to communal and targeted violence referred to in sub-section (2) shall be void.

**90. Establishment of Relief Camps.-** (1) When organised communal and targeted violence occurs, the State Government shall establish relief camps in safe locations for the internally displaced persons.

Provided that such relief camps shall not be closed unless all internally displaced persons have been voluntarily rehabilitated in accordance with section 96.

(2) A relief camps established under sub-section (1) shall continue to be operated by the State Government until all internally displaced persons residing in that relief camp return to their original habitations, or are resettled in a new suitable location.

(3) Relief camps established under sub-section (1) shall, at the minimum, regardless of the circumstances and without discrimination, provide the internally displaced persons with:

- (a) basic shelter which is appropriate and adequate to protect the residents of the camps from extremes of the weather, and which provides due privacy especially to women and girls;
- (b) 24 hour security at the relief camp;
- (c) adequate nutritious and culturally appropriate food;
- (d) potable drinking water;
- (e) adequate clothing which is culturally appropriate and sufficient to protect the residents of the camp from extremes of weather;
- (f) essential medical services including antenatal and postnatal care of expectant mothers, pediatric care and emergency and rehabilitative services for the injured and referral services wherever necessary;
- (g) adequate sanitation;
- (h) psycho-social and trauma counseling and psychiatric services;
- (i) child-care services for infants and small children;
- (j) educational facilities for children;

- (k) special facilities and assistance, as may be necessary and reasonable for the medical condition and treatment of certain residents of the relief camps, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, elderly and disabled persons with special needs;
- (l) full access to members of the National Authority and State Authority.

**91. Duties in relation to relief camps.-** Until such time internally displaced persons are located in relief camps, it shall be duty of the State Government and, in particular, the Collector, either by himself or herself or through his or her subordinates to ensure the following:

- (a) an environment free from any exposure to or occurrence of any form of sexual assault, exploitation, intimidation, violence, or forced labour in the relief camps;
- (b) provision for family members of one household unit to remain in the same relief camp or if they wish, relocate together to another relief camp, or if separated, then to enable them to reunite as soon as possible by taking all steps to expedite the location and reunion of such families, particularly children and parents;
- (c) establishment of a single window system to complete all administrative formalities in relation to provision of quick relief and rehabilitation, including making available identity documents, certificates, ration cards, passports, speedy disposal of insurance and other claims, provision for certification of loss or damage of educational or other certificates or ownership or other documents in respect of all such persons;
- (d) restoration of all official documents of all such persons that include but are not limited to ration cards, property proofs, government cards and identities, school and college related documents, election cards at the earliest but in any case not later than three months shall be the responsibility of the State Government;
- (e) facilitation for the students affected by organised communal and targeted violence to appear for any examination, condoning delays caused by such violence, and to provide for such facilitation, including creating support centres for the same.
- (f) provision for victims to file information in relation to offences under this Act and record statements in pursuance of any complaints related to organised communal and targeted violence;
- (g) provision for all internally displaced persons to claim and receive compensation while still in the relief camps;
- (h) provision of a single window system for all internally displaced persons to make enquiries and give information about the status and whereabouts of missing family members, relatives or friends and assist them in receiving such information as desired with regard to the progress of investigation of the whereabouts and condition of such missing persons;
- (i) access to legal aid in the prosecution of offences under this Act.

Provided that special efforts shall be made to ensure the full participation of the internally displaced persons residing in the relief camps and, in particular, women, in the planning and distribution of basic services and supplies;

Provided further that such assistance may be organized with the help of individuals and groups including human rights groups, and professionals or groups qualified in the providing

specialized services to such persons including women's groups, child rights groups and support groups of persons mentioned under section 87.

**92. State Assessment Committee.-** (1) A State Assessment Committee shall be formed in each State by the appropriate Government to assess aspects of reparations in the event of occurrence of organized communal and targeted violence.

(2) The State Assessment Committee under sub-section (1) shall comprise the following:

- (a) Chairperson of State Human Rights Commission - **Chairperson, ex-officio**
- (b) Chief Secretary of the State - **Member**
- (c) Member of a human rights organisation approved by the National Authority - **Member**

**93. Functions of the State Assessment Committee.-** The State Assessment Committee shall perform the following functions:

- (a) duly inform all internally displaced persons, including those affected by the organised communal and targeted violence, whether or not residing in a relief camp, of the procedure and the purpose of the assessment;
- (b) conduct, in accordance with section 94, a survey of the injury to life and property in relation to offences committed under this Act for the purposes of restitution in the affected area;
- (c) prepare, in accordance with section 95, a list of internally displaced persons including any person mentioned under section 87, identified through the survey so conducted;
- (d) assess and certify loss or damage caused by organised communal and targeted violence for the purposes of section 96;
- (e) appropriately rehabilitate restoring all rights of and provision of services to all persons entitled under section 87 in accordance with section 96;
- (f) make an assessment, including gathering of necessary data and information, at the site of violence of damage to life, liberty and property;
- (g) prepare a budget including estimated expenditure of various components of rehabilitation and resettlement activities or programmes in consultation with representatives of the affected families.

**94. Survey by State Assessment Committee.-** (1) Every survey by the State Assessment Committee under clause (b) of section 93 shall contain the following area-wise (village or locality), as the State Assessment Committee may deem fit, information of all internally displaced persons including any person entitled under section 87, whether or not he or she resides in a relief camp, namely:—

- (a) families including dependants belonging to a group who are permanently residing, engaged in any trade, business, occupation or vocation in the area affected by organised communal and targeted violence;

- (b) families including dependants that have lost or have been displaced from their place of ordinary residence, agricultural land, estate, employment or are alienated wholly or substantially from the main source of their trade, business, occupation or vocation;
- (c) agricultural labourers, non-agricultural labourers, professionals, businessmen etc;
- (d) the disabled, destitute, orphans, widows, elderly or any other category of persons deemed particularly vulnerable in the circumstances because they are not provided or cannot immediately be provided with alternative livelihood, and who are not otherwise covered as part of a family;
- (e) means of alternative livelihood where there is a situation of social, political or economic boycott;
- (f) possibilities of conflict and effect thereof especially on youth and children in the event of their translocation;

(2) While conducting the survey and undertaking assessment under sub-section (1), the State Assessment Committee shall take into consideration the impact of organized communal and targeted violence on the assets and infrastructure, applicable municipal tax, applicable circle rate tax of the locality, drainage, sanitation, sources of drinking water, sources of water, for cattle, community ponds, grazing land, plantations, public utilities, such as post offices, fair price shops, food storage godowns, electricity supply, health care facilities, schools and educational or training facilities, places of worship, burial and cremation grounds, livelihood options.

(3) The survey and assessment shall be completed within a period of forty-five days from the date of the constitution of the State Assessment Committee and all infrastructural and other facilities as required by the State Assessment Committee shall be provided by the State Government without any delay.

**95. Registration of persons injured by organised communal and targeted violence.-** (1) The State Assessment Committee shall register the names of all persons who have suffered injury as a result of offences under section 9, including internally displaced persons and those mentioned under section 87, when information relating to the commission of such an offence is recorded.

(2) The registration of persons mentioned under sub-section (1) shall be made within fifteen days of the appointment of the State Assessment Committee and issued an appropriate identity-card to avail measures under this Chapter.

(3) Where any person is aggrieved by the non-inclusion of his or her name in the list of persons entitled prepared by the State Assessment Committee under sub-section (1), he or she may approach the State Assessment Committee with the request to include his or her name in such a list and the State Assessment Committee, if satisfied that the aggrieved person is a victim or internally displaced person or entitled under section 87, shall add the said name to the list so prepared.

(4) Where any person is aggrieved by the refusal of the State Assessment Committee to include his or her name in the list so prepared under sub-section (1), he or she may prefer an appeal to the National Authority under clause (b) of section 29.

**96. Restitution and rehabilitation.-** (1) The State Government shall ensure reparations to internally displaced persons, whether or not such persons are residing in a relief camp or to any person entitled under section 87 by adopting measures for restitution and implementing comprehensive rehabilitation plans.

Provided that the process of rehabilitation shall ensure full participation of such persons.

Provided further that the rehabilitation of such persons be declared by them to be entirely voluntary.

Provided further that the rehabilitation as provided in this section, to be made in consultation with the National Authority.

Provided further that the State Government shall make the said reparations on the basis of the survey conducted by the State Assessment Committee under section 94.

(2) Restitution and rehabilitation shall include:

- (a) resettlement of the family or persons entitled under section 95 in homes, dwellings and places of livelihood affected by organised communal and targeted violence, either in the existing locations or such new locations, as the case may be, by restoring them to levels not less than those prevailing before such violence occurred or fresh construction of the same in new resettlement colonies or allocation of suitable land for the same;
- (b) restoration of employment or provision of alternate employment, including the tools or means of livelihood and provision of soft loans where necessary;
- (c) restoration and repair of places of worship or sacred sites damaged or destroyed during the commission of the said offence under this Act and construction of places of worship in resettlement colonies as requested by such persons enlisted under section 95;
- (d) restoration of all civic amenities in and around the original habitations at least equivalent to those prevailing before the occurrence of organized communal and targeted violence, or provision of civic amenities in new resettlement sites or colonies, as the case may be;
- (e) reconstruction to their original condition, all community structures, including schools and health centers and means of livelihood destroyed or damaged, during commission of offences under this Act, or construction of new community structures in resettlement sites and colonies, as the case may be;
- (f) long-term psychological counseling for all and particularly, to victims of sexual assault;
- (g) necessary and appropriate provisions for rehabilitation of women, including community-based rehabilitation of those widowed;
- (h) appropriate provisions for rehabilitation of children identified in the list under section 95 including community based rehabilitation for those orphaned and appropriate arrangements for their continuing education.



**97. Duty to establish conditions to enable return.-** The Central Government in relation to the Union Territories or the State Government, as the case may be, shall establish conditions and provide means to enable internally displaced persons enlisted under section 95 to return to their place of ordinary residence or livelihood in safety and with dignity, protected against any threat, intimidation or attack to their life, liberty or property, provided that;

- (a) such return shall in all cases be declared by such persons to be entirely voluntary;
- (b) the concerned public authorities shall ensure the full participation of all persons residing in the relief camp in the planning and management of their return or resettlement.

**98. Powers to summon witnesses and take evidence.-** In addition to the powers conferred by the Act, the State Assessment Committee shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, while carrying out their functions, in respect of the following matters, namely-

- (a) summoning and enforcing the attendance of witnesses and examining them on oath;
- (b) discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) issuing commissions for the examination of witnesses or documents;
- (e) any other matter which may be prescribed.

**99. Compensation.-** (1) It shall be the duty of the Central Government in relation to the Union Territories or the State Government, as the case may be, to provide appropriate compensation in accordance with Schedule IV and as assessed under this Act by the District Assessment Committee established under sub-section (1) of section 104, to any person mentioned under section 87 or any internally displaced person, whether or not such person resides in a relief camp, in accordance with principles under section 100.

(2) Compensation under sub-section (1) shall be made in the following manner:

- (a) Within thirty days of the date of the incident of communal or targeted violence, whether organised or not, a minimum ex-gratia compensation in accordance with the Schedule IV of this Act.

Provided that no compensation for injury resulting in death shall be less than rupees fifteen lakhs;

Provided further that the concerned government in the case of a minor shall, and in the case of a woman may, with the consent of such woman, dispense the awarded ex-gratia compensation by way of a monthly pension deposited in a bank account in the name of the minor or such woman, as the case may be.

Provided further that in case of need, the guardian of the minor may apply to the District Court to withdraw the money.

Provided further that compensation under Schedule IV shall be revised every three years by the Central Government in consultation with the National Authority and the said revision shall be published by notification in the Official Gazette;

- (b) In addition to the compensation paid under clause (a) above, compensation shall be

payable to such person as determined by the District Assessment Committee in accordance with the provisions contained in this Chapter.

Provided that for the determination of such additional compensation, the Central Government shall by rules create a multiplier method of arriving at compensation or any other method known to law taking into consideration section 101.

**100. Principles for assessment of compensation.-** (1) While determining compensation under clause (b) of sub-section (2) of section 99, the District Assessment Committee, shall not discriminate against persons entitled under section 87, including those registered under section 95, on grounds of religion, race, caste, sex, place of birth or any of them.

(2) The amount of compensation under this Act shall be such that a person is restored to levels of housing, habitat, means of livelihood and economic standards including all social and civic facilities, which are at par or better than those that he or she enjoyed before the commission of an offence under this Act.

(3) While determining compensation under clause (b) of sub-section (2) of section 99, the District Assessment Committee, shall take into consideration the gravity of the violation of rights and the compensation shall be proportional to the gravity thereof.

(4) Subject to sub-section (3), a reasonable compensation for loss due to injury to the property, shall be awarded to such person so as to enable him or her to reconstruct or restore his or her property to its original condition.

**101. Compensation to be made for.-** The assessment of compensation, in addition to compensation paid under Schedule IV, shall be made for:

- (a) injury to public property;
- (b) injury to private property;
- (c) bodily injury caused to a person or death;
- (d) moral injury;
- (e) material injury and loss of earnings, including lost opportunities of employment, education and social benefits;
- (f) psychological injury caused to such person;
- (g) cost of the actions by the authorities and police to take preventive and other actions;
- (h) required for legal or expert assistance, medicine and medical services, and psychological and social services.

**102. District Assessment Committee.-** (1) The State Government shall, by notification, establish a District Assessment Committee in respect of each district in the State, to perform such functions assigned to it under this Act and to assist the State Assessment Committee in the performance of its functions.

- (2) The District Assessment Committee shall consist of the following members, namely –
- (a) Collector or District Magistrate or Deputy Commissioner, as the case may be, of the district **- Chairperson, *ex-officio***
  - (b) Chief Medical Officer of the district **- Member**
  - (c) Judicial Magistrate **- Member**
  - (d) One respectable citizen belonging to a group **- Member**
- Provided that, at all times, at least one Member, including the Chairperson, shall be a woman.

**103. Functions of the District Assessment Committee.-** (1) The District Assessment Committee shall perform functions assigned to it under this Act and shall coordinate with various departments and existing bodies like the National Disaster Management Authority to take all measures to provide reparations under this Act.

- (2) Subject to any general or special order of the appropriate Government, the District Assessment Committee shall perform the following functions, namely:-
- (a) supervise establishment of relief camps in accordance with provisions of this Chapter;
  - (b) ensure and enable safe passage of internally displaced persons from the site of violence to a temporary shelter or relief camp, established by the State Government;
  - (c) ensure participation of internally displaced persons in the formulation of rehabilitation and resettlement plans;
  - (d) verify facts and ensure full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety and interests of such person, witnesses, or persons who have intervened to assist the victim or prevent the occurrence of further violations;
  - (e) perform such other functions as the State Government or the State Assessment Committee may, from time to time, by order in writing, assign.

**104. Authority to determine and disburse compensation.-** (1) For the purposes of determining compensation under this section, the District Assessment Committee shall include a District Judge who shall be the Chairperson of the District Assessment Committee.

(2) In addition to the compensation paid under Schedule IV, the District Assessment Committee constituted under sub-section (1) shall determine the quantum of compensation to be paid to a person entitled under section 87, in accordance with principles provided under section 100.

(3) The entitlement based on the assessment done by the District Assessment Committee constituted under sub-section (1) under sub-section (2) shall be provided as a certificate along with a statement of the list of entitlement to such victim or affected person and the timeframe for disbursement shall be notified.

(4) The amount payable under sub-sections (2) shall be disbursed by the State Government,

not later than fifteen days from the date of grant of certificate by the District Assessment Committee unless an extended period is notified for reasons beyond the control of the State Government.

**105. Appeal from assessment.-** (1) Any person entitled to relief under section 87 not satisfied with the assessment made by the District Assessment Committee under section 104, may appeal to the High Court of the State concerned in the manner provided by rules under the Act.

**106. Rights of persons under this Chapter.-** (1) Any person entitled to relief under section 87 shall be informed orally and in writing by the District Assessment Committee about procedures for obtaining compensation for harm suffered as a result of organised communal and targeted violence or any other offence under this Act respectively, and extend all assistance to such person to make his or her claim in accordance with the provisions of this Act.

(2) There shall be counseling and protection of women and children against misuse and intimidation resulting from receipts of cash compensation.

(3) In case of any default in the timely disbursement of compensation under section 104, persons mentioned under sub-section (1) shall have the right to complain to the National Authority or the State Authority, which shall monitor these complaints till final resolution of claims.

**107. Subrogation of Rights.-** (1) Upon payment of compensation, the Central Government in relation to the Union Territories or the State Government, as the case may be, will stand subrogated to the rights of all persons entitled under section 87 and shall be entitled to claim the said amount from the persons responsible for the loss of life, liberty or property or any other loss in accordance with law.

**108. Claim on behalf of the Central Government and State Government.-** For the purpose of making an assessment of loss or damage caused by the organized communal and targeted violence under sub-section (2) of section 94, the State Assessment Committee shall consider the following:

(a) expenses of the Government, authorities under the control of the Government, local authorities and institutions for expenses incurred in providing relief and rehabilitation to the persons enlisted under section 95;

(b) administration expenses incurred by the Central Government or the State Government or local authorities to cope with the organised communal and targeted violence, including all local and administrative expenses attributable or related to such organised communal and targeted violence;

(c) expenses related to loss of revenue to Government and authorities under the control of the Government or local authorities arising out of, or connected with to such organised communal and targeted violence;

- (d) expenses on account of damage to the fauna including milch and drought animals;
- (e) expenses arising from damage to flora including destruction of agricultural crops, vegetables, trees and orchards;
- (f) expenses on account of damage to environment including pollution of soil, flora, fauna and water systems;
- (g) expenses relating to loss and destruction of property;
- (h) expenses relating to loss of business or employment or both;
- (i) expenses in respect of injuries that are likely to be suffered on account of the organised communal and targeted violence;
- (j) any other expenses or expenses which the State Assessment Committee may determine for reasons to be recorded in writing as arising out of, or connected with the organised communal and targeted violence.

**109. Establishment of Communal and Targeted Violence Relief and Rehabilitation Fund.- (1)**

The Central Government shall make available, on the advice of the National Authority, funds from the Consolidated Fund of India, a Communal and Targeted Violence Relief and Rehabilitation Fund for immediate disbursement of compensation for immediate rehabilitation and reparation, and such funds made available shall be recoverable from monies as may be payable to the State Governments by the Central Government.

(2) The amount in the said fund shall be applied by the State Assessment Committee and the District Assessment Committee, as the case may be, for the following purposes:

- (a) disbursement of amounts in settlement of claims registered with the District Assessment Committee
- (b) apportionment of part of the fund for the relief, rehabilitation and reparations provided for under the Act.

(3) "Funds" will be fines that may be levied under this Act.

**110. Guarantee of non-repetition.-** It shall be the duty of the Central Government and the State Governments to make and take all steps to ensure satisfaction and guarantees of non-repetition of offences under this Act and which shall include, where applicable, any or all of the following:

- (a) Cessation of continuing violations;
- (b) The search for the bodies of those killed or disappeared and assistance in the identification and reburial of the bodies in accordance with the cultural practices of the families and communities;
- (c) Ensure access to justice to the victims;
- (d) Commemorations and tributes to the victims;
- (e) Preventing the recurrence of violations by such means as:
  - (i) protecting persons in the legal, media and other related professions and human rights defenders;

- (ii) conducting and strengthening, on a priority and continued basis, human rights training to all sectors of society, in particular to military and security forces and to law enforcement officials;
- (iii) promoting the observance of codes of conduct and ethical norms, in particular international standards, by public servants, including law enforcement, correctional, media, medical, psychological, social service and military personnel, as well as the staff of economic enterprises.

*CHAPTER VIII*  
**PENALTIES**

- 111. Punishment for sexual assault.-** Whoever commits an act of sexual assault, shall be punishable-
- (a) where the act is contained in sub-clause (i) of clause (a) of section 6 and clause (i) of clause (b) of section 7, with rigorous imprisonment for a term which shall not be less than seven years but which may be for life and shall also be liable to fine.
  - (b) where the act is contained in section sub-clause (ii) of clause (a) of section 7, with rigorous imprisonment for a term which shall not be less than ten years but which may be for life and shall also be liable to fine.
  - (c) where the act is contained in sub-clause (iii) of clause (a) of section 7, rigorous imprisonment for a term a term which shall not be less than fourteen years but which may be for life and shall also be liable to fine.
  - (d) where the act is contained in sub-clauses (ii) to (vi) of clause (b) of section 7, rigorous imprisonment for a term which shall not be less than seven years but which may extent to ten years and shall also be liable to fine.
- 112. Punishment for hate propaganda.-** The offence of hate propaganda shall be punishable with imprisonment which may extend to three years or fine or both.
- 113. Punishment for organized communal and targeted violence.-** Whoever commits organized communal and targeted violence shall be punished with rigorous imprisonment for life, and shall also be liable to fine.
- 114. Punishment for aiding financially, materially or in kind the commission of offence under this Act.-** Whoever is guilty of the offence under section 10 shall be punished with imprisonment for a term, which may extend to three years, and shall also be liable to fine.
- 115. Punishment for offences under Schedule II.-** When offences under Schedule II are committed, they shall be punishable with penalty provided in the Indian Penal Code, 1860.
- 116. Punishment for torture.-** Whoever commits torture shall be punishable with rigorous imprisonment for a term which shall not be less than seven years but which may be for life and shall also be liable to fine.

- 117. Punishment for dereliction of duty.-** Whoever being a public servant is guilty of dereliction of duty shall be punished with imprisonment for two years which may extend to five years and shall be liable to fine.
- 118. Punishment for offences by public servants for breach of command responsibility.-** Whoever is guilty of an offence under section 14 shall be punishable with rigorous imprisonment for life, when such failure relates to organized targeted violence and in any other case with imprisonment for a term of ten years and fine.
- 119. Punishment for offences by other superiors for breach of command responsibility.-** Whoever is guilty of an offence under section 15 shall be punishable with rigorous imprisonment for life, when such failure relates to organized targeted violence and in any other case with imprisonment for a term of ten years and fine.
- 120. Punishment for attempt.-** Whoever attempts to commit any offence punishable under this Act or causes such attempt to be committed and in such attempt does any act towards the commission of the offence shall be punishable with the punishment provided for the offence.
- 121. Punishment for abetment** Whoever abets any offence under this Act, if the act abetted is committed in consequence of the abetment, shall be punished with punishment provided for that offence.
- 122. Punishment for preparation.-** If any person makes preparation to do or omits to do anything which constitutes an offence punishable under this Act and from the circumstances of the case it may be reasonably inferred that he or she was determined to carry out his or her intention to commit the offence but had been prevented by circumstances independent of his or her will, he or she shall be punishable with rigorous imprisonment for a term which shall not be less than one-half of the minimum term (if any), but which may extend to one-half of the maximum term of imprisonment with which he or she would have been punishable in the event of his or her having committed such offence, and also with fine which shall not be less than one-half of the minimum amount (if any), of fine with which he or she would have been punishable, but which may extend to one-half of the maximum amount of fine with which he or she would have ordinarily (that is to say in the absence of special reasons) been punishable, in the event aforesaid:  
Provided that the court may, for reasons to be recorded in the judgment, impose a higher fine.
- 123. Acts done by several persons in furtherance of common intention.-** When a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him or her alone.
- 124. Determination of fines.-** While determining the quantum of fine, the Designated Judge appointed under this Act shall take into consideration gravity of offence, damage assessed by

the State Assessment Committee under section 94 and compensation paid by the Central Government or the State Government, as the case may be, under section 99 and assessed by the District Assessment Committee under section 104.

- 125. Other remedies not prejudiced.-** Penalties provided under this Chapter shall be without prejudice to other remedies that a victim or an affected person may have under any other law for the time being in force.

*CHAPTER IX*  
**MISCELLANEOUS**

- 126. Non-applicability of limitation for organised communal and targeted violence.-** The prosecution for the offence of organised communal and targeted violence under section 9, and the execution of sentences imposed on account of the said offence shall not be subject to any limitation.

- 127. Protection of action taken in good faith.-** No suit or other legal proceeding shall lie against the Central Government, State Government, National Authority or State Authority or any Member thereof or any person acting under the direction either of the Central Government, State Government, National Authority or State Authority in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or any order made there under or in respect of the publication by or under the authority of the Central Government, State Government, National Authority or State Authority of any report paper or proceedings.

Provided that this section shall not apply to a public servant accused of dereliction of duty under section 13.

- 128. Members and officers to be public servants.-** Every Member of the National Authority or State Authority and every officer appointed or authorized by the National Authority or State Authority to exercise functions under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

- 129. Duties of Government.-** The Central Government, in consultation with the National Authority and the State Government, in consultation with the State Authority, shall take all measures to ensure that:

- (a) the provisions of this Act are given wide publicity through public media including the television, radio and the print media at regular intervals;
- (b) all public servants including police officers and members of judicial services are given periodic sensitization and awareness training on the issues addressed by this Act;
- (c) effective coordination between the services provided by concerned Ministries and Departments dealing with Law, Home Affairs including law and order, health and human resources to address the issue of communal and targeted violence is established and periodical review of the same is conducted.



**130. Power of Central Government to make rules.-** (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:-

- (a) the salaries and allowances and other terms and conditions of service of the Chairperson, Vice-Chairperson and Members of the National Authority;
- (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the National Authority and the salaries and allowances of officers;
- (c) any other function or power of the National Authority;
- (d) the form in which the annual statement of accounts is to be prepared by the National Authority; and
- (e) any other matter which may be prescribed.

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**131. Power of State Government to make rules.-** (1) The State Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :

- (a) the salaries and allowances and other terms and conditions of service of the members of the State Authority;
- (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the State Authority and the salaries and allowances of officers and other staff of the State Authority;
- (c) the form in which the annual statement of accounts is to be prepared by the State Authority.

(3) Every rule made by the State Government under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

**132. Power of National Authority to make regulations.-** The National Authority shall have the power to makes regulations to lay down its own procedure.

**133. Power of State Authority to make regulations.-** The State Authority shall have the power to makes regulations to lay down its own procedure.

**134. Power to remove difficulties.-** (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government, may by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty.

Provided that no such order shall be made after the expiry of the period of two years from the date of commencement of this Act.

(2) Every order made under this section shall, as soon as may be after it is made, be laid before each house of Parliament.

**135. Act to be in addition to any other law.-** The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force, and nothing contained herein shall exempt any public servant from any proceeding which might, apart from this Act, be instituted against him or her.

## SCHEDULE I

Armed Forces and Security Forces constituted under:

- (a) The Air Force Act, 1950 (45 of 1950);
- (b) The Army Act, 1950 (46 of 1950);
- (c) The Assam Rifles Act, 2006 (47 of 2006);
- (d) The Bombay Home Guard Act, 1947;
- (e) The Border Security Force Act, 1968 (47 of 1968);
- (f) The Central Industrial Security Force Act, 1968 (50 of 1968);
- (g) The Central Reserve Police Force Act, 1949 (66 of 1949);
- (h) The Coast Guard Act, 1978 (30 of 1978);
- (i) The Delhi Special Police Establishment Act, 1946 (25 of 1946);
- (j) The Indo-Tibetan Border Police Force Act, 1992 (35 of 1992);
- (k) The Navy Act, 1957 (62 of 1957);
- (l) The National Investigation Agency Act, 2008 (34 of 2008);
- (m) The National Security Guard Act, 1986 (47 of 1986);
- (n) The Railway Protection Force Act, 1957 (23 of 1957);
- (o) The Sashastra Seema Bal Act, 2007 (53 of 2007);
- (p) The Special Protection Group Act, 1988 (34 of 1988);
- (q) The Territorial Army Act, 1948 (56 of 1948);
- (r) The State police forces (including armed constabulary) constituted under the State laws to aid the civil powers of the State and empowered to employ force during internal disturbances or otherwise including armed forces as defined in clause (a) of section 2 of the Armed Forces (Special Powers) Act, 1958 (28 of 1958).

**SCHEDULE II**

**Part-A**

**The Indian Penal Code, 1860**

<b>Section</b>	<b>Description of Offence</b>
153B	Imputations, assertions prejudicial to national integration
295	Injuring or defiling place of worship with the intent to insult the religion of any class
295A	Deliberate and malicious acts intending to outrage religious feelings of any class by insulting its religion or religious beliefs
296	Disturbing religious assembly
297	Trespassing on burial places, etc.
298	Uttering words, etc. with deliberate intent to wound religious feelings of any person

**Part-B**

**The Indian Penal Code, 1860**

<b>Section</b>	<b>Description of Offence</b>
120	Concealing design to commit offence punishable with imprisonment
141	Unlawful assembly
142	Being member of unlawful assembly
144	Joining unlawful assembly armed with deadly weapon
145	Joining or continuing in unlawful assembly, knowing it has been commanded to disperse
146	Rioting
148	Rioting, armed with deadly weapon
149	Every member of unlawful assembly guilty of offence committed in prosecution of common object
150,	Hiring, or conniving at hiring, of persons to join unlawful assembly
151	Knowingly joining or continuing in assembly of five or more persons after it has been commanded to disperse
152	Assaulting or obstructing public servant when suppressing riot, etc.
153	Wantonly giving provocation with intent to cause riot-if rioting be committed-if not committed
154	Owner or occupier of land on which an unlawful assembly is held
156	Liability of agent of owner of occupier for whose benefit riot is committed
157	Harbouring persons hired for an unlawful assembly
322	Voluntarily causing grievous hurt
324	Voluntarily causing hurt by dangerous weapons or means
336	Act endangering life or personal safety of others
337	Causing hurt by act endangering life or personal safety of others
302	Murder
307	Attempt to murder
375	Rape
376	Punishment for rape

396	Dacoity with murder
397	Robbery, or dacoity, with attempt to cause death or grievous hurt
435	Mischief by destroying or moving, etc., a land- mark fixed by public authority
	Mischief by fire or explosive substance with intent to cause damage to amount of one hundred or (in case of agricultural produce) ten rupees
436	Mischief by fire or explosive substance with intent to destroy house, etc.

**The Bombay Police Act, 1951**

<b>Section</b>	<b>Description of Offence</b>
135	Penalty for contravention of rule or directions under Sec. 37, 39 or 40

### Schedule III

#### **The Indian Penal Code, 1860**

<b>Section</b>	<b>Offence</b>
191	Giving false evidence
192	Fabricating false evidence
194	Giving or fabricating false evidence with intent to procure conviction of capital offence If innocent person be thereby convicted and executed
195	Giving or fabricating false evidence with intent to procure conviction of offence
195-A	Threatening any person to give false evidence
196	Using evidence known to be false
197	Issuing or signing false certificate
198	Using as true a certificate known to be false
199	False statement made in declaration which is by law receivable as evidence
200	Using as true such declaration knowing it to be false
201	Causing disappearance of evidence of offence, or giving false information to screen offender
202	Intentional omission to give information of offences by person bound to inform
203	Giving false information respecting an offence by person bound to inform
204	Destruction of or electronic record to prevent its production as evidence
205	False personation for purpose of act or proceeding in suit or prosecution
211	False charge of offence made with intent to injure
212	Harbouring an offender
216	Harbouring offender who has escaped from custody or whose apprehension has been ordered
217	Public servant disobeying direction of law with intent to save person from punishment or property from forfeiture
218	Public servant framing incorrect record or writing with intent to save person from punishment or property from forfeiture
219	Public servant in judicial proceeding corruptly making report etc. contrary to law
220	Commitment for trial or confinement by person having authority who knows that he is acting contrary to law
221	Intentional omission to apprehend on the part of public servant bound to apprehend
222	Intentional omission to apprehend on the part of the public servant bound to apprehend person under sentence or lawfully committed
223	Escape from confinement or custody negligently suffered by public servant
225A	Omission to apprehend, or sufferance of escape, on part of public servant, in cases not otherwise provided for
228	Intentional insult or interruption to public servant sitting in judicial proceeding

### **Code of Criminal Procedure, 1973**

<b>Section</b>	<b>Duty</b>
107	Security for keeping the peace in other cases
108	Security for good behavior for persons disseminating seditious matters
109	Security for good behavior from suspected persons
143	Magistrate may prohibit repetition or continuance of public nuisance
144	Power to issue order in urgent cases of nuisance or apprehended danger
145	Procedure where dispute concerning land or water is likely to cause breach of peace
146	Power to attach subject of dispute and to appoint receiver
147	Dispute concerning right of use of land or water
148	Local Inquiry
149	Police to prevent cognizable offences
150	Information of design to commit cognizable offences
151	Arrest to prevent the commission of cognizable offences
152	Prevention of injury to public property

**SCHEDULE IV  
COMPENSATION**

S. No.	OFFENCE	COMPENSATION
1	Death	Minimum compensation of Rs. 15 lacs
2	<p>Disablement :</p> <p>(a) Permanent disablement:<sup>1</sup> means a disability of 50% and above suffered by the victim which is of permanent nature and there are no chances of variation in the degree of disability and the injury/disability renders the victim unfit for normal life for the rest of his life.</p> <p>(b) Partial Disablement:<sup>2</sup> means, where the disablement is of a temporary nature. , such disablement as reduces the earning capacity of a person in any employment in which the victim was engaged at the time of the violence resulting in the disablement.</p>	<p>Minimum compensation of Rs. 5 lacs</p> <p>Minimum compensation of Rs. 3 lacs</p>
3	Grievous hurt	Rs 2 lacs
4	Criminal trespass	Rs 2 lacs
5	Kidnapping & abduction	Rs. 2 lacs
6	Rape	Minimum compensation of Rs. 5 lacs
7	Other forms of sexual violence	Minimum compensation of Rs. 4 lacs
8	Mental Harassment, Depression & psychological harm	Rs. 3 lacs
9	<p>Destruction of immovable property:</p> <p>(a) Total or partial destruction of house</p> <p>(b) Total or partial destruction of shop and other immovable property such as shed and godown.</p>	<p>Value of property at the time of the communal violence adjusted with inflation</p> <p>Minimum compensation of Rs. 1 lac subject to inflation adjusted value of property at the time of communal violence</p>
10	Destruction of movable property – cars, goods, etc	
11	<p>Forced displacement &amp; occupation</p> <p>(a) Forced displacement from habitual residence, shops and other immovable property</p> <p>(b) Forcible occupation of habitual residence, shops and other immovable property</p>	
12	Loss of opportunity	

<sup>1</sup> Adapted from the Central Scheme for Assistance to Civilian Victims of Terrorist, Communal and Naxal Violence, 2009

<sup>2</sup> Adapted from Section 2 (g) of the Workmen's Compensation Act, 1923