

modifications appear in **bold blue** font

words considered requiring change appear in red font

original text of changed clauses appears in smaller green font

words that can beneficially be deleted appear in orange font

reasons for suggested changes will be provided if required

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THE EQUAL OPPORTUNITY COMMISSION BILL, 2008

**Draft prepared by the Expert Group
Set up by the Ministry of Minority Affairs,
Government of India
February, 2008**

PREAMBLE

A statement of objects and reasons appears at the foot of this Act.

Whereas the constitution of India in its preamble promises to secure to all its citizens EQUALITY OF STATUS AND OF OPPORTUNITY and (a) directs the State {Article 38 (2)} to strive to minimize the inequalities in income, and endeavour to eliminate inequalities in status, facilities and opportunities, not only among individuals but also amongst groups of people residing in different areas or engaged in different vocations, (b) mandates the State (Article 41) to make effective provisions for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want, and (c) imposes a positive duty (Article 46) to promote with special care the educational and economic interests of the weaker sections of the people in order to protect them from social injustice and all forms of exploitation (emphasis added);

Whereas discrimination on grounds of religion, race, caste, sex or place of birth is constitutionally prohibited and equality of opportunity for all citizens in matters of **education and** public employment is constitutionally guaranteed as part of the Right to Equality (Article 15 and 16);

Whereas as part of fundamental right to equality, the State is empowered to make special provisions by way of affirmative action for the advancement of any socially and educationally backward classes of citizens {Articles 15 (4) and 16 (4)} in tune with the positive duties stipulated under the above mentioned Directive principles of State Policy; and

Whereas the State is bound to ensure (Article 39-A) that the operation of the legal system promotes justice, on a basis of equal opportunity and towards that end evolve suitable legislation or schemes.

Be it enacted by Parliament in the Fifty Ninth year of the Republic of India as follows:

THE EQUAL OPPORTUNITY COMMISSIONS ACT, 2008

Act No..... of 2008

An Act to promote Equality of Opportunity to all sections of people particularly the deprived groups and towards that end to establish Equal Opportunity Commissions to effectively intervene in policy development, programme implementation and public administration on behalf of the deprived and discriminated groups and for matters related thereto:

Be it enacted by Parliament in the fifty ninth year of the Republic of India as follows-

CHAPTER I

PRELIMINARY

1. Short title, extent and commencement

- (1) This Act may be called the Equal Opportunity Commissions Act, 2008.
- (2) The Act extends to the whole of India except to the State of Jammu and Kashmir.
- (3) The Act shall come into force immediately on receiving Presidential assent **except with reference to such provisions of the Act which the Government may by order reserve for implementation on a later date.**

2. Definitions

- (1) In this Act, unless the context otherwise requires –
 - (a) "Act" – shall mean the Equal Opportunity Commissions Act **2008**.
 - (b) "Appropriate Government" means the Central, State or local government as the case may be.
 - (c) "Commission" means the Equal Opportunities Commission established under Section 4 of this Act.

- (d) "Regional Commission" means any of the five regional Commissions established under Section 13 of the Act.
- (e) "Good Practices Code" means the Code declared as such by the Commission for any sector or region under Section 37 of the Act containing recommended practices designed to avoid discrimination and provide equal opportunity to all sections particularly the deprived groups.
- (f) "Equal Opportunity Practices Code" – means the code declared as such by the Commission containing recommended practices of non-discriminating character for any sector or region under Section 38 of the Act.
- (g) "Deprived group" means **and includes** a homogenous group of persons **identifiable by some characteristics specific to themselves in terms of shared attributes and circumstances and** who, **on such parameters as are relevant in the opinion of the Commission, are disadvantaged or lacking or deficient** in abilities to accessing basic **or other** necessities of life like nutrition, drinking water, education, healthcare, employment, housing, credit and other constitutionally **or statutorily** declared conditions of welfare. "Deprived group" means a group of persons who find themselves disadvantaged or lacking in abilities to accessing basic necessities of life like nutrition, drinking water, education, healthcare, employment, housing, credit and other constitutionally declared conditions of welfare.
- (gg) "Equality of Opportunity" means **existence** of conditions which would enable the **deprived group** to overcome the **disability or deficiency** in accessing basic or other necessities like other groups, whether similarly placed or not. "Equality of Opportunity" means creation of conditions which would enable the disadvantaged to overcome the disabilities in accessing basic necessities like other groups, whether similarly placed or not.
- (h) "Deprivation Index"

“Deprivation Index” means the formula or scheme by which the Commission would identify the “deprived groups”. These may vary in emphasis according to the sectors and regions surveyed in relation to the equal opportunity or scheme **legally recognized determining situation**. There may be different levels of deprivation as well. The formula evolved may employ indicators **used or relied upon** in the past for social and /or economic backwardness and other factors, **considered relevant by** the Commission **upon** assigning weighted scores **as deemed proper by the Commission** to various indicators **which are material in the Commission’s opinion** in order to evolve an index of deprivation, which **the Commission considers likely to correct imbalances felt by it in availability of equal opportunity** to all concerned.

“Deprivation Index” means the formula or scheme by which the Commission would identify the “deprived groups”. These may vary in emphasis according to the sectors and regions surveyed in relation to the equal opportunity or scheme legally recognized determining situation. There may be different levels of deprivation as well. The formula evolved may employ indicators in the past for social and economic backwardness and other factors found relevant by the Commission assigning weighted scores to various indicators in order to evolve an index of deprivation, which is fair to all concerned.

- (i) i) “Discrimination” means any **exclusionary or restrictive differentiation** made on the basis of sex, caste, language, religion, disability, descent, place of birth, residence, race or any other **factor, and** which **discrimination** results in less favourable treatment or has the effect of impairing or nullifying the recognition, enjoyment or exercise of equality of opportunity, but does not include favourable treatment given in fulfilment of constitutional **or other constitutionally recognized** obligations towards Scheduled Castes, Scheduled Tribes, **academically or economically** backward

classes, women and children.

“Discrimination” means any distinction, exclusion or restriction made on the basis of sex, caste, language, religion, disability, descent, place of birth, residence, race or any other which results in less favourable treatment or has the effect of impairing or nullifying the recognition, enjoyment or exercise of equality of opportunity, but does not include favourable treatment given in fulfilment of constitutional obligations towards Scheduled Castes, Scheduled Tribes, backward classes, women and children.

ii) Discrimination includes direct and indirect discrimination.

iii) ‘Direct discrimination’ occurs when a person intentionally or with knowledge violates the principle of equality guaranteed by the Constitution **or other statutory law**.

‘Direct discrimination’ occurs when a person intentionally or with knowledge violates the principle of equality guaranteed by the Constitution.

iv) Any other discrimination which has the effect of impairing or nullifying the **recognition, enjoyment or** exercise of equality of opportunity or which results in less favourable treatment will be deemed to be ‘indirect discrimination’. Any other discrimination which has the effect of impairing or nullifying the exercise of equality of opportunity or which results in less favourable treatment will be deemed to be ‘indirect discrimination’.

(j) “Equal Opportunity Practice” means and includes steps taken for the progressive elimination of discrimination – direct and indirect – against deprived groups, and the creation of Policies and Practices evolved for equal access particularly to education and employment. It seeks to create a level playing field for the deprived groups by affirmative action in favour of such groups.

(k) “Equal Opportunity Audit” means a socio-legal audit of Government bodies, public or private enterprises involved in education and employment that may be

carried out by the Commission for the purpose of evaluating existing provisions for equal opportunities in such enterprises or institutions.

- (l) "Group" is an aggregate of people who are **identifiable by some characteristics specific to themselves** in terms of shared attributes and circumstances. "Group" is an aggregate of people who are identifiable in terms of shared attributes and circumstances.
- (m) "Her" or "She" shall be deemed to include "his" or "he" **and alternative forms or a neutral gender** as the case may be for the purposes of this Act. "Her" or "She" shall be deemed to include "his" or "he" as the case may be for the purposes of this Act.
- (n) "Member" means a Member of the Commission or of the Regional Commission, as the case may be, and includes the Chairperson;
- (o) "National Equal Opportunity Status Report" refers to a report that may be prepared and published by the National Commission in addition to the annual and periodical reports in order to inform the state of equal opportunities in different sectors at the national level. **"State Equal Opportunity Status Report" refers to a report that may be prepared and published by the State Commission in addition to the annual and periodical reports in order to inform the state of equal opportunities in different sectors at the state level.** "National Equal Opportunity Status Report" refers to a report that may be prepared and published by the Commission in addition to the annual and periodical reports in order to inform the state of equal opportunities in different sectors at the national level.
- (p) "Notification" means a notification published in the official Gazette under the Act;
- (q) "Orders" – means orders issued by the Commission under Section 35 of the Act.

- (r) "Prescribed" means prescribed by rules made under this Act **which the appropriate government shall be bound to frame within a period of three months from the date of this Act coming into force;** "Prescribed" means prescribed by rules made under this Act;
- (s) "Public servant" shall have the meaning assigned to it in section 21 of the Indian Penal Code;
- (t) "Record" – means the official data or documents authenticated by an officer of the Commission designated for the purpose.
- (u) "Rules" – means the rules made by the Central Government under Section 46 or rules made by the Commission under Section 47 of the Act as applicable.
- (v) **"Settled in the region" shall mean the normal or usual residence of the person in the region in respect of which the appointment of a member is being considered.**

3. Interpretation

- (i) The equal opportunity provisions of Part III and Part IV of the Constitution including the statutes enacted there under shall inform and guide the interpretation of the provisions of the Act and the Rules.
- (ii) Words and phrases used in the Act or the Rules made under it shall be **interpreted** in the light of the general purposes of the Act and the statement of objects and reasons appended to the Act. Any matter not directly specified by the legislation but falling within the subject matter of the Act, shall be **interpreted** through recourse to the general purposes of the Act and the principles stated above. (word changed from) construed ~ dealt with
- (iii) **In respect of** words and phrases not **defined** in the Act the meaning provided for **those words** in related statutes in so far as they are relevant for the effective discharge of the functions under the Act, **shall be used**.

Definitions of words and phrases not given in the Act may be given in the meaning provided for in the related statutes in so far as they are relevant for the effective discharge of the functions under the Act.

- (iv) The principles enunciated in relevant international conventions, covenants or treaties acceded to **or ratified whether with reservations or otherwise** by India and relating to discrimination and equality of opportunity in so far as they have a bearing on the appreciation or understanding of the meaning or content of the provisions of the Act or for promoting the objects of the Act, shall be legitimate instruments in the interpretation of the Act. The principles enunciated in relevant international conventions, covenants or treaties acceded to by India and relating to discrimination and equality of opportunity in so far as they have a bearing on the appreciation or understanding of the meaning or content of the provisions of the Act or for promoting the objects of the Act, shall be legitimate instruments in the interpretation of the Act.

CHAPTER II

EQUAL OPPORTUNITY COMMISSION : STRUCTURE AND ORGANIZATION

4. Constitution of the Equal Opportunity Commission

- (i) The Central Government shall constitute a body **to be** known as the Equal Opportunity Commission to perform the functions assigned to it and exercise the powers conferred upon it under the Act.
- (ii) The Commission shall consist of a Chairperson, two full-time members and not more than four part-time members.
- (iii) The Chairpersons of the Regional Commissions shall be ex-officio members of the Commission.
- (iv) Two thirds of the total number of members of the Commission shall constitute the quorum for meetings.

Provided the total number of members shall be counted as seven till the Regional Commissions are duly constituted under the Act.

5. Appointment of Chairperson and other members

- (i) The Chairperson and Members shall be appointed by the President by warrant under her hand and seal.

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

- (a) The Prime Minister — Chairperson
- (b) Speaker of the House of the People — Member
- (c) Minister in-charge of the Ministry of Minority Affairs in the Government of India — Member
- (d) Leader of the Opposition in the House of the People — Member
- (e) Leader of the Opposition in the Council of States — Member
- (f) Deputy Chairman of the Council of States — Member

Provided that in constituting the Commission, every effort shall be made to give representation to persons from deprived groups.

And provided that at least two of the seven members of the Commission shall be women.

And provided that one of the two full-time members is an expert in social sciences research and public policy and the other full-time member is an expert in constitutional law and governance.

- (ii) The Chairperson **shall** be an eminent person distinguished in public service, not involved in party politics and possessing good understanding of the secular and egalitarian values of the Constitution.
- (iii) The Chairperson and Members shall not have completed 65 years of age at the time of appointment to the Commission and shall be in good health.

6. Removal of Chairperson and other members

- (i) The President may by order remove from office any Member including the Chairperson if such Member,
 - (a) becomes an undischarged insolvent; or
 - (b) gets convicted on a criminal charge **involving moral turpitude**; or
 - (c) refuses to act or becomes incapable of acting as a member.
- (ii) Provided that no person shall be removed under this clause until that person has been given reasonable opportunity to be heard in the matter.

7. Term of office of members

- (i) Every member including the Chairperson shall hold office for a period of five years.
- (ii) A member may by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be from membership at any time.
- (iii) A vacancy in the Commission arising from removal, resignation or otherwise shall be filled by fresh appointment not later than six months after such vacancy arises.

8. Member to discharge the Chairperson's functions in certain circumstances

- (i) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of her death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (ii) When the Chairperson is unable to discharge her functions owing to absence on leave or otherwise, one of the Members **as determined unanimously by the other members or, failing such consensus**, as the President may, by notification, authorise on her behalf, shall discharge the functions of the Chairperson until the Chairperson resumes her duties. In the event of the

occurrence of any vacancy in the office of the Chairperson by reason of her death, resignation or otherwise, the President may, by notification, authorise one of the Members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.

9. Conditions of service of Members

The salaries and allowances payable to, and other terms and conditions of service of the Members shall be such as may be prescribed.

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

10. Vacancies not to invalidate the proceedings

No act or proceedings of the Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of the Commission.

11. Procedure to be regulated by the Commission

- (i) The Commission shall meet at such time and place as it may decide.
- (ii) The Commission shall regulate its own procedure.
- (iii) All orders and decisions of the Commission shall be authenticated by such officer **as** it may designate in this behalf.

12. Officers and other staff of the Commission

- (i) The Central Government shall make available to the Commission such other officers as may be necessary for the effective functioning of the Commission.
- (ii) Subject to such rules as may be made by the Central Government in this behalf, the Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.

- (iii) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (ii) shall be such as may be prescribed. **Funding source ?**

CHAPTER III

REGIONAL EQUAL OPPORTUNITY COMMISSIONS

13. Establishment of Regional Commissions

- (i) The Central Government shall establish not later than 2 years after the establishment of the Commission, five Regional Commissions in consultation with the Commission to perform the functions assigned to it under the Act.
- (ii) The Regional Commissions shall consist of a Chairperson, two full-time Members and not more than four part-time Members.

14. Appointment of Chairperson and other members

- (i) The Chairperson and other Members shall be appointed by the President by warrant under her hand and seal.

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

- (a) The Prime Minister — Chairperson
- (b) Speaker of the House of the People — Member
- (c) Minister in-charge of the Ministry of Minority Affairs in the Government of India — Member
- (d) Leader of the Opposition in the House of the People — Member
- (e) Leader of the Opposition in the Council of States — Member
- (f) Deputy Chairman of the Council of States — Member

Provided that in constituting the Regional Commission, every effort shall be made to give representation to persons from deprived groups and persons settled in the region.

And provided that at least two of the seven members of the regional Commission shall be women.

And provided that one of the two full-time members is an expert in social sciences research and public policy and the other full-time Member an expert in Constitutional law and governance.

- (ii) The Chairperson **shall** be an eminent person distinguished in public service, not involved in party politics and possessing good understanding of secular and egalitarian values of the Constitution.
- (iii) The Chairperson and Members shall not have completed 62 years of age at the time of appointment to the regional commission and shall be in good health.

15. Removal of Chairperson and members

- (i) The President may by order remove from office any Member including the Chairperson if such Member,
 - (a) becomes an undischarged insolvent; or
 - (b) gets convicted on a criminal charge **involving moral turpitude**; or
 - (c) refuses to act or becomes incapable of acting as a member.
- (ii) Provided that no person shall be removed under this clause until that person has been given reasonable opportunity to be heard in the matter.

16. Term of office of members

- (i) Every member shall hold office for a period of five years.
- (ii) A member including the Chairperson may by writing and addressed to the Central Government, resign from the office of Chairperson or, as the case may be, from membership at any time.

- (iii) A vacancy arising from removal, resignation or otherwise shall be filled by fresh appointment not later than six months after such vacancy arises.

17. Member to discharge the Chairperson's functions in certain circumstances

- (i) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of her death, resignation or otherwise, the President may, by notification, authorise one of the members to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (ii) When the Chairperson is unable to discharge her functions owing to absence on leave or otherwise, one of the Members **as determined unanimously by the other members or, failing such consensus,** as the President may, by notification, authorise on her behalf, shall discharge the functions of the Chairperson until the Chairperson resumes her duties. When the Chairperson is unable to discharge her functions owing to absence on leave or otherwise, one of the Members as the President may, by notification, authorise on her behalf, shall discharge the functions of the Chairperson until the Chairperson resumes her duties.

18. Conditions of service of Members

The salaries and allowances payable to, and other terms and conditions of service of the members shall be such as may be prescribed. Provided that neither the salary and allowances nor the other terms and conditions of service of a Member shall be varied to her disadvantage after her appointment.

19. Vacancies not to invalidate the proceedings

No act or proceedings of the Regional Commission shall be questioned or shall be invalidated merely on the ground of existence of any vacancy or defect in the constitution of such Commission.

20. Procedure to be regulated by the Regional Commissions

- (i) The Regional Commission shall meet at such time and place as it may decide.
- (ii) The Regional Commission shall regulate its own procedure subject to the directions of the National Commission. **In the event of any inconsistency between the procedure prescribed by the National Commission and a Regional Commission, the procedure prescribed by the National Commission shall prevail if it pertains to a mandatory provision under that procedure.** The Regional Commission shall regulate its own procedure subject to the directions of the National Commission.
- (iii) All orders and decisions of the Regional Commission shall be authenticated by such officer **as** it may designate in this behalf.

21. Officers and other staff of the Regional Commissions

- (i) The Central Government shall make available to the Regional Commission such other officers as may be necessary for the effective functioning of the Regional Commission.
- (ii) Subject to such rules as may be made by the Central Government in this behalf, the Regional Commission may appoint such other administrative, technical and scientific staff as it may consider necessary.
- (iii) The salaries, allowances and conditions of service of the officers and other staff appointed under sub-section (ii) shall be such as may be prescribed. **Funding source ?**

CHAPTER-IV

JURISDICTION, FUNCTIONS AND POWERS

22. Jurisdiction

- (i) The jurisdiction of the Commission extends to all "deprived groups" who have been denied or who claim to have been denied equal opportunities by government,

public and private bodies, and in particular with reference to:

- (a) Access to employment including self-employment and conditions thereof.
 - (b) Access to education including primary, secondary, tertiary, special education, professional and vocational, and conditions thereof.
 - (c) Such other areas **including but not restricted to residence facilities and entitlements** which the appropriate Government may decide and request the Commission to include in its jurisdiction.
- (ii) The Commission may assume jurisdiction on any of the above *suo motu* or on any complaint or representation by an individual or a group or by reference to it by the Central or State Government or a statutory body under government or by a competent Court seized of the matter.

Provided in the case of complaint from an individual the complaint manifests a group dimension, that is to say that it is not an isolated incident affecting one individual and is a practice that may constitute discrimination or denial of equality of opportunity.

- (iii) The jurisdiction of the Regional Commissions shall extend to such groups and areas as may be assigned to them by the Commission.
- (iv) **Notwithstanding that one or more Regional Commission shall be in *seisin* of a matter, it shall be competent for the National Commission to take cognizance and either issue directions in respect of the same to the Regional Commission/s, which directions Regional Commission/s shall be bound to follow, or to transfer to itself such matter and assume charge of the proceedings. In such cases it may resume proceedings from the stage at which they were before the Regional Commission/s or may commence proceedings afresh.**

23. Functions

- (a) Deprived groups are entitled to seek remedial action from the appropriate government and it is the function of the Commission to assist such groups in securing equal opportunities through suitable schemes or legislation.
- (b) The specific functions of the Commission *inter alia*, include the following:
 - (i) To work towards ensuring the elimination of all forms of discrimination and denial of equal opportunities in all walks of life.
 - (ii) To investigate practices/presence of inequality of opportunities particularly in education and employment **etc.**, and propose remedial measures.
 - (iii) To evaluate the attainment **and/or denial or deprivation** of equal opportunities and the obstacles to attainment of equality of opportunities among deprived groups **and/or the causes for such denial or deprivation** for different groups of people.
To evaluate the attainment of equal opportunities and the obstacles to such attainment for different groups of people
 - (iv) To inquire and investigate into specific complaints of denial **and/or deprivation** of equal opportunity.
 - (v) To mediate, conciliate and settle disputes relating to discrimination and the denial **and/or deprivation** of equal opportunities in any establishment or enterprise, public or private.
 - (vi) To intervene, initiate and support judicial proceedings wherever found appropriate in matters involving discrimination or denial **and/or deprivation** of equal opportunities.
 - (vii) Conduct public inquiries or hearings in matters of denial **and/or deprivation** of equal opportunities and to ask the party **considered responsible to**

cause or effect changes, to take remedial measures within a specified period **and report compliance within such time as may be prescribed** . Conduct public inquiries or hearings in matters of denial of equal opportunities and to ask the party concerned to take remedial measures within a specified period.

- (viii) To conduct Equal Opportunity Audit in public and private enterprises, Government departments and other institutions and to invite their attention to shortcomings, deficiencies or other factors affecting the equality of opportunities and to require them to draw up action programmes for ensuring equal opportunities.
- (ix) To undertake research, collection of data, information and materials relating to deprived groups either by itself or through the census or any other accredited source (public or private) and engage in its dissemination so as to promote an evidence based understanding of the equal opportunity situation in different sectors.
- (x) To evolve "equal opportunity practice codes" for the promotion of understanding and acceptance of equal opportunity practices in Government, public and private enterprises and institutions.
- (xi) To report to Government on its own or when so requested as to the laws that should be made or programmes of action to be undertaken to promote equal opportunity for weaker sections generally and deprived groups in particular.
- (xii) To examine enactments and proposed enactments (when so requested by a department/ministry of the government) to **evaluate** its impact on equality of opportunity in education or employment **etc.,** and to report to the Ministry the results of such examination.
- (xiii) To direct the appropriate Government or authority to take action including prosecutions or the imposition of civil sanctions or penalties on persons

in authority **found** to be acting in a manner prejudicial to the orders and directives made by the Commission.

- (xiv) To study the reports of other commissions at the central and state level and **such other documents as the Commission deems proper, and** which have a bearing on the promotion of equality of opportunity and strive towards an integrated approach on promotion of equality in policy development and programme implementation.
 - (xv) To interact with institutions of local government and to advise them towards adoption of measures to eliminate discriminatory practices leading **or likely to lead to denial or deprivation** of equal opportunities at the level of Panchayats and Municipalities, **etc.**
 - (xvi) To prepare annual and periodical performance reports and the National Equal Opportunity Status Report if and when considered necessary.
 - (xvii) To perform such other functions as it may find appropriate for **achieving the realisation of** complete equality of opportunities to all sections of people as mandated by the Directive Principles of State Policy in Part IV of the Constitution.
 - (xviii) Any other matters which are incidental and ancillary to the above functions, and which will facilitate the discharge of such functions.
- (c) The functions of the regional Commissions shall be as may be prescribed by the Commission within the framework stipulated in clauses (a) **and (b)** above.

24. Powers relating to Inquiries

- (i) While inquiring into complaints under the Act **or conducting proceedings suo motu**, the Commission shall have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908, and in particular enjoy the following powers, namely;

- a) summoning and enforcing the attendance of **parties and** witnesses and examining them on oath;
 - b) **securing** discovery and production of any document;
 - c) receiving evidence on affidavits;
 - d) requisitioning any public record or copy thereof from any court or office;
 - e) issuing commissions for the examination of witnesses or documents **or building complexes**;
 - f) any other matter which may be prescribed.
- (ii) The Commission shall have the 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 points or matters as, in the opinion of the Commission, may be useful for, or relevant to, the subject matter of 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.
- (iii) The Commission or any other officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the Commission may enter any building or place where the Commission has reason to believe that any document **and/or information** relating to the subject matter of the inquiry may be found, and may procure any such document **and/or information** or take extracts or copies therefrom subject to the provisions of Section 100 of the Code of Criminal Procedure, 1973, in so far as it may be applicable, **or prepare a record of such information in such form as such officer deems suitable.**
- (iv) The Commission shall be deemed to be a civil court and when any offence **including** as is described in Section 175, Section 178, Section 179 or Section 180 of the Indian Penal Code is committed in the view or presence of the Commission, the Commission 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 having

jurisdiction to try the same and the Magistrate 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 of the Code of Criminal Procedure, 1973.

25. Powers of Investigation

- (i) The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilise 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.
- (ii) For the purpose of investigating into any matter pertaining to the inquiry, any officer or agency whose services are utilised under sub-section (i) may, subject to the direction and control of the Commission :
 - (a) summon and enforce the attendance of any person and examine him;
 - (b) require the discovery and production of any document **and/or information**; and
 - (c) requisition any public record or copy thereof from any office.
- (iii) The provisions of Section 28 of the Act shall apply in relation to any statement made by a person before any officer or agency whose services are utilized under sub-section (i) as they apply in relation to any statement made by a person in the course of giving evidence before the Commission.
- (iv) The officer or agency whose services are utilised under sub-section (i) shall investigate into any matter pertaining to the inquiry and submit a report thereon to the Commission within such period as may be specified by the Commission in this behalf **for which purpose such officer shall exercise such powers as may be delegated to him for the same or as would be reasonably required for the effective performance of such functions, including securing the assistance of persons qualified to assist him and**

whose assistance would better enable him to discharge such functions.

- (v) The Commission 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 (iii) and for this purpose, the Commission may make such inquiry (including the examination of the person or persons who conducted or assisted in the investigation) as it thinks fit.
- (vi) **Such reports shall be published in such places including the areas of investigation as well as at such other places as the Commission may consider proper to induce the prevention of denial and/or deprivation of equal opportunity.**

26. Power to provide legal assistance

- (i) In all cases where the complainant is eligible for legal aid, the Commission can order provision of appropriate legal aid as available under the Legal Services Authority Act 1987.
- (ii) In special cases, if the Commission so desires to have professional expertise to assist in its proceedings, it may appoint *amicus curiae* or engage legal counsel on such terms as it deems fit.

27. Powers to Demand Information and to Inspect Records and Premises

In addition to the powers to carry out inquiries and investigations under Sections 24 and 25, the Commission is empowered to issue orders and directions to demand information **and/or documents** and to inspect the premises of Government bodies, public and private enterprises and of autonomous institutions to **facilitate the discharge of its functions** under Section 23. **Such demands shall be complied with as soon as possible notwithstanding any objection that may be available to the addressee, who shall comply recording such objection which shall be considered by the Commission and dealt with as it deems proper. If the Commission concludes that the**

objection is sustainable it shall seal and return the documents and information to the sender recording that it is scrutinised the claim for privilege or other objection and sustains the same.

28. Statements made before the Commission are protected

No statement made by a person in the course of giving evidence before the Commission shall subject him to, or be used against him in any civil or criminal proceeding, except a prosecution for giving false evidence by such statement:

Provided that the statement —

- (a) is made in reply to the question which he is required by the Commission to answer; or
- (b) is relevant to the subject matter of the inquiry.

29. Persons likely to be prejudicially affected to be heard

If, at any stage of the inquiry, the Commission-

- (a) considers it necessary to inquire into the conduct of any person; or
- (b) is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;

it shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.

Provided that nothing in this section shall apply where the credit of a witness is being impeached.

CHAPTER VI

PROCEDURE FOR INVESTIGATION, INQUIRY AND REVIEW

30. General and Special (named person or entity) Investigations

- (1) (a) The Commission may *suo motu* decide to conduct a formal investigation in matters of attainment **and/or denial or deprivation** of equal opportunities for the purpose of any of its functions under Section 23.
- (b) The Commission shall conduct a formal investigation in matters relating to equal opportunities if requested to do so by the Central or State Governments.
- (c) The terms of reference for the investigation shall be drawn up by the Commission or, if the Commission is required by the Central or State Government to conduct the investigation, by the appropriate Government after consulting the Commission.
- (d) The Commission shall give notice of the holding of the general investigation, but if the investigation is confined to the activities of certain persons, then the Commission shall give notice to such persons **and to a section (representative in the opinion of the commission) of such persons who are believed to be or have been adversely affected by the activities of such persons.**
- (e) Where the Commission is of the opinion that certain persons have engaged or are engaging in **one or more** acts that are contrary to the object of the Act, it can conduct a special investigation and shall:
 - i) inform that person of its opinion and of its proposal to investigate the acts in question; and
 - ii) offer her an opportunity of making oral or written representations; and a person so named who avails of the opportunity of making oral representations may be represented by Counsel or by some other person of her choice.

- (f) The Commission may at any time decide to stop or suspend investigations under this section. In case of investigations directed by the Central or State Governments, then any decision to stop or suspend investigations may be done in consultation with the appropriate Government.
 - (g) For the purposes of an investigation under the Act, the Commission may:
 - i) Nominate one or more commissioners to conduct the investigation on its behalf; and
 - ii) Authorise the commissioner to exercise such of its functions in relation to the investigation as it may determine **for which purpose such officer shall exercise such powers as may be delegated to him for the same or as would be reasonably required for the effective performance of such functions, including securing the assistance of persons qualified to assist him and whose assistance would better enable him to discharge such functions.**
 - (h) The Commission or, if the Commission were required by the Central or State Government to conduct the investigation, the appropriate Government, after consulting the Commission may from time to time revise **or modify or expand** the terms of reference.
- (2) For the purposes of an investigation under sub section (1), the Commission by a notice in the prescribed form served on her in the prescribed manner:
- (a) may require any person to attend at such time and place as is specified in the notice and give oral information about, and produce all documents in her possession or control relating to, any matter specified in the notice.
 - (b) If a person fails to comply with a notice served on **her** under clause (a) or the Commission has

reasonable cause to believe that she intends not to comply with it, the Commission may apply to an appropriate authority for an order requiring her to comply with it. **Such authority shall issue the orders sought for as soon as may be practicable but not later than two weeks from the date of receipt of such application.**

31. Inquiry into Complaints

The Commission while inquiring into the complaints of discrimination or denial of equal opportunity may-

- (i) call for information, **documents and/**or report from the Central Government or any State Government or any other person or organisation subordinate thereto within such time as may be specified by it;

Provided that-

- (a) if the information, **documents and/**or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own **and may, if it deems fit, draw an adverse inference against the addressee or authority not complying with such request; provided that if an application is made by such addressee for extension of time specifying reasons which in the opinion of the Commission are reasonable for non-compliance with the direction within the time stated, the Commission shall be entitled to extend the time for further periods of a week, not exceeding four weeks in the aggregate;**
- (b) if, on receipt of information, **documents and/**or report, the Commission 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, **that an inquiry would be appropriate**, the Commission may initiate an inquiry.

32. Processing of Complaints

- (i) Whenever a complaint is filed by or on behalf of a group claiming to be aggrieved alleging denial **and/or deprivation** of equal opportunity, the Commission shall serve a notice of the complaint (including the date, place and circumstances of the alleged unlawful employment practice) on such employer or educational institution within 30 days from the date of filing of the complaint.
- (ii) Complaints shall be in writing under oath or affirmation and shall contain such information and be in such form as may be prescribed by the Commission.
- (iii) The Commission may maintain confidentiality of the proceedings as it deems fit.
- (iv) While investigating a complaint, the Commission may make written requests for **production of information and/or documents and/or** interview people, review documents and as needed, visit the premises where the alleged discrimination occurred.
- (v) If the Commission determines after such investigation that there is no reasonable cause to believe that the complaint is true, or that the complaint does not reveal group discrimination, it shall dismiss the complaint and immediately notify the person and the respondent of its decision.
- (vi) If the Commission determines that there is reasonable cause to believe that the complaint is true, it shall endeavour to eliminate any such alleged discriminatory practice by informal methods of mediation and conciliation.
- (vii) The Commission shall make its determination on reasonable cause not later than 90 days from the filing of the complaint. **If within 90 days such determination**

is not reached it shall be deemed that such allegation has substance that requires investigation and an inquiry as provided in this Act shall follow.

- (viii) If within 90 days after a complaint has been filed with the Commission, **or 90 days from such deeming provision as in the preceding clause becoming operative, the Commission** has been unable to secure a conciliation agreement that is acceptable, it may proceed to dispose of the matter according to law.
- (ix) If the Commission decides to intervene for conciliatory settlements, it may either do so by itself or adopt such courses of action as prescribed under S. 89 of the Code of Civil Procedure.
- (x) Where the Commission carries out conciliation by itself, and the respondent does not abide by the conciliatory settlements, the Commission may proceed to enforce such settlements, **which shall have the status of enforceable arbitral awards**, according to law, including imposition of costs and penalties. **Such deemed awards shall be enforced by execution process in the highest court of civil original jurisdiction in any District within which the respondent's office is situate, or its principal functionaries function from or reside in.**

33. Public Participation and Civil Society Involvement

- (i) The Commission can recognize any Civil Society organizations found credible to act as its partners in the discharge of its functions and authorize them to file complaints after verifying facts. **For such verification in specific cases the Commission may delegate specific limited powers to such** In this regard it may accept a media report for initiating action in appropriate cases.
- (ii) The Commission may set up Facilitation Centres involving respectable Members of the locality to disseminate equal opportunity and non-discrimination norms and standards or recognize existing organizations for this purpose. **Such**

persons shall function subject to such rules or norms as the Commission may settle, and at the pleasure of the Commission.

34. Disclosure of Information

- (i) No information given to the Commission by any person in connection with an investigation shall be disclosed by the Commission, except:
- a) on the order of any court
 - b) with the informant's consent
 - c) in the form of a summary or other general statement published by the Commission which does not identify the informant or any other person to whom the information relates.
 - d) in a report of the investigation published by the Commission or made available for inspection.
 - e) to the Commissioners, additional Commissioners or employees of the Commission, or, so far as may be necessary for the proper performance of the functions of the Commission, to other persons.
 - f) for the purpose of any judicial proceedings under this Act to which the Commission are a party.

Impact of Right to Information Act ?

- (ii) In preparing any report for publication or for inspection the Commission **may** exclude, so far as is consistent with **its** duties and the object of the report, any matter which relates to the private affairs of any individual or the business interests of any person where the publication of that matter might, in the opinion of the Commission, prejudicially affect that individual or person **if in the opinion of the Commission the said prejudice outweighs the advantage to be had by such matter being included in such publication.**

35. Review of proposed legislations and Schemes

The Commission may *suo motu* or on request by any person or groups aggrieved take up for consideration any legislative proposal or scheme of the Central or State Government which has or is **in the opinion of the Commission** likely to have an adverse impact on equal

opportunities for some groups and if it finds necessary, propose to the appropriate Government such measures which, in the opinion of the commission will promote equality of opportunity in matters covered by such legislation or scheme. **The Government shall publish the same and take such steps as would be appropriate to achieve the objective intended by such proposals.**

CHAPTER VII

ORDERS, DIRECTIVES AND THEIR ENFORCEMENT

36. Actions to enforce compliance of orders:

- (1) If the Commission finds that the party against whom a complaint has been made has intentionally engaged in or is continuing to engage in, discriminatory practices and denial **or/deprivation** of equal opportunity, it may:
 - a) provide a copy of the inquiry report to such party or her representative asking to explain or justify the conduct found to be discriminatory **and if none is satisfactorily forthcoming to state the verifiable procedures it proposes to adopt to ensure non-recurrence;**
 - b) enjoin such party to refrain from engaging in such practices and order appropriate action which may deem suitable;
 - c) recommend to the concerned Government or authority the initiation of appropriate proceedings as the Commission may deem fit against the party or parties **and set out in such recommendation the format, content or otherwise of such proceedings;**
 - d) approach the Supreme Court or the High Court concerned seeking such directions, orders or writs as that Court may deem necessary.
- (2) The Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, as well as the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission **and if no action is taken, cite the said Government or**

authority as not having taken any action on such inquiry report.

- (3) If the Commission finds that the party against whom the complaint has been made unintentionally and without knowledge engaged in discriminatory practices, it may make, *inter alia*, one of the following orders as it considers just and equitable:
- (a) Require such party to:
 - (i) propose an adequate action plan within a specified period with a view to attaining equal opportunities in his enterprise;
 - (ii) once an action plan proposed by **him** has become final, to take action thereunder within a specified period;
 - (b) **Order** the party to compensate costs.

37. Commission to employ incentives to promote equal opportunity practices

It shall be the endeavour of the Commission to make equal opportunity and non-discrimination a normal practice of every enterprise as envisaged by the Constitution not only in public services but also in the non-state sector as well. For this, the Commission may adopt a two-fold approach of incentives and disincentives factored into an Equal Opportunity Practices Code prepared sector-wise or, if necessary, sub-sector wise, in activities taken up by the Commission.

38. Good Practices Code and Voluntary Compliance

- (a) "A Good Practices Code" is what the Commission may issue with information already available in particular sectors, supported or verified by such inquiries/investigations/consultations it might wish to conduct before issuing such codes so that the parties likely to be affected may have notice of it.
- (b) "A Good Practices Code" shall apply to all enterprises in the relevant sector; it might involve not only obligations of good practice as prescribed, but also duty to document

and notify such information as prescribed by the Commission.

- (c) The compliance with good practices under the Code will remain entirely voluntary and enterprises may explain in their submission/explanation why they are not able to comply with all or any of them.
- (d) On the basis of such experiential evidence, the Commission may revise the "Good Practices Code" for particular sectors if found necessary.
- (e) It is open to the Commission to recommend to the appropriate government to recognize such enterprises which keep a consistent record of following the prescribed codes of practices by giving such incentives as may be permissible under the existing law **or to discourage the violation of prescribed code of practices by withdrawing incentives or imposing disincentive forming regulatory regimes on such enterprises, to guide such enterprises towards adopting such prescribed code of practices. To achieve this the Commission shall be entitled to recommend to the appropriate government the modifications if any as are in its opinion required in the existing law to make it more compatible with the achieving of objectives under this Act, such as but not restricted to making the continuance of subsidies, exemptions, tax holidays and the like conditional on enterprises adopting such prescribed code of practices and adhering to the same, the raising of taxable income limits for those enterprises that voluntarily disclose and publish the equal opportunity situation in their organisations and the reverse for those that decline to.**

39. Equal Opportunity Practices Code:

- (a) Within two years after the establishment of the Commission, the Commission shall formulate and notify "Equal Opportunity Practices Code" in as many sectors as possible after analyzing the data on the question, looking at the experience gained in implementing the Good Practices Codes and after consulting the stakeholders

involved, particularly the appropriate State/Central Government **including such persons who the Commission feels would be able to play a contributory role in such effort.**

- (b) "The Equal Opportunity Practices Code" **shall be** binding law in the same way as the "Standing Orders" are binding on establishments under the Industrial Disputes Act, though the methods of its enforcement in case of violation will be as prescribed under the Act/Rules **unless the Code in specific cases requires the resort to such other procedure as stands prescribed under that Act if in the opinion of the Commission such other procedure is more effective..**
- (c) It shall be the duty of every enterprise identified in the Equal Opportunity Practices Code to organize its affairs within two years of notification of such a code in such manner as it thinks fit to fully conform to the provision of the Equal Opportunity Practices Code. During this grace period if it finds any practical problems, the Commission's advice may be extended to overcome them if sought by any enterprise. The consequences of infringement of the Code will follow only after the two year grace period.
- (d) On the basis of experiential evidence gathered or research conducted during the above two year period, the Commission thinks it necessary to revise and notify the "Equal Opportunity Practices Code" it may do so in such sectors as found necessary.

40. Dealing with Infringement of Equal Opportunity Practices Code

Infringement of the Code after the grace period by any enterprise may invite one or more of the following consequences:

- (i) A notice will be issued to the defaulting enterprise and after due hearing and investigation, the Commission may issue such orders within its power which include compensation, denial of privileges, blacklisting or a civil, criminal or constitutional action in Court.

- (ii) In all such proceedings the burden of proving infringement shall vest in the Commission
- (iii) Before passing the orders under (i) above, it may ask a duly authorized officer to try and conciliate/mediate a settlement under such conditions **or on such terms as** the Commission may decide.
- (iv) Recommend to the Governments as well as Public and Private authorities to impose such sanctions that **violators of the equal opportunity mandate and/or the equal opportunity practices code** may find it socially and economically **non-viable** to be in public **or commercial** activities without conforming to Constitutional requirements of equality, **including by the denial of invitations to public functions and/or denial or regulation of subscription and/or advertisements in the case of media organisations, and so on as appropriate to each sector/sub-sector.**
- (v) In any proceedings under the Act before a Court or tribunal, the Equal Opportunity Practices Code issued under this section shall be admissible in evidence and if such court or tribunal finds it relevant to any question before it, it shall be open to the court or tribunal to decide such question accordingly **provided however that if any High Court or the Supreme Court or any judicial authority is deciding any question referable to the validity or enforceability of any of the provisions of this Act or orders made under the Act or under the rules made thereunder, it shall be mandatory for it to issue notice to the Commission and afford it an opportunity to participate in such proceedings, in the absence of which on the application of the Commission to such Court or judicial authority within three months of the Commission coming to know of such orders in such proceedings, the Court or judicial**

authority shall declare the orders issued in such proceeding, as void, and deal with the matter afresh affording such opportunity to the Commission. .

CHAPTER VII

FINANCE, ACCOUNTS AND AUDIT

41. Grants by the Central Government

- (i) The Central Government shall after due appropriation made by Parliament by law in this behalf, pay to the Commission by way of grants such sums of money as the Central Government may find appropriate for being utilised for the purposes of the Act.
- (ii) The Commission may spend such sums as it decides appropriate for performing the functions under this Act, and such sums shall be treated as expenditure payable out of the grants referred to in sub-section (1).

42. Accounts and its maintenance

The Commission shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed by the Central Government in consultation with the Comptroller and Auditor-General of India.

43. Audit of Accounts and Follow up:

- (i) The Accounts of the Commission shall be audited by the Comptroller and Auditor-General at such intervals as may be specified by her and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General.
- (ii) The Comptroller and Auditor-General or any person appointed by her in connection with the audit of the accounts of the Commission shall have the same rights, privileges and the authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in

particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission.

- (iii) The accounts of the Commission as certified by the Comptroller and Auditor-General or any other person appointed by her in this behalf, together with the audit report thereon shall be forwarded only to the Central Government by the Commission and the Central Government shall cause the audit report to be laid as soon as may be after it is received before each House of Parliament.

CHAPTER VIII

ANNUAL AND SPECIAL REPORTS

44. Annual Performance and Audit Report

- (i) The Commission shall present a comprehensive report on its working to Parliament annually along with the audited statement of accounts.

Provided that if the Commission finds necessary, it may submit other reports to Parliament on issues of relevance to the issue of equality of opportunity for deprived groups.

- (ii) The annual and periodical reports put out by the Commission shall contain detailed analysis of the state of equal opportunity in identified sectors which the Commission would have taken up during the period identifying areas where policy changes or governmental action would be necessary.

CHAPTER IX

MISCELLANEOUS PROVISIONS

45. Protection of action taken in good faith

No suit or other legal proceeding shall lie against the Central Government, State Government, Commission, the

Regional Commission or any member thereof or any person acting under the direction either of the Central Government, State Government, Commission or the Regional Commission in respect of anything which is done in good faith or intended to be done in pursuance of this Act or of any rules or any order made thereunder or in respect of the publication by or under the authority of the Central Government, State Government, Commission or the Regional Commission of any report or other proceedings.

46. Members and officers to be public servants

Every Member of the Commission, Regional Commission and every officer appointed or authorised by the Commission or the Regional Commission to exercise functions under the Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

47. Power of Central Government to make rules

- (i) The Central Government may, by notification, make rules to carry out the provisions of this Act.
- (ii) 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 under Sections 9 and 18;
 - (b) the conditions subject to which other administrative, technical and scientific staff may be appointed by the Commission and the salaries and allowances of officers and other staff under sections 12 and 21;
 - (c) the form in which the annual statement of accounts is to be prepared by the Commission under section 38;
 - (d) the maintenance of accounts under Section 42; and
 - (e) any other matter which has to be, or may be, prescribed at the level of the Central Government.

- (iii) Every rule made under this Act shall be laid before each House of Parliament within a total period of hundred days. If both Houses agree on any modifications to the rule or agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or not have any effect, as the case may be.

48. Power of the Commission to make Rules

- (i) The Commission is empowered to make such rules and regulations as it may deem necessary for the effective implementation of the Act.
- (ii) All such rules made by the Commission may be sent to the appropriate Government and if the Government concerned suggest any changes, the Commission shall consider them for incorporation.

STATEMENT OF OBJECTS AND REASONS

Equality is not only a guaranteed fundamental right but is one of the cherished values of the Freedom Movement. Equality has many dimensions, some integral to civil liberties and non-arbitrary behaviour, while others concern equal opportunity to access resources and exercise freedom of choice. Largely speaking, one set of equality rights relates to equality before law and non-discrimination based on caste, religion etc., and the other talks about developing a level playing field through affirmative action in favour of disadvantaged groups. The Indian Constitution provides for both these dimensions of equality, some through the guaranteed rights in Articles 14 to 18 of Part III and others through Directive Principles for State action in Part IV. Unless every person is provided equal opportunity for access to public assets and **opportunities and** sharing of fruits of development, disparities will grow taking away even the existing capacity of already impoverished persons to avail of opportunities provided by development. It is in this context, an Equal Opportunity Commission is found necessary to enable inclusive growth fulfilling the goals of social justice incorporated in the Directives Principles.

It is noticed that even after 60 years of freedom, persons belonging to the lowest strata of society are over-represented in low-paying, unskilled occupations while very few of them are found in highly paid professional jobs despite the reservations already granted in education and employment. Discriminatory practices reportedly continue to exist in education, employment, housing and other areas where women, dalits, tribals, disabled persons minorities and other “deprived sections” are denied of equal opportunity. They are handicapped **in seeking** remedies because of insufficient data available in public domain in different sectors of society and of the economy **and the absence of regulatory and watchdog agencies and enforcement mechanisms that can bring about equality**. It is this data deficit and consequent disempowerment that the proposed Equal Opportunity Commission is expected to address. The Commission by gathering facts and undertaking investigation in sectors where discrimination is pronounced **or prevalent** endeavour to remedy the problem through appropriate interventions and evidence-based advocacy on behalf of deprived groups. It will have to power to negotiate and settle at the enterprise level, to initiate legal action if practices are not corrected within reasonable time, to prescribe equal opportunity practices and recommend incentives and disincentives to promote the objectives of equal opportunity for the deprived **groups** in public **and private sector** services and resources.

The functions of the proposed Commission are not specifically in the domain of any of the existing Commissions though some of them share common objectives. In some countries the Commission on Human Rights and Equal Opportunity is a joint one. The size and complexity of issues in a vast country like India would warrant specialized agencies to promote the Constitutional goals particularly on behalf of deprived and disadvantaged sections of people. This is the mandate of the Constitution and the State has positive obligations in this regard. It is this obligation as envisaged in the Preamble in the Bill that is intended to be addressed by the Equal Opportunity Commission. While individual discrimination is remedied at the level of Supreme Court and High Courts, there is no effective method to address group discrimination and denial **and/or deprivation** of equal opportunity to disadvantaged sections. The Equal Opportunity Commission

will address such issues on behalf of the disadvantaged sections for remedial action initially in areas of education and employment and eventually in other sectors as well.

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