



# LEGAL AID HANDBOOK

## VOLUME 1 2022



PAN INDIA LEGAL LITERACY AND  
LEGAL AWARENESS



# **LEGAL AID HANDBOOK**

## **VOLUME 1 2022**

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**DEPARTMENT OF JUSTICE, MINISTRY OF LAW AND  
JUSTICE, GOVERNMENT OF INDIA**



**NATIONAL LAW SCHOOL OF INDIA UNIVERSITY,  
BENGALURU**



**CENTRE FOR ENVIRONMENTAL LAW,  
EDUCATION, RESEARCH AND ADVOCACY**

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## TABLE OF CONTENTS

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<i>CEERA Vision Statement</i> .....	v
<i>Foreword</i> .....	vii
<i>Preface</i> .....	ix
1. Consumer Protection .....	1
2. Copyright Protection .....	4
3. Cyber Bullying .....	11
4. Dowry Harassment.....	16
5. Farmer's Rights (PPVFRRA) .....	21
6. Fishermen's Rights .....	28
7. Fundamental Duties of a Citizen .....	34
8. Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA, 2005) .....	39
9. Maternity Benefit.....	46
10. Medical Termination of Pregnancy .....	50
11. Motor Vehicles Accidents.....	53
12. Narcotic Drugs and Psychotropic Substances .....	60
13. National Green Tribunal .....	63
14. People's Biodiversity Register .....	66
15. Plastic Waste Management.....	70
16. Power of Attorney .....	73
17. Prevention of Cruelty to Animals.....	75
18. Protection of Children from Sexual Offences .....	80
19. Right to Education.....	84
20. Right to Information.....	88
21. Right to Legal Aid .....	94



22. Rights of Persons with Disabilities .....	99
23. Rights of Workers.....	105
24. Senior Citizens' Rights .....	111
25. Rights of Street Vendors.....	116
26. Succession Certificate.....	119
27. Surrogacy.....	121
28. Traffic Rules and Regulations .....	126
29. Roles and Responsibilities of Urban Local Bodies in Waste Management .....	129
30. Victim Compensation Scheme .....	132
31. Women's Safety.....	136
Annex 1 .....	141



CENTRE FOR ENVIRONMENTAL LAW, EDUCATION, RESEARCH & ADVOCACY (CEERA),

NATIONAL LAW SCHOOL OF INDIA UNIVERSITY (NLSIU), BENGALURU

**PAN INDIA LEGAL LITERACY AND LEGAL AWARENESS PROGRAMME**

**VISION STATEMENT**

The vision of CEERA on Legal Literacy and Legal Awareness encapsulates:

- I. To progressively raise awareness of the duties of the Indian citizens under the Constitution and the legal system.
- II. To empower, sensitize and assist citizens to recognise a problem or a conflict as a legal dispute and to analyse the legal solutions available.
- III. To strengthen and support access to legal aid and pro bono lawyering.
- IV. To facilitate access to legal information and legal learning in a simplistic and holistic manner.
- V. To bridge asymmetry in access to legal information, knowledge, and legal assistance.
- VI. To raise faith in the justice delivery mechanism and to encourage participation in the legal system.
- VII. To develop the capacity for utilisation of preventive, promotive, and rehabilitative legal measures to protect the violation of rights.
- VIII. To create opportunities for revitalising legal aid clinics in order to raise their level of engagement with the public.
- IX. To strengthen legal aid clinics by entrusting law students with the responsibility of raising legal awareness.
- X. To accommodate paralegals in the system of rendering legal justice.
- XI. To spread constitutional values and ethos of respecting diversity, promoting inclusion, brotherhood, and social responsibility by innovative engagement.
- XII. To improve availability and accessibility of information by building an innovative and interactive repository of legal literacy material.





Niraj Kumar Gayagi  
Joint Secretary



## FOREWORD

The right to Legal Aid is a fundamental right implicit under Article 21 of the Constitution of India. In the words of Justice P.N. Bhagwati, *"It is an arrangement to have easy access to the justice delivery system for the poor and illiterate people, so that ignorance and poverty do not stop them from seeking justice."* Over the years, India has taken significant steps to implement this right, such as the enactment of the Legal Services Authorities Act, 1987, the establishment of Legal Authorities at the National, State, District & Taluk Level, and the organization of Lok Adalats, and establishment of Legal Aid Clinics in law schools across the country. Further, the Department of Justice has collaborated with Centre for Environmental Law, Education, Research and Advocacy (CEERA), National Law School of India University (NLSIU), Bengaluru, Karnataka to strengthen Pan India Legal Literacy and Legal Awareness Programme, Tele-Law Programme and Pro-Bono Lawyering. The work done by CEERA-NLSIU has been instrumental in securing the constitutional mandate of building a just society. However, there remains challenges in the path of effective implementation of legal aid services for poor and disadvantages.

The *Legal Aid Handbook Vol. I 2022*, published jointly by the Department of Justice, Ministry of Law and Justice, Government of India and CEERA-NLSIU, is an attempt to strengthen national efforts in securing the right to legal aid. With twin objectives, firstly, it intends to raise legal education and legal awareness among the common man by providing legal information in simple language so that it can be comprehended by an average citizen easily. Secondly, it aims to serve as a ready reckoner for Legal Aid Clinics, Legal Aid Lawyers and Para Legal Volunteers in order to assist them in their roles and discharge their duties.

To achieve these goals, the book is purposefully equipped with Frequently Asked Questions on various intricacies of law delving into a wide range of topics relevant to the common man, such as Fundamental Rights, Fundamental Duties, Right to Education, Rights of women, children and senior citizens, domestic violence etc. It also covers beneficial and welfare schemes of the Government such as MGNREGA, Pradhan Mantri Awas Yojna, National Social Assistance Programme etc. This book seeks to provide vital information that will help the reader in exercising these rights and taking benefits of the law and policy framework in India. To this end, each chapter of the book covers three fundamental aspects, namely (i) what is the right, (ii) how to exercise that right, and (iii) whom to seek assistance in exercising that right.

This is a laudable initiative by the teams at DoJ and CEERA-NLSIU. I wish Prof. Bhat all the best and hope that this book succeeds in its endeavour.

*nyayaji*

(Niraj Kumar Gayagi)

तीव्र एवं गुणवत्ता से परिपूर्ण न्याय प्रदान करने वाली कुशल विधिक एवं न्यायिक प्रणाली  
कानून के शासन में लोगों का विश्वास सुटूढ़ करती है।

An efficient legal and judicial system that delivers quick and quality justice  
reinforces the confidence of the people in the rule of law.





## PREFACE

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Access to justice, in its conventional sense, encompasses the right to approach courts and the right to be legally represented before courts. However, a formal recognition of these rights may not translate into effective access to justice for the underprivileged sections of society. Even though there are laws and policies which guarantee rights to marginalised people, they are often not in a position to ensure that these rights are realised because of their inability to understand and traverse the paths of the legal and judicial systems in the country. This often leaves such people more vulnerable and precarious than they already are. Therefore, devising novel solutions are necessary for ensuring that access to justice is a reality for all sections of people in the country.

Realising this, the Department of Justice of the Ministry of Law and Justice has formulated a Pan-India Scheme, called “Designing Innovative Solutions for Holistic Access to Justice” (DISHA) which aims to address the issues faced by people on account of their disadvantaged positions within the socio-legal scenario and to equip them with a thorough understanding of their rights as well as the means to enforce these rights effectively. DISHA endeavours to enhance legal aid for the marginalised sections of the society through a digital interface called ‘Tele-Law’ which would provide legal advice and consultation for over 2.5 lakh Gram Panchayats. Another initiative that has been undertaken is to empanel advocates for providing services in a pro bono manner and developing web and mobile applications for maintaining a database of such panels.

DISHA further aims to increase legal awareness through leveraging technology and forming partnerships with other Ministries as well as educational institutions across the country. It intends to facilitate capacity building programmes along with utilisation of grass-root or frontline workers and volunteers for this purpose. As an implementing agency under DISHA, the Centre for Environmental Law, Education, Research and Advocacy (CEERA), National Law School of India University (NLSIU), Bengaluru has been granted a Two-Year Project on “Pan India Legal Literacy and Legal Awareness Programme.” The project seeks to disseminate legal literacy across 6 States in India, namely, Maharashtra, Odisha, Bihar, Rajasthan, Uttar Pradesh and Karnataka. Through this project, CEERA would undertake imparting of legal awareness at a large-scale, creating a communication strategy by leveraging technology and social media platforms, strategizing legal awareness campaigns, conducting workshops and competitions on allied themes at various educational institutions and other avenues.



In order to support the Department of Justice's goals, CEERA having assumed the responsibilities of the legal literacy dissemination agency has strived to promote legal literacy and awareness not just through digital platforms but also through partnerships with institutions at ground level. The catalytic efforts of legal aid clinics and legal aid cells are crucial for ensuring dissemination of legal literacy at grass-roots level. In an attempt to gauge youth engagement in rendering legal awareness to the public, CEERA, has organised the Prof. V.S. Mallar Memorial Legal Aid Competition, a unique initiative for imparting legal awareness and for promoting the active engagement of student-led legal aid clinics with the public. Through this competition, CEERA endeavours to achieve the support of the work of legal aid cells around the country, thereby promoting legal awareness through awareness drives and other innovative projects that bridge the knowledge gap. The impetus of the idea behind this competition is the significant role to be played by budding lawyers in serving their nation by spreading legal awareness about the challenges they believe society as a whole needs to solve.

For the purpose of effective digital dissemination, CEERA-NLSIU has also launched a YouTube channel, in the name CEERA-NLSIU-DoJ, where videos made by experts in the field of law from the walks of litigation, advocacy, research and academia, which elaborate the legal provisions that are of relevance to the common man are regularly uploaded.

The publication of this Handbook is an initiative in furtherance of the mandate undertaken by CEERA to strengthen legal literacy and awareness to the public of the country. This Handbook is a compilation of 'Frequently Asked Questions' on the various legislations in India that every individual residing herein must be aware of. The laymen often find it difficult to comprehend the technical language of law, and this makes it difficult for them to understand their rights and duties and leverage it for addressing their grievances. Through this venture, we have strived to ensure that a lack of understanding of the law would not stand as a barrier for people to access justice. This Handbook has been intended to serve as a ready reckoner for people from all spheres of life, enabling them to refer to the information provided therein and take the necessary step for redressal of their grievances. The Handbook has been carefully curated in lucid language and contains information that would act as a necessary guide for enabling people to make self-initiated actions for securing their rights and fulfilling their duties under the law. We hope this Handbook would be instrumental in facilitating access to justice for all the people in and across the country.

I express my sincere gratitude to Department of Justice, Ministry of Law and Justice, Government of India and in particular Shri Ashutosh Srivastava, Programme Manager, Legal Literacy Programme, Department of Justice. I would also like to thank the CEERA



Team comprising of Mr. Rohith Kamath, Mr. Vikas Gahlot, Ms. Anuja Shah, Ms. Gayathri Gireesh, Ms. Aparna S and Mr. Jaibatruga Mohanta, all of whom have put great efforts in completion of the research under the project. Furthermore, I also extend my heartfelt gratitude to Ms. Madhubanti Sadhya and Ms. Lianne D'Souza who have been part of our team during the initial days of the project and have made significant contributions to this work.

**Prof. [Dr.] Sairam Bhat**  
**Professor of Law & Coordinator, CEERA**  
**National Law School of India University, Bengaluru**



# 1

## CONSUMER PROTECTION

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### 1. Who is a Consumer?

A Consumer is a person who buys any goods or hires or avails any services for a consideration. Consumer also includes a person who uses such goods or is a beneficiary of a service with the approval of the purchaser. However, a person who buys goods or services for any commercial purpose would not be considered as a consumer. Here, if the goods have been bought or used by a self-employed person, exclusively for the purpose of earning his livelihood, it would not be considered as a commercial purpose and such person can be considered as a Consumer. Both offline and online transactions through which goods are purchased come within the ambit of the Consumer Protection Act, 2019.

### 2. What are the rights of the Consumer?

Under the Consumer Protection Act, 2019, a consumer has the following rights:

- i) **Right of Protection** – A consumer has the right to be protected against the marketing of goods, products, or services which are hazardous to life and property.
- ii) **Right to Information** – A consumer has the right to be informed about the quality, quantity, potency, purity, standard and price of goods, products or services, to protect the consumer against unfair trade practices.
- iii) **Right of assurance** – A consumer has the right to be assured, wherever possible, access to a variety of goods, products or services at competitive prices.
- iv) **Right to be heard** – A consumer has the right to be heard and be assured that a consumer's interest will receive due consideration at appropriate fora.
- v) **Right to seek Redressal** – A consumer has the right to seek redressal against unfair trade practices or unscrupulous exploitation of consumers.
- vi) **Right to Awareness** – A consumer has the right to consumer awareness.

### 3. Who can file a complaint under the Consumer Protection Act?

The following persons can file a complaint under the Consumer Protection Act:

- A consumer;

- Any voluntary consumer association registered under any law for the time being in force;
- The Central Government or any State Government;
- The Central Authority, i.e. the Central Consumer Protection Authority.
- One or more consumers, where there are numerous consumers having the same interest;
- Legal heir or legal representative, in case of death of a consumer;
- Parent or legal guardian, in case the consumer is a minor.

#### 4. What can be complained under the Consumer Protection Act?

A complaint can be filed by a complainant for –

- **Unfair Contract or unfair trade practice** or a **restrictive trade practice** has been adopted by any trader or service provider;
- **Defective Goods** – i.e. the goods bought by him or agreed to be bought by him suffers from one or more defects;
- **Deficiency of Services** – i.e. the services hired or availed of or agreed to be hired or availed of by him suffers from any deficiency.
- **Excessive Price** – i.e. a trader or a service provider has charged for the goods or for the services, a price in excess of the price (a) fixed by or under any law; (b) displayed on the goods or packaging; (c) displayed on the price list exhibited by him or under any law; (d) agreed between the parties;
- **Hazardous goods are being offered for sale** – (a) in contravention of standards relating to the safety of such goods as required to be complied with; (b) where the trader knows that the goods so offered are unsafe to the public.
- **Hazardous services** – i.e. the services, which are hazardous or are likely to be hazardous to life and safety of the public when used, are being offered by a person who provides any service and who knows it to be injurious to life and safety;
- **Product Liability** – i.e. a claim for product liability action lies against the product manufacturer, product seller or product service provider.



## 5. Where can the complaint be filed?

- **District Consumer Disputes Redressal Commission (DCDRC)** - value of goods and services paid for does not exceed 50 Lakh Rupees.
- **State Consumer Disputes Redressal Commission (SCDRC)** - value of goods and services paid for is more than 50 Lakh Rupees but does not exceed 2 crore Rupees.
- **National Disputes Redressal Commission (NCDRC)** - value of goods and services paid for exceeds 2 crore Rupees.

## 6. Can a consumer complaint be filed online?

Yes, a consumer complaint can be filed online at <https://edaakhil.nic.in/edaakhil> which is an initiative by the Department of Consumer Affairs, Government of India. It has a detailed handbook, and tutorials for helping the consumers in the process of e-filing. The Handbook for E-Daakhil can be accessed at [http://edaakhil.nic.in/edaakhil\\_hand\\_book.pdf](http://edaakhil.nic.in/edaakhil_hand_book.pdf).

## 7. Is there a Consumer Helpline Number?

Yes. There is a National Consumer Helpline (NCH) number i.e. **1800-11-4000/14404** which is available on <https://consumerhelpline.gov.in/>. The number works on all days (8:00 am to 8:00 pm) except on National Holidays.

## COPYRIGHT PROTECTION

---

### 1. What is Copyright?

Copyright is an intellectual property right that is granted to original works that are produced in a fixed and tangible form. It confers exclusive rights, i.e., rights that can only be exercised by the person whom it is granted to. Copyright enables a person to reproduce, communicate, translate, adapt, sell and rent the copies of a work of which he is an author.

### 2. What are the criteria for obtaining Copyright?

- Firstly, the work has to be *original*, which means that it has to be *created independently* and should exhibit a *minimal level of creativity*. It should not have been copied from some other source. Moreover, copyright is not granted based on the quality of the work.
- Secondly, the work should be expressed in a *fixed and tangible form*. Copyright does not confer any protection to the ideas that a person may have. Rather, it seeks to protect the manner in which the person has expressed the idea. Therefore, the creative ideas of a person are eligible for being protected through the means of copyright only if it has been reduced to a fixed form such as writing or printing and a tangible form, i.e., where it can be touched. For instance, copyright protection would extend to the recipe of a particular dish or the way in which notes have been arranged for a musical composition. It would not extend to the dish that is prepared out of the recipe or the song that is sung out of the composition.

### 3. In what categories of works do Copyright exist?

Copyright can be registered with respect to six classes of works:

- *Literary works* – this includes computer programmes, tables and compilations made using computer databases
- *Dramatic works* – this includes any recitals, choreography or entertainment and the scenic arrangement or acting, which is in a written form – it does not include a cinematograph film.

- *Musical works* – this includes only the music and its graphical notations – it does not include the lyrics that are sung along with the music.
- *Artistic works* – includes painting, sculpture, drawings such as diagrams, maps, charts and plans, engravings, photographs and architectural work.
- *Cinematograph works* – this includes visual recordings and the sound recordings accompanying it.
- *Sound recordings* – this includes recordings of sounds made in any medium by any method.

#### **4. Who can hold a Copyright?**

- In the case of a *literary work*, its author would be the owner of the copyright. In the case of a *dramatic work*, its author would be the owner of the copyright. In the case of an *artistic work*, the artist would be the owner of the copyright. If the literary, dramatic or artistic work has been written in the course of employment with a newspaper, magazine or periodical, for the purpose of publication therein, then the proprietor of the newspaper would hold a copyright over it.
- In the case of a *musical work*, its composer shall be the owner of the copyright. In the case of a *photograph*, the person taking the photograph would be considered as its author. In the case of a *cinematograph film* and *sound recording*, its producer shall be the owner of the copyright. If these are produced for a valuable consideration which is given by another person, then the other person would be the copyright owner.
- In the case of a *speech* which is made in public, the person who has delivered such speech would be the owner of the copyright.
- In the case of a *Government work*, Government would hold the copyright over it.

#### **5. What are the rights of a Copyright holder?**

The following are the rights that are available to the owner of a copyright:

- Right to reproduce the work in any form
- Right to issue copies of the work to the public if it is not already in the public domain
- Right to perform or communicate the work in public
- Right to make any translations and adaptations of the work
- Right to make any cinematographic film or sound recording with respect to the work
- Right to sell the work or offer it for commercial rental

## 6. Can copyright be transferred to another person/entity?

Transfer of copyright can be made through any of the following methods:

- a. *By Assignment* – the whole of the copyright or a part of it may be assigned to another person or entity. Once it is assigned to another person, he would become the copyright owner with respect to the rights assigned. The copyright would continue to subsist in the owner with respect to the rights which he has retained for himself and has not assigned.

Assignment of copyright can be made with respect to existing work or future work. The copyright owner has to make the assignment in writing, signed by him or his agent. The rights that are assigned to by the copyright owner and the duration with respect to which it is made must be specified. If it is not stated, the period of assignment of copyright would be 5 years. The person to whom copyright is assigned should pay monetary consideration to the copyright owner, which is called royalty. The assignment should also mention the amount of royalty and any other consideration that would be payable to the copyright owner or his legal heirs.

- b. *By Will* – If an unpublished manuscript with respect to a literary, musical or dramatic work is given under a Will by its author, then the person to whom it is granted would also be entitled to the copyright of that work.
- c. *By Licence* – The copyright owner can grant a licence to another person for permitting specific activities to be undertaken with respect to the copyrighted work. The licence granted may be for producing a cover version, for broadcasting the work or for translation of the work. Unlike the case of an assignment, the person to whom license is granted does not become the copyright owner.

## 7. Is there a time period for which Copyright shall exist?

For all the six categories of works, copyright would subsist for a period of sixty years from the beginning of the year succeeding the year in which the owner of copyright dies. On the expiry of sixty years, the copyright shall cease to exist and it would become a work in the public domain.

## 8. What is a Performer's Right?

A person who performs through the means of acting, dance, music, lecture or any other performance can be considered as a performer. Performers of a work have some exclusive rights under the Copyright Act. Performers are entitled to produce sound and visual recordings of a work which can be communicated to the public. If the work is subjected to any sort of changes which can affect the performer's reputation, he can approach



courts for restraining order or seek compensation. A performers right is independent to that of the copyright and does not affect the copyright subsisting over a work.

#### **9. What is the procedure to be followed for obtaining licences for producing cover versions and translations?**

- A person who wishes to make a cover version of a literary, dramatic or musical work in the form of a sound recording has to give a notice to the copyright owner as well as the Registrar of Copyrights expressing his intention to make the cover version. The notice has to be sent at least 15 days prior to the making of the cover version of the work. Along with this, the amount of royalties, as determined by the Copyright Board has to be paid to the copyright owner. The cover version should not destroy the integrity of the original work. It should clearly state in the display that it is a cover version. The cover version should not have anything in its label or packaging which may cause the public to believe that it is an original work. For making each additional cover version, the entire procedure has to be followed again.
- For the purpose of making a translation of a copyrighted work, a person has to submit an application in the format contained in Form VI of the Copyright Rules, 2013 and has to pay a fee of Rs 5000 to the Registrar of Copyrights. The Copyright Board would then publish a notice regarding the application in newspapers and would also forward the notice to the copyright owner. After 120 days have elapsed, the Copyright Board would decide whether or not licence should be granted and would also determine the royalties payable by the applicant to the copyright owner. At a time, an application can be made only for the purpose of translation of a single work in any one of the languages. Separate applications will have to be made for translating a work in more than one language.

#### **10. What happens if someone's Copyright is violated?**

A person who infringes upon a copyright is liable to imprisonment of a term ranging from six months to three years along with fine ranging from fifty thousand rupees to two lakh rupees. If a person who has already been held liable for copyright infringement commits the offence again, then there is an enhanced punishment of at least one year imprisonment which may extend upto three years and a fine of one lakh rupees which may extend to two lakh rupees.

Furthermore, police officers can seize the infringing copies as well as the plates used for making them and surrender it before a Magistrate. The copyright owner can apply to the Magistrate for the copies or plates.

## 11. What are the remedies available to the copyright owner for an infringement of copyright?

A copyright owner can approach courts for obtaining injunctions to prevent the copyright infringement from being continued and are also entitled to receive compensation in the form of damages. The copyright owner can also approach courts for obtaining the infringing copies and can initiate civil action for the wrong of ‘conversion’, i.e., unauthorisedly depriving the copyright owner from exercising his rights over the work.

## 12. What are the defences for legal action initiated against copyright infringement?

A person can always take a defence that he was unaware and had no reasons for believing that copyright subsisted in the work which was used by him. He can also plead that he believed that the copies and plates used by him would not amount to copyright infringement.

If a person, claiming to be a copyright owner, issues threats that he would initiate legal action with respect to copyright infringement, without having any grounds to do so, then the person against whom the threats are issued can approach the courts for getting an injunction for discontinuing the threats and for getting compensation.

## 13. Are there any exceptional situations where copyright infringement is not punished?

Certain acts are not deemed to be an infringement of copyright such as using a work for personal uses including for the purpose of research or for making a criticism or review. Similarly, using a work over which copyright subsists for the purpose of reporting current affairs would also not be considered as a copyright infringement. Teachers and students are allowed to reproduce works over which copyright may subsist for the purpose of facilitating studies and in preparing questions or answers for an examination. A copyrighted work can be performed in front of the students and staff of an educational institution. Extracts of a literary or dramatic work can be performed in the form of readings or recitals in public. Works may be performed for non-commercial purposes in residential places or religious institutions. A maximum of 3 copies of books that are not available in India can be made for keeping it in a non-commercial library.

## 14. How can I apply for registering copyright over a work?

For the purpose of registering a copyright, an application as to be made to the Registrar of Copyrights in the format prescribed under Form XIV of the Copyright Rules 2013.



The amount of fees that would have to be paid along with the application would differ according to category to which the work belongs. For instance, for registering a copyright with respect to a literary, dramatic, musical or artistic work, a fee of Rs 500 has to be paid. For an application with respect to a cinematograph film, the fee payable is Rs 5000 whereas for an application with respect to a sound recording, the fee payable is Rs 2000. The details of the fees to be paid can be found in the Second Schedule of the Copyright Rules, 2013.

#### **15. Is it mandatory to register copyright for protecting a work?**

No, it is not mandatory to register copyright over a work. As soon as a work is created in a written form, say, in the form of a printed book or a blog post in digital form, copyright is vested over it automatically without any subsequent registration. Registration of copyright is advisable only so that it would serve as evidence in a legal dispute regarding ownership of copyright before a court of law.

#### **16. Can copyright protect collective rights held by a community of persons, such as folklores, vernacular stories and scripts or information that has been passed on traditionally?**

- For collective management of copyright, registered societies can be formed. If an author or artist is a member of a registered copyright society, it would issue licenses and collect royalties on behalf of the works produced by the author or artist. At present, there are five registered copyright societies in India, namely, The Society for Copyright Regulation of Indian Producers for Film and TV (SCRIPT) which caters to copyright protection in cinematography and TV industry, the Indian Performing Rights Society Ltd (IPRS) and the Indian Singers Rights Association (ISRA) for music industry, Phonographic Performers Ltd (PPL) for sound recordings and the Indian Reprographic Rights Organization (IRRO) for photocopies.

Therefore, for protection of folklores and vernacular stories or scripts, a copyright society can be registered for this purpose. This would enable artists behind such creations to negotiate licenses and royalties whenever such works are commercially utilised by other persons or entities.

- For protecting traditional knowledge with respect to medicines, a Traditional Knowledge Digital Library (TKDL) has been created which documents information relating to Ayurveda, Unani, Siddha and Yoga in a digitised format. This prevents other persons and entities from commercially utilising the traditional knowledge and granting of other intellectual property protections over this information. Even though

ancient texts that contain such information would be in the public domain as copyright protection is only for sixty years, such an arrangement in the form of a repository or database would be eligible for copyright protection and the Government would be the owner of the copyright in this case.

Similarly, in every local body such as Gram Panchayat, Municipality and Corporation, a Biodiversity Management Committee is constituted for documenting and keeping track of the biological diversity in that area. This is maintained in the form of a People's Biodiversity Register (PBR) which contains particulars of the local biological resources, their medicinal and other uses as well as the traditional knowledge associated with them. For obtaining any intellectual property right over any research or information generated using the resources that come within PBR, application has to be submitted to the National Biodiversity Authority. The applicant of any such intellectual property right would have to share the benefits, the monetary rewards and fee derived from licensing or assigning the work produced by him with the community. Though this is not copyright protection and is envisaged to safeguard traditional knowledge, this would ensure that no person or entity would be able to acquire patents or copyright over the resources that are collectively held and enjoyed by a community.

## CYBER BULLYING

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### 1. What is Cyber Bullying?

Cyber Bullying refers to an act of bullying or harassment of any kind through electronic communication devices like computers, mobile phones, text messages, phone calls, e-mails, social media platforms. This act of bullying in the electronic form consists of hurtful, derogatory comments, false information to malign the person and sometimes threaten to murder or to outrage the modesty of a person and sexual harassment.

### 2. What are the different kinds of cyber bullying?

The different types of cyber bullying are:

- **Online harassment** happens with the use of social media where an obscene, distasteful or offensive content is used with a wilful, hostile intention to hurt, malign and defame.
- **Cyberstalking** happens by using social media platforms like Facebook, Twitter etc to harass and solicit unfavourable sexual favours, sending derogatory emails and blackmail repeatedly.
- **Cyber Defamation** happens by making false accusations, publication of defamatory statements against a person in the electronic media. It can also be termed as internet or online defamation.
- **Cyber Hacking, Cyber Bullying and Cyber Extortion** are the most common forms of online harassment. Cyber hacking is an illegal access to any personal details of the person and bully them with sexual or offensive content. The intention can also be for financial gains through blackmail or physical threats for rape, extortion and murder.

### 3. What are the CBSE guidelines regarding the cyber bullying/bullying in the Schools?

In 2015, Central Board of Secondary Education (CBSE) framed guidelines for the prevention of bullying and setting up of Anti-Bullying committees in schools. This committee comprises of Vice-principal, a senior teacher, school doctor, counsellor, parent-teacher representative, school management representative, legal representative and educators. The responsibilities of the Committee under the Guidelines are to:

- Articulate and develop the School Anti Bullying Prevention plan.
- Awareness and training programs for School staff, students and parents.

- Continuous awareness programs for being watchful, cautious and observing the signs of bullying.
- Quick and sensitive response to bullying in schools.
- Debates, discussions and poster competitions should be organised in schools to educate the students.
- Schools should provide for Complaint Box, Suggestion Box and confidential system of reporting of bullying activities in the school.
- Names and contact numbers of members of the committee should be displayed in the school premises.
- Provide Counseling for Primary, Middle and Secondary Schools for children of different ages.

#### **4. What is the UGC Circular regarding Ragging and Bullying in colleges?**

In 2009, University Grants Commission (UGC) notified the "UGC Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009" to curb ragging throughout higher-education institutions in India. The important measures for the prevention of ragging and bullying mandated at the institution level are:

- The advertisement and the brochure for college admissions must mention in clear terms that ragging is a punishable offence and totally banned in the institutions. The provisions shall be printed in block letters.
- The Prospectus shall also incorporate directions of the Central government, State Government and the guidelines of the Supreme Court.
- The Parents and guardians are sensitised about the consequences of ragging and bullying activities.
- The admission and enrolment form shall have printed letter as an undertaking signed by the students regarding the consequences of ragging.
- Institutions shall start the academic year with publicity and awareness programs, posters leaflets, seminar and street plays sensitising about the ragging and bullying activities in the institutions.

#### **5. What is the helpline number for ragging and bullying related incidents in colleges?**

The UGC is responsible to operate a toll-free helpline and be operational at all times and accessible to students 24x7. The Anti-ragging helpline number is **1800-180-5522**.

## **6. What are the relevant provisions under the Indian Penal Code, 1860 relating to bullying and ragging in colleges?**

The relevant provisions of the Indian Penal Code (IPC) applicable to college students who are into bullying or ragging are:

- Any ragging through the means of threatening to cause bodily harm or threatening to spread false rumours can be punishable under Section 506 of the IPC for committing criminal intimidation.
- Any ragging through the means of threatening to cause physical harm or hurt or grievous hurt which results in disability or even death can be punishable under Sections 323, 324, 325 or 326 of IPC for causing hurt or grievous hurt, as the case may be.
- Ragging and bullying whereby death is caused to the person against whom it is perpetrated can be punishable under Section 304 of IPC for the offence of culpable homicide.
- If ragging leads to the student against whom it is perpetrated committing suicide, the offender may be held liable under Section 306 of IPC for abetment of suicide.

## **7. What are the legal provisions applicable for the Cyber bullying through online platforms?**

- Section 354A IPC can be invoked when a person posts lewd comments on social media and Section 354D of IPC can be invoked when there is cyber-stalking of women.
- Creating obscene content on internet can be punished under Section 292 of IPC as well as Section 67 of the Information Technology Act.
- Creation of a fake social media profile and uploading of vulgar or obscene photos of a woman on such profile can be punished under Section 354A of IPC for *sexual harassment*, Section 354D for *Stalking*, Section 499 read with Section 500 for *defamation*, Section 507 for *criminal intimidation by an anonymous communication* and Section 509 for *insulting the modesty of a woman*.

## **8. What are the relevant provisions under Information Technology Act, 2000 applicable for cyber bullying?**

- If a person cheats someone by portraying their image as someone else on the internet

or the social media, he/she can be punished under Section 66D of the IT Act, 2000.

- If a person intentionally captures someone's private pictures and uploads it on the internet, without their consent, it is punishable under Section 66E of the IT Act.
- If a person transfers, circulates or uploads vulgar or improper material on the internet, it is punishable under Section 67 of the IT Act.

## 9. What are the important initiatives by the Government Authorities to prevent Cybercrimes?

- CCPWC (Cyber Crime Prevention against Women and Children) is a National Mission for the safety of women constituted by utilising Nirbhaya fund, having following objectives:
  - ▶ To facilitate online complaint of victims/complainants to report cyber bullying or any forms of cybercrimes.
  - ▶ Complaints pertaining to online Child Pornography, Child Sexual Abuse Material or sexual content such as rape.
  - ▶ Complaints registered under this portal are dealt by the respective police authorities of States and Union Territories.
  - ▶ This portal also provides for anonymous reporting of cybercrimes as per the directions of the Supreme Court of India.
- Responsibilities of the NCW (National Commission for Women) in cases of Cyber Bullying
  - ▶ The Commission has the powers to request a police investigation to be held and conducted.
  - ▶ The Commission has the powers to appoint an investigative committee, gather the evidence, question the witnesses, call the accused, and get police records, etc. wherein the commission feels that the situation involves major violation of rights to women and children.
- **Online Cyber Crime Reporting Unit.**

The Online Cybercrime Reporting Portal is a central citizen portal of the CCTNS project (Crime and Criminal Tracking Network System) with special focus on



Women and Children. Using this portal, an online cyber-crime complaint can be made by the victims of cyber-crime. The portal is central repository for all such cybercrimes.

#### 10. What are the helpline numbers that are available for Cyber Bullying?

Complaints regarding cybercrime can be filed online through <https://cybercrime.gov.in/> or in the alternative can be reported through the Helpline number **1930**. Complaints on cyber bullying directed against women can be reported through the number **7827170170**.

## DOWRY HARASSMENT

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### 1. What is Dowry?

Section 2 of the **Dowry Prohibition Act, 1961**, defines the term ‘dowry’ as property or valuable security shelled out or agreed to be bestowed, by the parents of one party to a marriage to the parents of the other party. It is pertinent to note that this Act is applicable to people from all religions.

However, ‘Dower or Mahr’, governed by Muslim Personal Law is usually given as financial security to the women and shall not be covered under the sweep of this definition. Even Streedhan is not analogous to dowry. Anything that is given solely to the bride before, during, after marriage, or even during childbirth is considered streedhan, which is exclusively her property. The fundamental distinction between dowry and streedhan is that dowry possesses an element of ‘coercion’ where there is either a demand for dowry with an element of threat or it is made conditional to the marriage whereas streedhan is provided voluntarily. Streedhan also includes the bride’s inherited or self-acquired property, as well as monetary or in-kind gifts from her husband’s family. Another distinction is that dowry is regulated by the Dowry Prohibition Act of 1961, whereas streedhan is governed by the Hindu Succession Act of 1956.

### 2. Is receiving or giving dowry illegal in India?

Yes, according to the Dowry Prohibition Act, 1961, receiving, sending, demanding, or abetting the giving or receiving of dowry is strictly prohibited. Even the agreements concerning dowry shall be considered void *ab initio*. For those who take or give dowry, the law prescribes a punishment of at least five years or a fine not less than Rs, 15,000 or the dowry amount, whichever is more. Urging or demanding dowry is also illegal in our country and shall lead to imprisonment for a minimum of 6 months and a maximum of 2 years. A fine of up to Rs. 10,000 may also be imposed. A person who is found advertising an offer of dowry as a consideration for the marriage of their son or daughter, through any form of media shall be liable to be punished with imprisonment for a minimum term of 6 months and a maximum term of 2 years. All the offences falling within the ambit of the Dowry Prohibition Act shall be considered non-bailable. Under this Act, people can be arrested without warrant in such dowry-related cases.

Wedding presents are often drawn up as dowry. A wedding present is not illegal given that it is received without any demand and it falls under the list maintained in accordance with the rules made under the Dowry Prohibition Act, 1961. Even if the present is made on the bride's behalf, it must be customary in nature and its value should not be excessive in relation to the financial status of the person by whom, or on whose behalf, the present was given.

### **3. What special laws have been framed for the purpose of preventing harassment in relation to dowry?**

**Section 498A of the IPC** penalises the brutal and cruel treatment given by the husband or the relative of the husband of a woman by punishing them with imprisonment for up to three years and a fine. Cruelty here can be comprehended as a willful act that is likely to drive the woman to commit suicide or cause grave injury or danger to her “life, appendage, or health” (whether mental or physical). It is inclusive of harassment caused to her with reference to the dowry. Even, **the Protection of Women from Domestic Violence Act** has multifaceted provisions that can be passed down to put a stop on the dowry-related violence so long as dowry is a reason for domestic violence.

- **Protection Order:** If the magistrate is satisfied that domestic violence has been eventuated or is likely to take place, he can pass a protection order in favor of the aggrieved person and thereby prohibit the person suspected of harassment from both committing an act of domestic violence or aiding or abetting in the commission of an act of domestic violence. The order may also restrict the person from setting a foot inside the place of employment of the aggrieved person, interacting with the aggrieved party or instigating any physical force against the relatives of the victim, etc.
- **Residence Orders:** If the aggrieved party and the person suspected of harassment live in a shared household, and the magistrate is satisfied that domestic violence has taken place, he can pass a residence order directing the respondent to remove themselves from the shared household (this order cannot be passed against a woman) or even provide an alternate accommodation for the aggrieved woman that is of the same standard as that enjoyed by her in the shared household. The magistrate may also prevent the respondent or any of his relatives from entering any portion of the shared household in which the aggrieved person resides, etc. or pass any other order or direction which he thinks is reasonably necessary to protect the aggrieved person or any child of such aggrieved person. The court can also tell the officer in charge of

the nearest police station to protect the aggrieved person or to help her, or the person who is making the application on her behalf, carry out the order.

- **Custody Orders:** The magistrate, for time being, can grant custody of a child or children to the aggrieved party or to the person/legal heir presenting a request on her behalf. If necessary, the magistrate can also make plans for the respondent to see the child or children. If the magistrate thinks that a visit by the respondent could hurt the best interests of the child or children, he can put a ban on such visits.

To avail any of the relief provided under the Protection of Women from Domestic Violence Act, one must present an application to the Magistrate. In addition to the aforementioned provisions, there are also laws relating to dowry death to deter people from engaging in cruelty towards women.

#### 4. What is Dowry Death?

If the death of a woman is caused by the physical assault, unwarranted bruises, burns or any other non-typical circumstances, within seven years of her marriage, and it can be shown that prior to her death she was exposed to savagery, inhumanity or violence by her intimate partner or the family members of her partner with respect to any demand for dowry, the death shall be contemplated as a dowry death falling within the purview of section 304 B of the Indian Penal Code (IPC).

Furthermore, **section 113 B of the Evidence Act**, states that if it is proved that a person subjected a woman to cruelty in relation to dowry before her death, then the court presumes that the woman's death was a dowry death.

Similarly, if it is shown that a woman committed suicide within seven years from the date of her marriage and that her husband or a relative of her husband had subjected her to cruelty, the court may presume that such suicide had been abetted by her husband or by the relative of her husband.

#### 5. What are the resources that can be accessed in case of dowry related violence?

There are many helplines that are dedicated towards providing emergency services as well as counseling for women in need.

- **Women Helpline-1091-** Whenever a woman from any part of the country needs urgent help from the police or wants the police to come and rescue her, she can immediately dial the Police Helpline number '**1091**', which is majorly useful for requiring help in emergency situations like rape, molestation, eve teasing, domestic violence, kidnapping and such other acts. As soon as a call is received, it is directed



to the respective police station in the district, with the Superintendents of Police and Commissioners of the district being held responsible for cases in their jurisdiction.

- **Women's Helpline-(Domestic Abuse) 181-** The Ministry of Women & Child Development has launched the Women's Helpline '**181**' to provide free, confidential, immediate and 24x7 support and assistance to women in distress and in need of care and protection – both in public and private spaces, to facilitate crisis and non-crisis intervention through referral to appropriate agencies and to provide details about the support services, schemes and programmes available.
- **National Commission for Women helpline:** the dedicated helpline number '**7827170170**' aims to provide round-the-clock counseling and support services to women affected by violence. You can file an online **complaint on National Commission for Women portal at <http://ncwapps.nic.in/>**. While making the complaint, you are required to provide the contact details of the complainant and the respondent (if available), a brief description of the incident, details of remedies already exhausted, and supporting documents (if any).

The National Commission for Women sends the person who made the complaint an acknowledgment along with the complaint number, login ID, and password, if the complaint has been accepted by the National Commission for Women. If the complaint is turned down, the person who made the complaint will be informed as soon as possible. You can also call the National Commission for Women or go there in person to check the status of the complaint.

Contact numbers for complaint related queries: **011-26944880, 26944883**. The NCW can be contacted anytime between 9.00 AM and 5.30 PM (Monday to Friday). They can also be contacted through email at any time at [complaintcell-ncw@nic.in](mailto:complaintcell-ncw@nic.in).

## **6. Is there any NGO or department of police that assists and counsels the victims of dowry harassment?**

There are a few NGOs in different states of the country that have been putting efforts in making a socially equitable society.

- **Dhwani Crisis Hotline (NGO)** - The International Foundation for Crime Prevention and Victim Care (PCVC) runs this NGO which brings forth prompt and timely assistance to the survivors of physical assault, violence and burn injuries from their intimate partners or their family members. The idea is to dispense information to succor the needs of victims/agrieved parties at different stages of rehabilitation. One can contact the 24-hour toll-free hotline number by dialing **044-43111143 or 1800 102 7282**.

- **Sayodhya (NGO)** - Based out of Hyderabad, Andhra Pradesh, this NGO provides temporary accommodation to victims of violence/abuse and an online emergency response through its 24 hours telephone helpline. The services include free of cost medical kit, legal, psychological and emotional counseling sessions, bed-covers and blankets, sanitation facilities and clothing. They also help victims reintegrate with their family if they wish to do so. Furthermore, they motivate women to take charge of legal justice by taking them to the women protection cells where they elucidate upon the procedure to be followed by the aggrieved party to file a case against the offender. The shelter home shares a close nexus with police officials and judicial bodies to make certain that absolute protection is guaranteed. 24-hour helpline number can be accessed by dialing **18005991811**.
- **Shakti Shalini (NGO)** – This NGO, based out of Delhi, provides assistance to the survivors of gender and physical/mental/sexual abuse. There is a distinct Centre named ‘Crises Intervention and Counseling Centre (CICC) that sentimentalize as the primary point of contact for seeking advice/solution. Over and above that, the Centre has three operational PAN India helpline numbers for survivors of gender or sexual violence. To access the helpline one can call **011-24373737**, or Call/WhatsApp-**9654462722/7838957810**.
- **Police helplines:**

Various states have also set up police helplines that help against gender-based crimes such as dowry and domestic abuse.

  - ▶ Kerala has launched a 24-hour police helpline for women that can be accessed by calling **9497996992**.
  - ▶ Similarly, Women in Karnataka can call **080-22943225, 080-22943224**, to access free counseling and police assistance.
  - ▶ In Karnataka, there is a separate helpline for women in Bangalore- **080-22943225**. Mysore women can contact the police at **0821-2418110/ 2418410**.
  - ▶ Women in Mumbai can call **022-22633333** or **22620111** to get police assistance.
  - ▶ There is a women’s helpline run by Chandigarh Police which can be contacted at **0172-274190**.

## FARMER'S RIGHTS (PPVFRA)

### 1. Who is a Farmer?

The Protection of Plant Varieties and Farmers' Rights Act, 2001 (the PPVFRA) in section 2(k) defines farmer to be any person who is concerned with

- cultivating the crops either by himself, or
- supervising other person(s) cultivating the land, or
- conservation and preservation of wild or traditional varieties, or
- identifying useful properties of wild or traditional varieties.

The definition is broad, and covers all farmers, whether landed or landless, male or female.

### 2. What is the scope of the Protection of Plant Varieties and Farmers' Rights Act, 2001?

The PPVFRA aims to recognize the efforts made by farmers towards conserving and improving plant varieties, and providing plant genetic resources for the development of new plant varieties. Thus, PPVFRA aims to create an effective mechanism to safeguard the rights of the farmers and plant breeders by protecting the plant varieties. Through this, PPVFRA also aims to provide a stimulus to private and public research in plant varieties to accelerate the overall growth of agricultural development. A direct result of the protection to plant varieties would lead to growth of the seed industry thereby ensuring high quality seeds to the farmers in the country. The PPVFRA was enacted to meet obligations under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). It is an international treaty which required India to either extend patent protection to the plant varieties or prepare an effective *sui generis* system for it.

### 3. Where can we submit application for registration under the PPVFRA?

Application for the registration can be sent to the office of the Registrar, Plant Varieties Protection and Farmers' Rights Authority. To assist the farmers with the process of registration, regional offices at Guwahati (Assam), Ranchi (Jharkhand), Palampur (Himachal Pradesh), Shivamogga (Karnataka) and Pune (Maharashtra) have also been

set up. The Authority is also concerned with recognizing and rewarding the farmers for their contribution towards the improvement and preservation of plant genetic resources. Details of the Authority are as follows:

- **Address**- Registrar, Protection of Plant Varieties and Farmers' Rights Authority, Government of India, Ministry of Agriculture & Farmers Welfare, Society Block, 2<sup>nd</sup> Floor, NASC Complex, DPS Marg, New Delhi- 110012.
- **Chairperson**  
Tel: +91-11-2584127  
Fax: +91-11-25840478  
Email: [chairperson-ppvfra@nic.in](mailto:chairperson-ppvfra@nic.in) - 11-25848127
- **Registrar General**  
Tel: +91-11-25843316  
Fax: +91-11-25840478, 25843316  
Email: [rg-ppvfra@nic.in](mailto:rg-ppvfra@nic.in) - 11-2584331

The actions of the Registrar can be appealed against in the Plant Varieties Protection Appellate Tribunal. The Tribunal is expected to dispose of the case within one year.

#### 4. What kinds of varieties of food crop are protected by the Act?

The PPVFRA provides for registration of the following kinds of varieties of food crops:

- i. **Extant variety** - It consists of the following kinds of variety:
  - a. Varieties which have been notified under section 5 in the Seeds Act 1966. Under this section, the Central Government has the authority to notify certain variety or kind of seeds if it is of the opinion that it is necessary to regulate the quality of such a seed for the purposes of agriculture; or
  - b. Any variety which is available in the public domain; or
  - c. Any variety for which there exists common knowledge.
- ii. **Farmers' variety** - The PPVFRA defines farmers' variety to be those crops which have either been traditionally cultivated by the farmers, or there exists common knowledge of those crops amongst the farmers.
- iii. **New Variety** - Any variety which fulfills the criteria of novelty, distinctiveness, uniformity and stability can be understood as a new variety. Section 15 of the PPVFRA provides that such a variety can be registered, and details down the requirement as follows:



- a. Novelty - variety should not be available in the public domain at least for a year before filing for the registration.
  - b. Distinct - such a variety should have at least one essential characteristic distinct from any other variety.
  - c. Uniformity - such a variety should be uniform in its essential characteristics.
  - d. Stability - the essential characteristics of such a variety should remain unchanged after propagation.
- iv. Essentially Derived Variety-** Any variety, derived from an initial variety, which is distinguishable from such initial variety but still retains the expression of the essential characteristics of the initial variety; or
- v. Any other variety as declared by the Central Government through Official Gazette. The PPVFRA does not extend protection to such plant varieties where there is greater need to prevent their commercial exploitation in order to protect public order or morality, or where there exists possibility of serious prejudice caused to the environment, or where harm could be caused to human, animal and plant life.

## 5. Who can apply for registration of a plant variety?

The PPVFRA empowers any person claiming to be a breeder, or successor of a breeder, or any farmer (or group of farmers) claiming to be the breeders to file an application for the registration of the plant variety.

## 6. What is the process for Registration?

The process of registration, as described in the PPVFRA is as follows:

- Filing of application form - Under Section 18, the process related to the application form has been described. The form requires the applicant to state the domination assigned to the variety along with complete details about the parental varieties from which such variety has been derived, and contribution of other persons such as farmers and institutions, if any. Further, the application form requires the applicant to swear by an affidavit claiming that the variety does not have any terminator technology, and adhere to other regulations.
- Farmers do not have to pay the application fee.
- The Registrar then conducts a test of the variety to evaluate whether it conforms to the standards specified by the regulations.

- Upon accepting the application post completion of the test, the Registrar advertises the variety to call for objections. The process is slightly different for registration of essentially derived variety.
- At the completion of this process, the Registrar issues the certificate of registration to the applicant.

Registration applications for the different varieties are available here - <https://plantauthority.gov.in/compendium-varieties-registered-under-ppvfra-act-2001>. A list of the registered varieties upto 2018 can be found on <https://plantauthority.gov.in/sites/default/files/compendiumfinal27oct2018.pdf>

<b>DURATION OF VALIDITY OF THE REGISTRATION</b>		
<b>Kind of Plant</b>	<b>Default duration</b>	<b>Maximum duration upon re-registration (Total)</b>
Trees and Vines	9 years	18 years from the date of registration
Extant Variety	6 years	15 years from the date of notification by the Official Gazette
Any other Crop	6 years	15 years from the date of registration

## 7. What rights are available to the farmers under PPVFRA?

- PPVFRA grants farmers a *right to register traditional or farmers' variety*. Thus, upon the issue of the registration certificate by the registrar, the farmer(s) treated like breeders would get the exclusive right to produce, sell, market, distribute, import or export the registered variety. However, in the case of extant varieties, the breeder needs to establish her right, and failure to do so would make the Central or the State Government the owner of such rights. An exception has been created for researcher's rights wherein any variety can be used for the purposes of research and experimentation. Though, in the case of repeated use of a variety for the development of a new variety for commercial production, prior approval is required from the breeder.
- The Act recognizes the efforts of the farmer engaged with conservation of genetic resources and improvement of plant varieties through selection. Thus, such farmers are entitled to be *recognized and rewarded by the Gene Fund*. Gathering an understanding of about different varieties of plant crops and their distinct behaviors to give effect to plant selection requires years of experiences by the farmers. The PPVFRA recognizes such contributions made by the farmers.

In some situations, the breeder might get the registration even if he has not disclosed all the parental varieties linked to his new variety, and one of the varieties can be



traced back to one or more rural communities. In such situations, the Authority would direct the said breeder to award compensations to such a community. The amount of the compensation would be deposited in the National Gene Fund, which would later distribute it amongst the communities. Thus, the PPVFRA aims at fully recognizing the efforts of the farming community.

- Exclusive ownership over plant varieties would require the farmers to purchase new seeds for sowing and prevent them from saving and re-sowing the seeds. This would cause hardships to the farmer. To avoid this, the Act does not interfere with the traditional *farmers' right to save, use, sow, and sell his farm produce including seed* of such a variety protected under the PPVFRA.
- PPVFRA also enables farmers to *seek compensation* by raising a complaint of non-performance of any registered variety sold to them.
- In the event that the breeder of the registered variety does not provide adequate quantity of the variety at a reasonable right, PPVFRA provide farmers with the scope to seek for *compulsory licensing to a third party*.
- Farmers are *not required to pay any fees* for the facilities provided under PPVFRA. The farmers are not expected to pay application and registration fees, and fees for any legal proceeding under the Act.
- No farmer can be charged for infringement of the Act, if the farmer is able to prove that she/he was not aware of the legal provisions. This provision is there to prevent legal harassment of farmers, and acknowledges the low legal literacy in the community.
- The Authority provides a series of awards, each year, to recognize and promote the conservation of the plant genetic resources. Plant Genome Saviour Farmer Rewards and Recognitions are awarded to those farmers -
  - ▶ who help in improving the plant variety through selection,
  - ▶ who promote preservation and conservation of genetic plant resources,
  - ▶ and if such preserved and selected variety has been used as a donor for a registered variety under PPVFRA,
  - ▶ The applications for such awards can be sent to the Secretary or Chairperson of the Panchayat Biodiversity Management Committee or the District Agricultural Officer, who upon shortlisting the application will send it to the Registrar of the Authority. A cash prize of Rs. 1 lakh is also awarded.

## 8. What are the other initiatives taken by the Government to promote and protect farmers' rights?

- **Schemes targeting credit facilities:**

- ▶ **Agriculture Infrastructure Fund (AIF)** - The scheme is concerned with improving the quality of agriculture infrastructure in the country by facilitating mobilization of medium to long term debt financing facility. It is predominantly concerned with post-harvest management infrastructure and farming assets for the entire community.
- ▶ **Kisan Credit Card Scheme** - Revised in 2020, this scheme focuses on ensuring adequate and timely credit supply to the farmers. The credit card is allotted on the basis of the holdings by the farmers. Credit availed under this scheme can be utilized for the purchase of agricultural inputs such as, seeds, fertilizers, etc.

- **Schemes for crop insurance**

- ▶ **Pradhan Mantri Fasal Bima Yojana** - Under this scheme, insurance protection is extended to food crops, oilseeds, horticultural and commercial crops (as notified by the state government). It aims at stabilizing the income of the farmers, especially by providing them monetary support in situations of damage of crops due to unforeseen events.
- ▶ **Weather Based Crop Insurance Scheme (WBCIS)** - It aims to insure the farmer against financial loss caused due to crops due to adverse weather situations arising from rain, humidity, etc.

- **Schemes related to financial support**

- ▶ **PM Kisan Maan Dhan Yojana** - It aims at extending financial security to small and marginal farmers by providing them with a minimum fixed pension of Rs. 3,000. The farmers need to contribute a certain amount, ranging from Rs. 55 to Rs. 200 per month, depending upon their age. The Central Government matches it by contributing an equivalent amount in the Pension Fund.
- ▶ **Pradhan Mantri Kisan Samman Nidhi** - The scheme aims to financially support the land holding farmers by providing them a monetary support of Rs. 6,000 per year in three equal installments.

- **Schemes related to seed distribution:**

- ▶ **Sub-Mission on Seeds and Planting Materials** - It is a comprehensive scheme focused on increasing the production and productivity of agriculture by supplying



quality seeds to farmers. Some of the elements of the scheme are as follows:

- ◆ Seed Village Programme
- ◆ National Seed Reserve
- ◆ Establishment of seed processing-cum-seed storage godowns
- ◆ Boosting seed production
- ◆ Strengthening quality of the seed
- ◆ Assistance for boosting seed export
- ▶ **Bringing Green Revolution to Eastern India (BGREI)** - A sub-scheme under the Rashtriya Krishi Vikas Yojna, BGREI is concerned with improving the production of rice and wheat by providing assistance on seed production and distribution, along with other supports.
- ▶ **National Food Security Mission (NFSM)** - It also targets at facilitating distribution of seeds at lower prices. Details of the extent of assistance provided by the Government on different seeds can be found here - <https://www.nfsm.gov.in/Guidelines/NFSM12102018.pdf>.

## 9. Are there any NGOs working for the protection of rights of the farmers?

Names and the contact details of the NGOs who are working for the protection of the rights of the farmers are mentioned below:

- **Rythu Swarajya Vedika**  
Email Address: [contact@rsvonline.org](mailto:contact@rsvonline.org)  
Webiste: <http://rsvonline.org/>
- **Krushi Vikas Va Gramin Prashikshan Sanstha**  
Email Address: [krushi.vikas@yahoo.com](mailto:krushi.vikas@yahoo.com)  
Contact No: 07267-224710  
Webiste: <https://www.krushivikas.org/>
- **Gramya Resource Center for Women**  
Email Address: [gramya.hyd@gmail.com](mailto:gramya.hyd@gmail.com)  
Contact No: +040- 42601382  
Website: <https://gramya.org.in>

# 6

## FISHERMEN'S RIGHTS

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### **1. Who is a Fisherman?**

As per the Fishermen (Protection and Welfare) Bill, 2017, a "fisherman" means a person who earns his livelihood by catching fish from the sea, including traditional fishermen, and whose only source of income is the money he makes from selling such fish and includes the person working as the fisherman's helper.

### **2. What is a Fisherman's Right to Work?**

Right to Work is a fundamental right in India as a part of Right to Life guaranteed under Article 21 of the Constitution of India. This includes the right of an individual to work in any productive employment, and they may not be prevented from engaging in such work. It consists of the right to livelihood, the right to an adequate standard of living, protection via labor laws, and fair remuneration.

### **3. What are the various challenges faced by the fishermen community in India?**

- *Absence of Legislation* - The Fisherman (Protection and Welfare) Bill, 2017, which seeks to protect fishermen in India's coastal states, is a step towards providing specific assistance to fishermen across the country. However, the bill has not yet been passed and hence is not evocable. In the absence of legislation specifically catering to them, fishermen in India continue to face various challenges.
- *Seasonal Nature of Work* - Since fishing in India is a seasonal business, during off-seasons, the fishermen are forced to seek work at construction sites, or take up other jobs which require them to relocate to other areas. The absence of a relief scheme for the fishermen during the fishing ban period causes many fishermen's families to go into debt. The government's policies have remained mainly fisheries-centric instead of fishermen-centric, which adds to the problem.
- *Debt Trap* – Fishermen often find themselves in a debt trap as fishing is banned during the monsoon months to keep mechanized boats away from breeding fishes; they take advance payments from fish traders. They spend the rest of the year repaying this debt and the accompanying interest.

- *Climate Change* – Fishermen have not been untouched by climate change's impact. Due to the increased frequency of cyclones hitting the coastal regions, heavy rains, and localized depression, the fishing days become fewer. This situation is further exacerbated as the government does not have an adequate policy in place for relief during such times. During the pandemic in 2020, the marine Fisheries sector lost Rs. 6,838/- crore per month.
- *Insurance Claims* - While the government has rolled out insurance schemes for fishermen (at present managed by the National Fisheries Development Board) who died at sea, the problem persists with its implementation. The process to claim the insurance benefits is long and tedious and has often been a bone of contention amongst activists working for fishermen's rights.
- *International Border Disputes* - Another challenge faced by them is the various international disputes regarding the borders in the sea. There have been several instances of fishermen caught in the crossfire between India and Sri Lanka because of its shared water boundary. Their rights in this regard must also be recognized and they must be educated regarding the sea boundaries.

#### **4. What are the legislative provisions enacted to benefit the fishermen in India?**

There is no legislative provision that deals explicitly with fishermen. However, they can employ certain benefits that are offered to workers across the nation. Fishermen in India fall under the umbrella of the unorganized sector and are thus, contemplated as unprotected workers who hail from some of the most vulnerable and socio-economically backward sections of society. They are often placed in remote areas, closer to the sea, where they can easily lay their hands on fish. Such sites conventionally have impoverished infrastructural facilities, roads, commutes, and modes of communication. A handful of laws that grant protection to the interests of fishermen in our nation are:

- **Minimum Wages Act, 1948** - This Act includes all the employees engaged in scheduled employment across India within its fold. Several states such as Andhra Pradesh, Bihar, Delhi, Gujarat, Orissa, Jharkhand, and West Bengal have included fisheries work under the ambit of scheduled employments. However, the drawback under this Act is that due to the nature of the fishing operations, the gamut and range of the aforesaid Act have been restricted. For instance, most inland fishermen today are either working for themselves or informally contracted and usually work for 'piece-rated' wages. The unorganized nature of the sector and the economically backward background of the fishermen pose a challenge for them in asking for minimum wages.

- **Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979** - This Act seeks to protect the rights of many fishermen who migrate from one coast to another by providing employment and service conditions for the fishermen. However, due to the indifference and lethargy of the implementing agencies, the benefits of this act have remained inherent and smoldered.

The significant provisions of the Act include:

- ▶ Providing separate restrooms, properly screened toilets, and washing facilities to female migrant workers.
- ▶ Providing creches in establishments where 20 or more women are ordinarily employed as migrant workmen for three months or more.

It is important to note here that although there is no legislative provision for the benefit of fishermen, enactments are there to regulate fishing. Further, State legislations have been enacted for the welfare of the fishermen and the associated people.

- **Tamil Nadu Fishermen and Labourers Engaged in Fishing and other Allied Activities (Social Security and Welfare) Act, 2007:** It was enacted to provide for social security and to ensure the well-being of fishermen and laborers associated with fishing and other allied activities. It also states the reliefs and assistance available to such people under various circumstances like accidents, deaths, marriages, education, etc.
- **The Kerala Fishermen Debt Relief Commission Act, 2008:** This Act was enacted to help distressed fishermen due to indebtedness. The Kerala State Fishermen Debt Relief Commission formed under this act will assist the fishermen by recommending relief measures, helping with conciliation, negotiation, and adjudication of the concerned matters. They will also assist in rescheduling the loans taken.
- **The Kerala Fishermen's Welfare Fund Act, 1985:** It was enacted to constitute a welfare fund for promoting the welfare of fishermen in Kerala and incidental matters. The fund established under this Act could provide relief during natural calamities, financial assistance for permanent or temporary disablement, payment of loans and grants, education and food for the fishermen and their family members, and old-age assistance.
- **The Kerala Fishermen Welfare Societies Act, 1980:** This act came into force to constitute welfare societies for fisheries villages to develop the fishermen community's economic, social and cultural life.

## 5. Is there any scheme enacted by the Government to ensure the fishermen's welfare?

Presently, the Department of Fisheries, Government of India is implementing a flagship programme called the **Pradhan Mantri Matsya Sampada Yojana (PMMSY)**. It is a scheme to bring about the Blue Revolution through sustainable and responsible development of the fisheries sector with a highest-ever investment of Rs. 20,050 crores for a period of 5 years with effect from 2020-21 to 2024-25 in all the States/Union Territories. PMMSY, *inter-alia*, also provides welfare-related activities, namely:

- (i) Livelihood and nutritional support for socio-economically backward active traditional fishing families during fishing ban/lean period. Under this component, assistance is provided @ Rs. 4500/- per fishermen's families which include Rs. 3000/- per fishermen to be provided by the Government and Rs. 1500/- to be contributed by the beneficiary for three months consisting of the fishing ban/lean periods; and

### (ii) Insurance for Active Fishermen:

The insurance coverage for fishermen includes:

- (a) **Rs.5,00,000/-** against accidental death or permanent total disability
- (b) **Rs.2,50,000/-** for permanent partial disability and
- (c) insurance coverage for hospitalization expenses in the event of an accident for a sum of **Rs. 25,000.**

Centrally Sponsored **National Scheme of the Welfare of Fishermen** by the Department of Animal Husbandry and Dairying seeks to provide financial assistance to fishermen in various ways. The scheme has three components – development of model fisherman villages to assist them in constructing houses and shared spaces, group accident insurance for active fishermen, and saving-cum-relief. For more information, visit: <https://dahd.nic.in/related-links/centrally-sponsored-national-scheme-welfare-fishermen>

Further, there are state-specific welfare schemes in place. For coastal areas in India, these can be accessed at:

STATE	SCHEMES/RELIEFS
<b>Gujarat</b>	<a href="https://cof.gujarat.gov.in/welfare-schemes.htm">https://cof.gujarat.gov.in/welfare-schemes.htm</a>
<b>Maharashtra</b>	<a href="https://fisheries.maharashtra.gov.in/en/district-level-schemes">https://fisheries.maharashtra.gov.in/en/district-level-schemes</a>

<b>Kerala</b>	<p>Group Insurance Scheme for Fishermen:  <a href="http://www.fisheries.kerala.gov.in/schemes">http://www.fisheries.kerala.gov.in/schemes</a></p> <p>Group Insurance Scheme for Allied Workers in Fishery Sector:  <a href="http://www.fisheries.kerala.gov.in/group-insurance-scheme-allied-workers-fishery-sector">http://www.fisheries.kerala.gov.in/group-insurance-scheme-allied-workers-fishery-sector</a></p>
<b>Karnataka</b>	<p><a href="https://ahf.karnataka.gov.in/info-2/FISHERIES+DEPT/en#:~:text=An%20assistance%20of%20Rs.,the%20rural%20and%20urban%20areas">https://ahf.karnataka.gov.in/info-2/FISHERIES+DEPT/en#:~:text=An%20assistance%20of%20Rs.,the%20rural%20and%20urban%20areas</a>.</p> <p><u>Distress Relief Funds:</u></p> <p>Compensation amount to the next kin if the fisherman dies on:</p> <ul style="list-style-type: none"> <li>- Land: Rs 3 lakh</li> <li>- Sea: Rs 6 lakh</li> </ul> <p>Damage to fishing gear and other property compensation: Rs 1 lakh</p>
<b>Tamil Nadu</b>	<p><a href="https://www.fisheries.tn.gov.in/WelfareSchemes">https://www.fisheries.tn.gov.in/WelfareSchemes</a></p> <p>Reliefs and assistance provided by the Tamil Nadu government are mentioned in Section 21 of the Tamil Nadu Fishermen and Labourers Engaged in Fishing and other Allied Activities (Social Security and Welfare) Act, 2007.</p>
<b>Andhra Pradesh</b>	<p>YSR Matsyakara Nestham: <a href="https://vikaspedia.in/schemesall/state-specific-schemes/welfare-schemes-of-andhra-pradesh/ysr-matsyakara-nestham">https://vikaspedia.in/schemesall/state-specific-schemes/welfare-schemes-of-andhra-pradesh/ysr-matsyakara-nestham</a></p> <p>YSR Matsyakara Bharosa: <a href="https://ysrbima.ap.gov.in/new/YSRMB.aspx">https://ysrbima.ap.gov.in/new/YSRMB.aspx</a></p>
<b>Odisha</b>	<a href="http://www.fardodisha.gov.in/fisheries-schemes">http://www.fardodisha.gov.in/fisheries-schemes</a>
<b>West Bengal</b>	<a href="https://www.wbfisheries.in/scheme.php">https://www.wbfisheries.in/scheme.php</a>

## 6. Is there any organization dedicated to fishermen where they can seek support in times of distress?

- **South Indian Federation of Fishermen Societies (SIFFS)** is a Non-Governmental Organisation (NGO) dedicated to the Marine Fisheries Sector. It is comprised of organizations of small-scale fishermen and consists of a three-tier organizational structure. Focus of the organization over the last two decades has been on strengthening artisanal fisheries. It has been aided in this vision by over 9,104 fishermen organized through 153 primary societies in 8 districts of southern peninsular India. It was started primarily as a fish-marketing organization but currently provides



numerous services to member and non-member fishermen. Close to 65,000 fishermen, inclusive of non-members, avail of these services. The support details are as follows:

Contact number: 0471-2343711, 2343178

Email address: [support@siffs.org](mailto:support@siffs.org)

Website URL: <http://www.siffs.org/>

- **National Fishworker's Forum (NFF)** is another organization that seeks to foster unity among the fishermen, work towards the achievement of the fishermen's legitimate rights, and provide legal help to protect their rights. It is registered under the Trade Union Act of India.

Email: [nff@nffindia.org](mailto:nff@nffindia.org); [rpatilnarendra@gmail.com](mailto:rpatilnarendra@gmail.com)

Ph: 04714000292, Mob: 8289905239

## FUNDAMENTAL DUTIES OF A CITIZEN

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### 1. What is the meaning of Fundamental duties of a citizen?

A duty can be understood as a moral obligation cast upon a person to carry out a particular act. Article 51A of the Indian Constitution embodies Fundamental duties. However, it is not confined only to Article 51A. Fundamental duties are viewed as moral and civic duties that Indian citizens are required to abide by. While moral duties refer to the noble ideals of the freedom struggle, civic duties translate to the basic conduct such as respecting the Constitution, National Flag, National Anthem, amongst others.

### 2. Are Fundamental Duties ascribed to every person?

No, Fundamental duties are ascribed only to the citizens of India. Therefore, foreign nationals residing inside or outside India are not bound by Fundamental duties. The fundamental duties must be complementary to fundamental rights.

### 3. Can Fundamental duties be enforced in a Court of law?

Fundamental duties are not enforceable in a Court of law. Indian citizens are morally obligated by virtue of the Constitution to perform these duties. In simple terms, if a person is not abiding to the fundamental duties, that individual cannot be prosecuted or held liable for the inaction of the same.

### 4. Are Fundamental duties and Constitutional duties one and the same?

Fundamental duties and Constitutional duties are not one and the same.

Examples of Constitutional duties:

- Right to Vote is a constitutional duty of every citizen, provided they meet the required criteria as per the Constitution of India.
- The President of India shall be the supreme commander of the Defence Forces of the Union of India. This is a constitutional duty vested to the President of India.
- The Vice-President of India shall be the ex-officio Chairman of the Council of States (Rajya Sabha). This is a constitutional duty vested upon the Vice-President of India.
- It is the constitutional duty of the Prime Minister of India to communicate decisions taken by the Council of Ministers in relation to the administration of the affairs of the Union and proposal for legislation.



The above mentioned duties are Constitutional duties that come with the respective posts that individuals hold.

## **5. What are the Fundamental duties that the Constitution of India has ascribed to its citizens?**

There are **11 Fundamental duties** that the Constitution of India has ascribed to its citizens.

The Fundamental duties relate to India's National Flag, the Constitution of India, the National Anthem, rich heritage, protecting the sovereignty and unity, amongst others.

## **6. What are certain implied but unsaid Fundamental duties of a citizen?**

It is the Fundamental duty of every citizen to develop his/her whole personality through education.

The following are some of the unsaid fundamental duties that every citizen must abide by:

- *Duty to pay taxes*
- *Duty to help accident victims*
- *Duty to keep premises clean and green*
- *Duty to raise voice against injustice*
- *Duty to not smoke in public places*

## **7. What is the duty towards children, women and elderly people of the society?**

It is the duty of every citizen to provide a safe environment and quality education for his/her child in order to foster his/her all round development.

It is further the duty of every citizen to respect every women and elderly citizen of our society and not to cause harm/abuse (physical/psychological) to them in any manner whatsoever.

## **8. What is the duty towards the national flower?**

It is the duty of every individual to provide a clean environment to the national flower (Lotus) and all other species for them to strive in their growth.

## **9. What is our duty towards the national and other animals?**

When it comes to duties towards the national and other animals, they are as follows:

- Providing easy access to food and water (in wildlife sanctuaries through man-made water tanks to be build, in order to compensate for dry lakes and pools).

- Planting endemic trees and plants in order to ensure a natural habitat for them.
- Not to chain or cage animals.
- To ensure that animals have a healthy life and dignified death (by monitoring their movements if necessary).
- To ensure that animals have a safe and secure habitat where they foster and thrive.

**10. Is a Citizen bound only by the 11 Fundamental duties as provided under the Indian Constitution?**

No, there are more fundamental duties other than the ones provided under the Indian Constitution.

The other duties are covered in the following legislations: Prevention of Insults to National Honour Act, 1971, the Protection of Civil Rights Act, 1955, the Unlawful Activities (Prevention) Act, 1967, the Representation of the People Act, 1951, the Environment (Protection) Act, 1986, and the Forest (Conservation) Act, 1980, amongst others that indirectly impose obligations, penalties and punishments and act as stringent regulations.

**11. Are there any consequences if an individual tries to alter or misuse or if being the owner or occupier of a protected monument, contravenes an order from the designated authorities?**

There are severe consequences against an individual who tries to destroy, remove, injure, alter, deface, imperil or misuses a protected monument space or contravenes an order from designated authorities.

The individual will be subjected to imprisonment that may extend to three months or even extend to two years or with a fine of INR 1 lakh or both.

**12. What will happen if an individual uses the name, emblem, official seal or national flag of the Government of India or of any State for the purposes of running a business or unit or for any personal engagement?**

An individual who uses the name, emblem, official seal or national flag of the Government of India or of any State for the purposes of running a business or unit or for any personal engagement shall be punished with a fine that may extend to INR five hundred rupees.

Please refer to the detail list of names, emblems, official seals, amongst others that should not be used by an individual on a personal capacity at <https://www.indiacode.nic.in/bitstream/123456789/1896/1/a1950-12.pdf>

**13. What action will be taken against a person who tries to destroy or cause harm to the natural environment?**

A person who tries to inflict any kind of harm towards the natural environment that includes forests, wild-life amongst others by means of felling or girdling of trees or causing fire wilfully or by negligence will be subjected to a punishment with imprisonment for a term that may extend to six months or fine, or with both.

**14. What Fundamental duty does a Citizen have towards the protection and improvement of natural environment and how can it be performed?**

Every citizen has a responsibility to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have a deep compassion for all living creatures so that the natural environment thrives as a habitat.

**15. What action can be taken against a person who disrespects or brings an insult to the Indian National Flag and the Constitution of India?**

Any person who insults, burns, mutilates, defaces, disfigures, destroys or tramples the Indian National Flag or the Constitution of India in either spoken or written acts shall be punished with imprisonment for a term that may extend to three years, with fine or both.

**16. Is there any specific law with regard to the singing of National Anthem?**

There is a specific legislation with regard to the singing of the National Anthem. The particular law states that if any person intentionally prevents the singing of the Indian National Anthem or causes disturbance to an assembly singing the anthem, the person shall be punished with imprisonment for a term that may extend to three years or with a fine or both.

**17. What has been the most recent interpretation of the Court in relation to the law on the Indian National Anthem?**

The Court has held that not standing up while the National Anthem is being sung or standing up but not singing the National Anthem may amount to disrespect to the National Anthem and a failure to adhere to the fundamental duty but it is not an offence under law. Therefore, not standing up or singing during the National Anthem will be a failure towards fundamental duties and not an offence per se.



**18. What are the instances when a citizen could be made liable for adversely impacting the environment through his actions?**

- Urinating, spitting (spitting after consuming tobacco, pan masala products) amongst others at public places.
- Littering forests, wildlife sanctuaries, public places amongst others with eatables, plastic materials, electronic waste, medical waste, etc. is an offence under law in India.

## **MAHATMA GANDHI NATIONAL RURAL EMPLOYMENT GUARANTEE ACT, 2005 (MGNREGA, 2005)**

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**1. What does the MGNREGA guarantee?**

The Act guarantees a minimum of 100 days of work for at least one member of every household in those rural areas notified by the Central Government.

**2. Who are the beneficiaries under the MGNREGA?**

Every person over the age of 18 years residing in a household in a rural area is eligible to apply for the work under the Act.

**3. What kind of work is guaranteed by the Act?**

Schemes under the Act provide ‘unskilled manual work’, defined as physical work capable of being done by an adult person without any skill or special training. Additionally, suitable individuals from households may be chosen for skilled labour as engineers and social auditors.

**4. What is a job card under the Act?**

- Every adult in a household willing to do work must first apply for a ‘**job card**’ by submitting their name, age and address to the village Gram Panchayat. Documents required to apply for ‘job card’ as a proof of their name, age and address includes Ration Card, PAN Card, Voter ID Card, bank account details and Aadhar Card.
- The job card application can be made by downloading the proforma for job card under MGNREGA from the respective state website and submit the duly filled application form to the government office or any other equivalent office in their respective area.

**5. How is a job card issued?**

The village Gram Panchayat will issue a job card within 15 days from the date of receipt of their application which contains the following details:

- A unique job card number;
- Details of the adult members of the household;
- Bank or post office account number;

- Insurance policy numbers; and
- Aadhaar number.

## 6. What is the validity of job cards?

- The job cards are valid for a period of **5 years** from the date of issue.
- The job cards will also be updated with the following details about the work allocated:
  - ▶ number of days for which work was demanded;
  - ▶ number of days of work allocated;
  - ▶ description of the work allocated along with the muster roll number;
  - ▶ measurement details;
  - ▶ unemployment allowance, if any, paid;
  - ▶ dates and number of days worked;
  - ▶ date-wise amount of wages paid; and
  - ▶ delay compensation paid, if any.

## 7. What is the provision for the women and vulnerable people with respect to job card?

Single women, specially-abled persons, aged people, released bonded labourers, and those belonging to Particularly Vulnerable Tribal Groups will be given a special job card of a distinct colour ensuring them special protection in allocation of work, work evaluation, and work site facilities.

Those individuals whose names appear in a job card will then be entitled to apply for unskilled manual work. The individuals may download their respective job card from the job card list specified in this website: <https://sarkarilist.in/mgnrega-job-card/>, of their respective state.

For instance, in the State of Assam, applicants may contact Zilla Parishad of that district and similarly, in State of Karnataka, individuals may contact the local municipal corporation such as the BBMP office if they are in Bengaluru rural district, while obtaining the job card.

## 8. How can citizens apply for work under the Act?

- An individual may apply for work in the following ways:
  - ▶ By making an oral or written application to the Gram Panchayat, Ward member, Programme officer, or any other officer deputed by the State government;

- ▶ By calling the MGNREGA number designated by the State Government; and
- ▶ Through any other means designated by the State Government.
- There is no limit on the number of days for which an applicant can apply for work, although they must apply for at least 14 consecutive days of work, and 6 consecutive days if such work is related to sanitation.
- An individual may also apply for work in advance of the days they actually wish to work for. The applicant will be allotted work fifteen days from the receipt of the application by the relevant authority, or fifteen days from the date of seeking work in an advance application.
- Individuals will be informed of the allotment of work by means of a letter sent to their address or by a public notice displayed at the office of the village, block, or district Panchayat. All such work must to the best extent possible be within 5 kilometres of the village in which the applicant resides.

## **9. What happens when work is not allotted under the scheme?**

If an applicant is not allotted work fifteen days from the date on which the application has been registered or work has been sought, they are entitled to receive a daily unemployment allowance at a rate notified by the State Government. Such rate will also be a minimum of one-fourth of the applicable wage rate for the first thirty days, and at least one-half of the wage rate for the rest of the days.

The unemployment allowance will cease once work is allotted. Further, if the household members have not turned up for work, if they have received 100 days of work, or if they have earned as much wages and unemployment allowance as is equal to 100 days of wages.

## **10. What is the scheme for wages?**

- The wages for works under the Act will be specified by the Central Government for specific areas, and the minimum rate payable is Rs. 60 per day. If the Central Government has not specified any rate, work will be provided at the minimum wage set by the State Government for agricultural labourers under Section 3 of the Minimum Wages Act, 1948.
- Wage rate per day (in rupees) differs from one state to the other and is paid in accordance with the latest notification provided by the Ministry of Rural Development on 28th March 2022 available at [https://nrega.nic.in/netnrega/writereaddata/Circulars/2447Wage\\_Rate\\_2022.pdf](https://nrega.nic.in/netnrega/writereaddata/Circulars/2447Wage_Rate_2022.pdf).

- The payment of wages will be through individual savings accounts of the workers in relevant banks and post offices unless exempted by the Central Government. Any payments of wages in cash will be directly provided to and in the presence of an independent person. In case of non-cash payments, the said wage amount is directly transferred to the respective individual's bank account through the source of bank account details provided while applying for the work under MGNREGA.

The wages are linked to the quantity of work done and paid according to the rural schedule of rates fixed for different types of work in different seasons. Such wages will be fixed so that an adult person who works for eight hours inclusive of an hour of rest will earn wages equal to the stipulated wage rate.

If any individual is assigned work outside a radius of 5 kilometres from the village in which they reside, they will be paid an extra 10% of the wages to meet additional transport and living costs.

All wages will be disbursed on a weekly basis and no later than two weeks from the date on which the work was done. If the wages are not disbursed 15 days from the date on which they become payable, the workers become entitled to compensation at the rate of 0.05% of the unpaid wages per day from the sixteenth day of non-payment.

## 11. What are the rights of workers in the worksite?

- Under the Act, workers are entitled to:
  - Work for no more than twelve hours in a single day;
  - Safe drinking water;
  - Periods of rest;
  - A first aid box with materials that would be able to provide emergency treatment for minor injuries and health hazards connected with the type of work;
  - Medical treatment free of cost if any injury arises by accident in the course of their employment; and
  - Accommodation, treatment, and medicines if the worker is hospitalised by such injury, along with a payment of daily allowances which must be at least half of the wage rate.
- If a worker dies or becomes permanently disabled by accident in the course of their employment, they or their legal heirs are entitled for ex-gratia payments as under the Pradhan Mantri Suraksha Bima Yojana or as may be notified by the Central Government.

- Children accompanying workers are entitled to shade, and if there are more than 5 children below the age of 5, one woman worker will be deputed to look after them. These children are also entitled to medical treatment in case of injury arising in the worksite, and in case of death or disablement caused, the State Government will designate an ex-gratia amount to be paid to the child's guardians.

## **12. Are there any groups that get priority under the Act?**

Women, the elderly, people with disabilities and people with debilitating ailments will have a separate schedule of wage rates so as to improve their participation. Women will also be given priority such that at least one-third of the beneficiaries will be women who have registered and requested for work.

In addition, one labour-intensive public work will be reserved at all times to provide work to Particularly Vulnerable Groups such as the elderly and specially-abled people. Those women deputed to look after children in the worksite will be the most marginalised women in the locality, women in exploitative conditions or those in bonded labour, or liberated manual scavengers.

## **13. What is the mechanism for grievance redressal under the Act?**

- While the grievance redressal mechanism may vary according to the State, States are mandated to follow the following structure while receiving complaints at the Ward, Gram Panchayat, Block and District levels:
  - ▶ Issue a dated receipt to complaints received by phone, internet, and orally;
  - ▶ Enquire through a spot verification, inspection, and disposal within 7 working days; and
  - ▶ Redress all grievances within 15 days.
- All orders by the authorities can be appealed:
  - ▶ The order of the Gram Panchayat can be appealed against to the Programme officer;
  - ▶ Those of the Programme officer can be appealed against to the District Programme Coordinator;
  - ▶ Those of the District Programme Coordinator can be appealed against to the State Commissioner (NREGS), Divisional Commissioner (NREGS) and State Grievance Redressal officer; and



- ▶ Appeals can be made within 45 days of the issuance of the order and must be disposed of within 1 month.
- Individuals can file their grievances in the following ways:
  - ▶ By submitting a written or oral complaint to the relevant authorities at the Ward, Gram Panchayat, or Block or District levels.
  - ▶ By making an online complaint at [https://nrega.nic.in/Netnrega/redersal/redersal.aspx?eb=&state\\_code=01](https://nrega.nic.in/Netnrega/redersal/redersal.aspx?eb=&state_code=01)
- Note: The location of the complainant is Andaman & Nicobar Islands by default, and the State code in the URL needs to be changed in order to change the State as well.
- ▶ By contacting the helpline number **1077**.
- The individuals can also approach the ombudsperson appointed by each State (in accordance with the Government of India, Ministry of Rural Development and MGNREGA Division notification dated 11th April 2017), who receive grievances, enquire upon the grievance addressed, and pass awards. Information pertaining to this is available at [https://nrega.nic.in/netnrega/writereaddata/Circulars/2113Grievance\\_Redressal\\_Rules\\_formation\\_concerning\\_10\\_States.pdf](https://nrega.nic.in/netnrega/writereaddata/Circulars/2113Grievance_Redressal_Rules_formation_concerning_10_States.pdf).

#### **14. Who are the appropriate authorities to approach under the Act?**

The District Programme Coordinator, in charge for the implementation of the scheme in a particular district, is responsible for redressing the grievances of applicants. In addition, the Programme officer may be approached for complaints at the Block level.

#### **15. What is the role of the Gram/ Village Panchayats under the Act?**

The Gram/Village Panchayats perform the following functions:

- Receiving applications for registration;
- Verifying registration applications;
- Registering households;
- Issuing job cards;
- Receiving applications for work;
- Issuing dated receipts for these applications for work;

- Allotting work within fifteen (15) days of submitting the application or from the date when work is sought in the case of an advance application, whichever is later, irrespective of the implementing agency;
- Conducting periodical surveys to assess demand for work;
- Identification and planning of works, developing shelf of projects including determination of the order of their priority. This list is forwarded to Programme officer for scrutiny and preliminary approval;
- Executing works that shall meet the required technical standards and measurements;
- Maintaining records for social audits of all works and expenditures;
- Maintaining accounts and providing utilization certificates in formats prescribed by Central/ State Governments;
- Prepare annually a report containing the facts and figures and achievements relating to the implementation of the Scheme within its jurisdiction and, copy of the same to be made available to the public on demand and on payment of such fee as may be specified in the Scheme;
- Awareness generation and social mobilization;
- Convening the Gram Sabha for planning and social audit; and
- Make available all relevant documents including the muster rolls, bills, vouchers, measurement books, copies of sanction orders and other connected books of account and papers to the Gram Sabha for the purpose of conducting the social audit.

## MATERNITY BENEFIT

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### 1. What is maternity benefit?

Maternity benefit refers to money which is payable by an employer to a woman who is on leave from work owing to delivery of child. The money that is to be paid would amount to the average daily wage to which the woman is to compensate her, for the period during which she is absent from work owing to pregnancy and subsequent delivery of child.

The wages that a woman would be eligible to under this Act includes cash allowances, including dearness allowance, rent allowance, incentive bonus and the money concessions given for supply of food or other articles. However, it does not include any other bonus or overtime allowance and payments out of provident fund, pension fund and gratuity.

### 2. Who all are entitled to maternity benefit?

Under the Maternity Benefit Act, 1961, women working in private or public establishments such as factory, mines, and plantations as well as in establishments where women have been employed for acrobatic, horse riding and other similar activities.

It is also applicable to all shops or establishments which employ at least 10 persons. If an establishment comes within the ambit of Employee State Insurance Act, 1948, then maternity benefit as provided under that Act would only be applicable.

### 3. What are the conditions for availing maternity benefit?

- Maternity benefit can be claimed by a woman if she has worked for at least eighty (80) days in an establishment in the twelve months preceding her delivery. Maternity benefit is payable for twenty-six (26) weeks. A maximum of eight (8) weeks benefit can be availed of before the delivery;
- For a woman who already has two or more children, maternity benefit that can be availed of is for twelve weeks. A maximum of six (6) weeks maternity benefit can be availed of before delivery in such cases;
- If the pregnant woman dies, then maternity benefit can be availed for the days upto the day of her death. If a woman dies during or after her delivery, with the child surviving, then the entire maternity benefit for which the woman is eligible should be paid by the

employer. If the child also dies, then the maternity benefit needs to be paid only for the day upto the death of the child;

- Women who adopt children of less than three months and women who opt to have children through surrogate mothers can also claim maternity benefit under the Act; and
- Maternity benefit can also be claimed by women, who work from their homes as part of their employment.

#### **4. How can maternity benefit be availed of?**

- A woman can obtain a medical certificate from a medical practitioner which states that she is pregnant. The format for the certificate to be obtained can be found in Form B appended to the Maternity Benefits Rules, 1963. If this certificate is produced before delivery, she can avail of the maternity benefit to which she is eligible for the period preceding delivery. Similarly, the maternity benefit for the period subsequent to the delivery of child can also be availed of by producing a medical certificate from a medical practitioner to that effect.
- A woman should also give a notice to her employer in the format prescribed under Form-E of the Maternity Benefit Rules, 1963. She can absent herself from work once the notice has been given. Such notice can be given six (6) weeks before her expected date of delivery but not before that. Even if she has failed to give the notice before her delivery, she can give the notice subsequent to the delivery. A woman cannot be denied maternity benefits merely because she had failed to give notice to her employer.

#### **5. What are the rights that can be availed by a pregnant woman under the Act?**

In addition to maternity benefit, a woman is entitled to the following rights under the Act:

- Right to avail absence from work for six (6) weeks following her delivery. This right can also be claimed in the event of a medical termination of pregnancy or a miscarriage;
- Right to be excused from work which are of a strenuous nature such as works involving long hours of standing which would affect the pregnancy or foetal development or affecting her health in any manner. This can be claimed one month prior to the leave of absence that a woman takes and at any time during the six (6) weeks subsequent to her delivery if she chooses not to take a leave;
- Right to be paid a medical bonus of one-thousand (1000) rupees if the employer does not provide pre-natal confinement and post-natal care free of cost;

## 6. What are the rights a woman can avail post delivery or miscarriage?

- A woman can avail of leave with maternity benefits for a period of six (6) weeks following medical termination of pregnancy or miscarriage. Similarly, a woman can avail leave with maternity benefits for a period of two (2) weeks after undergoing a tubectomy operation. For any illness that arises during pregnancy or after delivery or miscarriage, leave for one (1) month may be availed in addition to the leave that she is otherwise entitled to;
- A woman who has joined work after delivery of a child is entitled to take two breaks for nursing the child until the child attains fifteen (15) months of age. She is also allowed to visit crèche facilities four times a day;

## 7. What will happen if a woman is dismissed or discharged owing to the leaves she took during pregnancy?

- A woman cannot be dismissed or discharged from service during the period in which she has availed of a leave of absence on account of pregnancy. Notice period can also not be initiated during the course on which she has availed of a leave of absence during pregnancy;
- A woman who has been deprived of the maternity benefit or medical bonus or has been discharged or dismissed from service during the course of her maternity leave can appeal to the authority established under the Act in the format prescribed under Form G. Decision of that authority would be final; and
- No deduction can be made from the wages that are payable to a woman under the Act for the nursing breaks or for the exceptions that she takes due to the strenuous nature of work.

## 8. What are the consequences of non-payment of maternity benefit?

For non-payment of maternity benefit as well as for violation of any of the rights that have been guaranteed under the Act, an employer would be held liable and sentenced to imprisonment which can range from three months to a year and a fine ranging from two thousand to five thousand rupees.

## 9. How to lodge a complaint if maternity benefit is not being paid?

For non-payment of maternity benefit, a complaint may be lodged with the Inspector who has been appointed under the Act. The complaint has to be presented according to the format prescribed in Form H of the Maternity Benefit Rules. After conducting an examination, the Inspector may pass an order directing the payment of maternity benefits to the complainant.



Additionally, a woman who is aggrieved over non-payment of maternity benefits by her employer can also approach the National Commission for Women (NCW) in this regard. For this purpose, one can visit <http://ncw.nic.in/> or <http://ncwapps.nic.in/onlinecomplaintsv2> and can register an online complaint.

A written complaint containing all relevant details and supporting documents can also be personally delivered to the NCW or be sent to it through post. Once the complaint has been accepted, the NCW provides an acknowledgment number and a login ID along with its password.

This can be utilised to know about the status of the complaint. Alternatively, one can also call their helpline numbers **011-26944880** and **011-26944883** between 09:00 am - 05:30 pm from Monday to Friday.

## **10. How can women in the unorganised sector avail maternity benefit?**

- For Building and Construction Workers, women working in the sector are eligible for maternity benefits under the Building and Construction Workers Act, 1996. These are disbursed by the State governments. An application form has to be submitted before the concerned officials of the State Building and Other Construction Workers Welfare Board.
- The benefits that are available would depend on the rules that have been framed by the concerned State governments. A model scheme has been proposed for the workers in which a leave of a minimum of ninety (90) days to a maximum of twenty-six (26) weeks has been provided which can be availed for two deliveries. However, the scheme has not been finalised yet.
- Other women workers employed in the unorganised sector come within the ambit of the Unorganised Worker's Social Security Act, 2008. This Act states that Central Government has to frame schemes for women in the unorganised sector.

## **11. Are there any specific schemes for women in the organise sector?**

- No scheme has been enacted so far which specifies the maternity leave and other benefits to which a woman in the unorganised sector would be entitled to. The National Food Security Act, 2013 provides for benefits in the form of meals to be provided free of cost to all women during pregnancy and for six months after childbirth.
- It also states that women in the unorganised sector would be eligible for maternity benefits to the tune of Rs. 6000/- . The women working in unorganised sector can avail the benefits provided under schemes such as Janani Suraksha Yojana which gives cash assistance for deliveries that are undertaken in government hospitals or accredited private hospitals or the Pradhan Mantri Matru Vandana Yojana which also gives a monetary assistance of Rs. 5000 for the first delivery of a woman.

# 10

## MEDICAL TERMINATION OF PREGNANCY

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### **1. What is medical termination of pregnancy?**

It refers to the procedure by which pregnancy is terminated through medical or surgical interventions.

### **2. Who may terminate pregnancy under the Act?**

Any pregnant woman, regardless of her age and marital status may terminate her pregnancy according to the conditions prescribed under the Act.

### **3. Is consent of another person like spouse or parents or guardian necessary for termination of pregnancy under the Act?**

For a woman who is above eighteen (18) years of age and of a sound mind, consent of husband, parents or guardian is not necessary for termination of pregnancy. Only the woman undergoing the procedure needs to sign the consent form.

However, for women who are below eighteen (18) years of age and for women who are mentally ill, consent of parents or guardian is necessary for termination of pregnancy.

### **4. What are the grounds on which pregnancy may be terminated?**

Pregnancy can be terminated on any of the following grounds under the Act:

- When the pregnancy poses a threat to the life of the woman;
- When the pregnancy might injure the physical or mental health of a woman;
- When there are chances that the child would be born with a serious physical or mental abnormality;
- When pregnancy occurs as a result of failure of contraceptive methods; and
- When pregnancy has been caused as a result of rape.

### **5. When can a woman medically terminate her pregnancy?**

- A woman may terminate her pregnancy after obtaining the opinion of a doctor if it has not reached its twentieth week. For pregnancies that are in between twentieth (20) and twenty-fourth (24) weeks, medical opinion of two doctors need to be sought. The doctor has to be someone who is a gynecologist or an obstetrician.

- The option of termination of pregnancy when it has reached the stage of twentieth (20) to twenty-fourth (24) week is only available to some specified categories of women which have been enumerated under the Medical Termination of Pregnancies Rules through an Amendment in 2021. It can be exercised only when:
  - ▶ the pregnancy has been caused due to rape, sexual assault or incest;
  - ▶ when the woman is physically disabled or is mentally ill;
  - ▶ when the woman is under 18 years of age;
  - ▶ when the woman has become a divorcee or a widow during the course of the pregnancy;
  - ▶ when the child when born might face a threat to its life on account of malformations developed during pregnancy or would be born with serious handicaps because of mental or physical abnormalities; and
  - ▶ when the woman who is pregnant is within a situation of disaster, emergency or humanitarian conditions as declared by the Government.
- Thus, the Rules do not permit women who are unmarried from exercising the option of termination of pregnancy when it has crossed the twentieth (20) week limit and is in a stage before the twenty-fourth (24) week.
- Recently, this issue was taken note of by the Supreme Court and it was held that the option of terminating pregnancy should be made available to unmarried women also when it is in a stage between twenty (20) to twenty-four (24) weeks.

## **6. What is the procedure for termination of pregnancy if the prescribed time limit has passed?**

- At present, for termination of pregnancy that has crossed twenty-four (24) weeks, a writ petition has to be preferred before the High Courts or the Supreme Court. The Courts order the concerned Medical Board of the State where the woman resides to look into whether the performing of the procedure would be safe for the woman at the advanced stage of pregnancy and whether child is likely to be born with malformations that might threaten his life or with serious handicaps because of mental or physical abnormalities.
- The Medical Boards are constituted by State governments and is mandated to consist of a gynecologist, pediatrician and a radiologist or sonologist. The Medical Board has to provide an opinion after examining the woman and her medical reports within three days of receiving a request for the termination of pregnancy. The Board can also invite other specialists for the purpose of additional investigations to make a determination on the request.

- In its opinion, the Medical Board has to state whether the request is allowed or denied and the reasons for arriving at this decision. It also has to certify whether the woman is physically fit for undergoing the procedure for termination of pregnancy.
- The decision rendered by the Medical Board on allowing or denying a woman to undergo the procedure for termination of pregnancy shall be final.

## 7. Where can a pregnancy be terminated?

The Act allows termination of pregnancies in government hospitals as well as other hospitals approved for this purpose by the concerned State government.

## 8. Who all can access information about the medical termination of pregnancy?

- The Act guarantees privacy to the woman seeking to terminate her pregnancy. It forbids doctors from disclosing the details regarding the woman to any other person unless the information is being sought by any person authorised by law for the purpose;
- Moreover, it is also stipulated that the documents containing the details of the woman seeking abortion should be labelled as a ‘secret document’ and should be within the custody of the head of the hospital;
- There is a blanket ban on disclosing the forms signed by the woman and the entries made by her for the purpose of gaining admission to the hospital; and
- Lastly, an employer, to whom details regarding termination of pregnancy have been furnished by a woman for the purpose of availing leave, is also under a similar obligation to refrain from divulging the details to any other individual.

## 9. What are the consequences for violation of the provisions of the Act?

- If a termination of pregnancy is performed by a person who is not a registered medical practitioner, he would be liable for being punished with a rigorous imprisonment ranging from two (2) years to seven (7) years;
- For terminating a pregnancy in a place which is not authorised for this purpose, the woman doing so as well as the owner of the place would be liable for being punished with rigorous imprisonment which may range from two (2) years to seven (7) years; and
- For violating the privacy of a woman seeking or having undergone abortion, by disclosing details about her, a punishment of one (1) year imprisonment or fine or both has been prescribed under the Act.

## MOTOR VEHICLES ACCIDENTS

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### 1. What basic steps should a driver of a motor vehicle involved in an accident follow?

There are certain steps and precautions that the driver should annex in the event of an accident such as:

- The driver should maintain his composure and do nothing that may harm the other driver or vehicle involved in the accident or any other person;
- The driver should not run away. They should check if they themselves or anyone else involved in the accident has been injured. If someone is injured, they must take all practical measures to secure medical attention for the injured by taking them to the nearest medical practitioner or hospital, unless it is not feasible to do so on account of reasons beyond their control, such as mob fury, or if the injured person (or the injured person's guardian if the injured person is a minor) desires otherwise. The accident victim can be treated by any registered medical practitioner or doctor, and it is their duty to attend to the victim immediately without waiting for the procedural formalities;
- If the condition of the driver and the passengers are stable, then the persons involved in the accident should try to take pictures of the people and vehicles involved in the accident, the registration plates of the vehicles, and the scene of the accident;
- The driver or drivers involved in the accident should move the vehicle or vehicles off to the side of the road, as soon as possible. If this is not possible, they should remain in the area of the incident until the police arrive, unless the injuries sustained because of the accident have made it impossible to do so; and
- If involved in an accident with another vehicle, the drivers should tell each other their name, address, phone number, insurance details, driving license number, and the registration numbers of their vehicle.

### 2. Is it safe for a third person/stranger to help the victims of road accidents?

- Yes, it is safe to help out the victims of road accidents. It is a common misconception that helping the victim of a road accident will land them up in a trouble. Three out of four people in India are reluctant to help injured accident victims on the road because

they fear harassment by the police, hospital costs, unnecessary encumbrances and prolonged legal formalities;

### 3. What is the law with respect to goof Samaritans?

In 2012, an NGO called Save Life Foundation filed a PIL in the Supreme Court, advocating for a law that ensures people who provide assistance to the victims of road accidents are given protection from such potential harm;

Because of this, in 2014, the Supreme Court directed the Central Government to issue necessary directions relating to the protection of “**good Samaritans**” until appropriate legislation was passed by the Union Legislature. A good Samaritan is a person who voluntarily and in good faith, comes forward to provide immediate assistance or emergency care to a person injured in an accident, or crash, or emergency medical condition, or emergency situation without expecting any reward or compensation in return; and

Finally, in 2016, the Apex Court of India gave ‘**force of law**’ to the guidelines for the protection of good Samaritans which was further issued by the Ministry of Road Transport and Highways for the good Samaritans. This is to empower bystanders to help and rescue the victims of road crashes without having to worry about incurring hospital fees, being harassed by the police, being drawn into legal formalities, etc.

### 4. What are the crucial aspects of good Samaritans law?

The key aspects of the good Samaritan law are as follows:

- **A good Samaritan shall not be liable for any civil or criminal action:** For any injury or death of the victim of an accident involving a motor vehicle that was caused by the good Samaritan’s negligence in acting or failing to act while rendering emergency medical or non-medical care or assistance;
- **A good Samaritan need not reveal his identity:** A person who informs the police or emergency service regarding an injured person cannot be compelled to reveal his identity or personal details. Disciplinary action can be taken against officials who force a Samaritan to reveal personal details;
- **Good Samaritans do not have to pay for the medical treatment of the injured:** In the case of a hospital visit, good Samaritans cannot be forced to bear the cost of initial treatment. Moreover, hospitals cannot refuse treatment to a victim. Refusing treatment will be deemed as deemed “professional misconduct”; and
- **The good Samaritan cannot be compelled to be an eyewitness:** Any police officer or other person cannot compel a good Samaritan who assists an injured individual to

testify in court. The good Samaritan will have sole discretion over whether or not he wants to testify in the case.

- **The good Samaritan will not be detained at the police station:** If the good Samaritan does not want to be a witness in the case, the concerned police official(s) will let the good Samaritan leave after he informs the police about an injured individual on the road without asking any further questions;
- **Should he choose to become a witness, the good Samaritan's interview will be held at his own convenience:** If a good Samaritan does choose to become a witness, the investigating officer will interview him at a time and place that is convenient for him, such as his home or place of business, and the investigation officer will be dressed in plain clothes, unless the good Samaritan chooses to go to the police station;
- In case a good Samaritan chooses to visit the police station, he shall be examined in a **single examination in a reasonable and time-bound manner**, without causing any undue delay; and
- **The good Samaritan will get a cash prize:** The government has launched a scheme wherein anyone who saves the life of a road accident victim by rushing them to a hospital within the “golden hour” will get a cash reward of Rs. 5,000. “Golden hour” here means the time period lasting one hour after a traumatic injury where medical assistance is most likely to prevent death. Aside from the cash prize, they will also get a certificate of appreciation. There will also be ten national-level awards every year for the most deserving good Samaritans, who will get Rs. 100,000 as a reward.

## **5. Which act addresses the matter of road accidents in India? Has it laid down specific instructions for the driver of a motor vehicle that has been involved in an accident?**

Yes, the Motor Vehicles Act, 2019, a further amendment to Motor Vehicles Act, 1988 addresses road accidents, punishments, compensation to the victims, third party insurance etc. The Motor Vehicles Act, 2019 has laid down certain requirements for the driver of a motor vehicle that has been involved in an accident.

- The law requires the driver to stop and remain stationary for as long as reasonably necessary (not more than 24 hours) if asked to do so by a police officer, not below the rank of a sub-inspector;
- The driver is also required to take all reasonable steps to secure medical attention for the injured person, by taking him to the nearest medical practitioner or hospital available;

- They must also provide all the required information demanded by the police officer at the scene of the accident, and if no police officer is available, they must go to the closest possible police station and report the circumstances of the accident, including the reasons, if any, for not taking the reasonable steps to secure medical attention for the injured person. All of this has to be done as soon as possible and at least within twenty-four (24) hours of the accident;
  - Finally, they are required to provide the insurance company that has issued certificates in relation to the occurrence of the accident with the following information:
    1. The insurance policy number and period of its validity;
    2. The date, time and place of accident;
    3. The particulars of the people injured or killed in the accident; and
    4. The name of the driver and the particulars of his driving license.
  - People who are in violation of the aforementioned requirements shall be punishable with imprisonment for a **maximum term of six months**, or with a **fine of five thousand rupees**, or both. Repeat offenders can be punished with imprisonment for a **maximum term of one year** or with a **fine of ten thousand rupees** or both.
- 4. What is the procedure for getting compensation for the victims of road accidents under the Motor Vehicle Accidents Act, 2019?**
- The Motor Vehicles Act, 1988, has provisions for just and adequate compensation for the injured victims of road accidents. Under this act, the central government has also set up the **Motor Vehicle Accident Fund**, which is used to provide compulsory insurance cover for all road users in the territory of India.
  - A person can ask for compensation if:
    1. He has sustained injuries;
    2. He is the owner of the property;
    3. He is the legal representative of the person who died in the accident; and
    4. He is an agent authorized by the injured person (or by the legal representative of the deceased person in the case of a fatal accident).
  - It should be noted that an accident victim under the age of 18 can file for compensation only through an advocate. Also, no application for compensation shall be entertained unless it is made within six months of the occurrence of the accident.
  - Under section 164 of the Motor Vehicles Act, the owner of a vehicle or vehicles who caused an accident that resulted in the death of, or caused grievous hurt to a person, or the authorised insurer, must compensate the victims of that accident.

- The grievous hurt would constitute, loss of sight in either eye, loss of hearing in either ear, permanent disfigurement of the head or face, fracture or dislocation of a bone or tooth, loss of body part or joint, destruction or permanent impairing of the powers of any body part or joint and endangerment of life or cause the sufferer to be in severe bodily pain, or unable to follow his ordinary pursuits for twenty days.
- It need not be proved in court that the accident occurred due to some negligence or fault on the driver's part. The compensation should be:
  - Rs. 5,00,000/- in the case of death.
  - Rs. 2,50,000/- in the case of grievous hurt.

The Motor Vehicles Accident Fund will also be used for compensation for **hit and run cases**, wherein the identity of the person who caused the accident cannot be ascertained, the government is responsible for providing compensation.

Compensation for victims of hit and run cases was done under the solatium scheme wherein they were compensated Rs. 12,500/- in case of grievous injuries and Rs. 50,000/- in case of death.

However, the solatium scheme was recently superseded by a new Compensation to Victims of Hit & Run Motor Accidents Scheme, 2022, wherein the compensations were increased to Rs. 50,000/- in the case of grievous hurt and Rs. 2,00,000/- in the case of death. The new scheme has been effective since 1<sup>st</sup> April, 2022.

## **5. What procedure should be followed by road accident victims for claiming compensation under the Hit & Run Motor Accidents Scheme, 2022?**

To claim compensation under the new **Compensation to Victims of Hit & Run Motor Accidents Scheme, 2022**, the applicant should approach the Claims Enquiry Officer of the Sub-Division or Taluka in which the accident took place and submit an application form with the following information:

1. The name and father's name of the person injured/dead (husband's name in case of married woman or widow);
2. Name, age, date of birth, and address of the person injured/dead;
3. Sex of the person injured/dead;
4. Aadhaar number of the claimant (in case of grievous hurt) or Aadhaar number of legal representatives;

5. The date, place, and time of the accident;
6. Occupation of the person injured/dead;
7. The nature of injuries sustained;
8. The name and address of the police station in whose jurisdiction the accident took place;
9. Name and address of the Hospital/Medical officer/Practitioner who attended on the injured/dead; and
10. Name and address of the claimant/claimants.

They should also submit a copy of the hospital bill if the hospital has provided cashless treatment as per this scheme.

If the Claims Enquiry officer does not accept the grounds advanced by the applicant, he shall record the speaking order and communicate to the applicant the reasons for not accepting the claim application.

It should be noted that if the claimant's hospital bill has been paid under this scheme this scheme, that amount should be reduced from the compensation amount. Further, if the claim raised by the hospital in such a case is greater than the compensation amount, no compensation shall be paid to the claimant or legal representative of the deceased, whichever the case may be.

**6. Is there any nation-wide helpline dedicated to road accidents wherein people involved in accidents can seek support?**

- For accidents occurring on national highways, the National Highway Authority of India (NHAI) has launched a single four-digit toll-free helpline number **1033** to provide assistance to highway users regarding both emergency and non-emergency issues.
- Indian Highway Management Company Ltd. (IHMC), a firm promoted by NHAI, has established call centres in six different geographical zones named the 'West zone, South zone, Delhi zone, Chandigarh zone, Eastern zone and North-Eastern zone, for this purpose. People can dial **1033**, a single point of contact, from both mobile and landline devices to receive multilingual support.
- This number is operational throughout the year during all hours of the day (24\*7). It assists road accident victims by arranging ambulances, highway patrol cars, and cranes to remove wrecked vehicles from the scene of the accident.

### Other important helpline numbers in the event of a road accident are:

- **1073** - Road accident emergency service.
- **112** - All-purpose emergency number (National emergency number)
- **102** - Ambulance
- **108** - Medical helpline number for people living in the states of Andhra Pradesh, Gujarat, Uttarakhand, Goa, Karnataka, Tamil Nadu, Rajasthan, Assam, Meghalaya, MP and UP.

## 12

### NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

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#### 1. What are Narcotic Drugs and Psychotropic Substances?

“Narcotic drug” means coca leaf, cannabis (hemp), opium, poppy straw and includes all manufactured drugs. “Psychotropic substance” means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule.

#### 2. What amounts to an offence under Narcotic Drugs and Psychotropic Substances (NDPS) Act 1985?

The following acts constitute an offence under the NDPS Act:

1. Cultivation of any coca plant or gather any portion of coca plant;
2. Cultivation of opium poppy or any cannabis plant; and
3. Production, manufacturing, possess, sell, purchase, transport, warehouse, use, consume, import inter-State, export inter-State, import into India, export from India or tranship any narcotic drug or psychotropic substance.

#### 3. Doest the act of growing Cannabis (ganja) at one's rooftop or backyard constitute a criminal offence?

Yes, it constitutes to be a criminal offence and one may be punishable with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees.

#### 4. What is the punishment for offences under the NDPS Act, 1985?

Punishment under the Act depends on the quantity of the drugs seized and depending on the severity of the offence, punishment varies:

<b>Cultivation of Cannabis Produces, manufactures, possesses,</b>	Rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine which may extend to one lakh rupees.
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	<p>which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.</p> <p><b>Less than Commercial but more than Small Quantity:</b> Rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees.</p>
<b>Produces, possesses, transports, imports inter-state, exports inter-state, sells, purchases, uses or omits to warehouse poppy straw or removes or does any act in respect of warehoused poppy straw</b>	<p><b>Small Quantity:</b> Rigorous imprisonment for a term which may extend to [one year], or with fine which may extend to ten thousand rupees.</p> <p><b>Commercial Quantity:</b> Rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years, and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees.</p> <p><b>Less than Commercial but more than Small Quantity:</b> Rigorous imprisonment for a term which may extend to ten years, and with fine which may extend to one lakh rupees.</p>

## 5. Whether Bhaang is excluded from the offence?

Bhaang is generally prepared from the leaves of the Cannabis plant. Ganja as per the NDPS Act, 1985 includes only the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops). It has been held by various judgements of the courts, that Bhaang does not fall under the definition of cannabis and hence the NDPS Act is not applicable on Bhaang

## 6. What is Small Quantity or Commercial Quantity?

Small Quantity and Commercial Quantity varies depending upon the type of the Narcotic Drug and Psychotropic Substance. It is defined by the Central Government by means of a notification.

## 7. If I am held as an offender under the NDPS Act, 1985, can I get a bail?

Bail is the rule, jail is the exception in most offences. But in case of offences under NDPS Act, jail is the rule, and only in exceptional circumstances bail is granted. Only if the following conditions are satisfied the Courts may grant a bail:

- The accused has reasonable grounds to believe that he is not guilty of the offence.
- The fact is that if bail is granted, the defendant is unlikely to commit any crime while out on bail.

## 8. Who has the burden of proof?

The burden of proof under the NDPS Act is different from other criminal offences. It is on the offender to show that he had nothing to do with the narcotic drugs seized.

## 9. Whether possession of NDPS is actual or constructive?

The law has developed on this subject to also include constructive possession. Even if a person does not possess narcotic drugs, but the same is found in his/her house, garden, backyard, warehouse, vehicle, etc, the person can be held liable under the Act.

## 10. Who is an addict?

An addict is a person who has dependence on any narcotic drug or psychotropic substances. It may be any person who has become a victim of drug abuse.

## 11. Are there any exceptions under the Act?

The State Government can make rules for providing license for certain forms of cultivation, use for medicinal purposes, etc. However, if there is any contravention of the license or purpose for which license is granted, there are special offences and rigorous penalties including imprisonment for such offences.

## 12. If you are an addict or a victim of drug abuse, do you have any privilege under the law?

If you are an addict and are charged with the offence, then you need to undergo the complete treatment for de-addiction. However, the exemption is given for only those offences where the quantity involved is very minute.

# 13

## NATIONAL GREEN TRIBUNAL

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### **1. What is the National Green Tribunal?**

The National Green Tribunal (NGT) was established under the National Green Tribunal Act of 2010.

- It has been established with the intention of having an expeditious and effective disposal of environment related cases.
- Moreover, it is also for the conservation of natural resources and enforcement of environmental legal rights.
- It is a specialized bench dealing exclusively with environment disputes. NGT has been set up at five places and follows the circuit procedure for more accessibility.
- New Delhi is the Principal place of sitting of the Tribunal and Bhopal, Pune, Kolkata and Chennai are the other four places where the Tribunal operates from.

### **2. What is the importance of NGT in environmental protection?**

NGT was set up as per the recommendations of the Supreme Court and Law Commission of India. The establishment of NGT is also in consonance with India's obligations under international law where it has undertaken the responsibility to protect environment and develop national legislations for effective implementation. The Supreme Court in its observations in various judgments has stressed upon the fact that NGT is not just for adjudication of environmental matters, it is preventive and remedial in nature as well. Therefore, the guiding principles of NGT in adjudication are the precautionary principle and polluter pays principle. Any person can approach the NGT for the damage caused to environment and the Tribunal can pass an order for the restitution for environmental protection

### **3. What are the legislations which fall within the jurisdiction of the National Green Tribunal?**

1. The Water (Prevention and Control of Pollution) Act, 1974;
2. The Water (Prevention and Control of Pollution) Cess Act, 1977;
3. The Forest (Conservation) Act, 1980;

4. The Air (Prevention and Control of Pollution) Act, 1981;
5. The Environment (Protection) Act, 1986;
6. The Public Liability Insurance Act, 1991; and
7. The Biological Diversity Act, 2002.

#### **4. Who can file cases before the NGT?**

Any person aggrieved as a result of environment damage can file a petition before the NGT. It also considers any letter which brings to its notice the instances of environment damage as a petition. A valid complaint will be considered by the NGT even if there is no express representation from any party. A complaint can also be filed online. NGT has both the appellate and original jurisdiction.

#### **5. What is the format for filing a petition before the NGT?**

The main objective of the tribunal being speedy disposal of environment claims the NGT accepts a letter as a petition. Petitions can be filed online through “e-filing”. The website of the NGT provides for online registration of cases through registered advocates and also through the registered users who can appear before the tribunal for the cases.

#### **6. Whether the NGT has the *suo moto* powers to take up the cases?**

The NGT Act of 2010 does not explicitly confer *suo moto* powers on the Tribunal to take cognizance of the offences. However, the Supreme Court has held that the NGT must exercise *suo moto* powers to take cognizance of issues, as and when it becomes necessary for achieving the purposes for which the NGT was established.

#### **7. Are the orders of the NGT binding on the parties?**

The decisions of the NGT are binding on the parties. It also has the power to order for imprisonment up to three years and impose a fine which may extend up to ten crores.

#### **8. What is the procedure for the enforcement of any legal right relating to environment matters under the adjudication of NGT?**

- The NGT has jurisdiction on all civil cases involving substantial questions on environment. The Tribunal's orders are enforceable as the powers vested are the same as in a civil court under the Code of Civil Procedure, 1908. The decisions of the Tribunal are therefore binding.

- The NGT being a statutory adjudicatory body, it has original jurisdiction for filing applications and also appellate jurisdiction to hear appeals. Any person seeking relief or compensation for environmental damage caused can approach the Tribunal for seeking restitution. The Tribunal has powers to review its own decisions. The review decision of the Tribunal can be challenged in the Supreme Court.

#### **9. What are the powers of NGT in adjudicatory matters?**

The NGT has powers to investigate the claims of the aggrieved party. The NGT has the power to pass orders granting reliefs, compensation, restitution of damages and also has the power to impose penalty. It also has the power to order for imprisonment of up to three (3) years and impose fine which may extend up to ten crores.

#### **10. What does ‘Polluter Pays Principle’ and ‘Precautionary Principle’ signify?**

In environment jurisprudence, both the Polluter Pays Principle as well as the Precautionary Principle are very crucial. Polluter Pays Principle means that those who pollute should bear the cost of managing the environment and its restitution. Under the Precautionary Principle, the State is enjoined to anticipate, prevent and take measures for safeguarding environment from measures that might degrade it.

#### **11. What is the provision for the online filing of cases in NGT?**

- The NGT has provision for e-filing of cases through its website which can be accessed at <https://ngtonline.nic.in/efiling/mainPage.drt>
- The service of checking the status of cases filed online can be availed through <https://www.greentrivalunal.gov.in/casestatus/diarynumber>

#### **12. What is the Help Center number for approaching the NGT?**

The Help Centre can be contacted via **01123043528** and NGT would be open from 10:00 am to 04:00 pm (Monday-Friday).

**1. What is Peoples Biodiversity Register (PBR) under the Bio-Diversity Act 2002?**

PBR is a comprehensive document which provides information on Biological resources which are locally available including the landscape and demography of a particular area or village. The concept of PBR is defined in the Biological Diversity Act, 2002.

**2. What are Bio-Diversity Management Committees?**

The Biological Diversity Act of 2002 has mandated every local self-government in rural and urban areas to constitute Biodiversity Management Committees (BMC) within their area of jurisdiction. The objective of BMCs is to ensure the conservation, sustainable utilization and equitable sharing of benefits from the biodiversity. All BMCs must prepare the PBR in consultation with local people.

**3. What is the objective of preparing PBR?**

The State Biodiversity Board maintains the PBR. This has the details of the application for the use of resources, approvals, benefit sharing and the beneficiaries under the access and benefit-sharing mechanism.

- The register gives a regulated access and protection from the over-exploitation of valuable resources and accountability by way of sustainable practices of sharing the biological resources by the stakeholders.
- The benefit sharing is further utilized for the conservation of biological resources.
- The documentation is essential as it empowers the local bodies and biological resources regarding the sovereign rights of biological resources. It ensures proper management, conservation strategy and sustainable use of biodiversity.

**4. What are the necessary details to be included in the Peoples Bio Diversity Register?**

The PBR is a comprehensive document which has details of the landscape, habitat and demography along with the details of the biological resources. The details which are in the register are:

- Name of the Panchayat Samiti: Taluk, District and State;

- Geographical area Panchayat Samiti;
- Total population under the Panchayat Samiti;
- Total population of male and female;
- Climate (rainfall, temperature and other weather patterns);
- Habitat and topography;
- Land use as per village records;
- Date, month and year of PBR preparation; and
- Type of forest management: Reserve Forests (RF) / Joint Forest Management (JFM) / Protected Areas (PA) / Community Owned and Managed Forests (COM).

## **5. What is access and benefit sharing?**

Access and benefit-sharing (ABS) is a system which aims at fair and equitable distribution of benefits arising from the usage of genetic resources between the users of genetic resources. For example, the biotech companies and the forest dwellers.

- The “Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits arising from their Utilization to the Convention on Biological Diversity” is an international agreement which aims at sharing the benefits arising from the utilization of genetic resources and came into force on 12 October 2014. PBR helps in determining the access and benefit sharing.

## **6. What are the details provided in the PBR regarding the access and benefit sharing?**

PBR comprises of a list of vaids, hakims and traditional health care (human and livestock) practitioners who are residing in particular geographical areas. It also has the details of the biological resources growing within the jurisdiction of the village. Moreover the details of access to biological resources and traditional knowledge granted, collection fee imposed, benefits derived, determination and mode of sharing can be found in the PBR.

## **7. What is the process of preparing the Bio-Diversity Register?**

The important steps in the process which is vital to the preparation of PBR are:

- Formation of Bio-Diversity management committees;
- Awareness among the public regarding advantages and benefits of the register. There is a need and necessity to organize a group meeting to explain the objectives and purpose among the public;

- Training the public and volunteers for identification of biological resources, collection of data on biological resources and traditional knowledge. The documentation process includes the various information gathered through questionnaire and the focused discussion on various aspects of traditional knowledge. Information is also gathered through the published secondary information
- Participatory Rural Appraisals (PRA) are done at the village levels, with the knowledgeable individuals and through direct field visits
- Analysis of the knowledge such as traditional knowledge, review of literature and its validation
- Preparation of register, data collection and computerization

## **8. What is the role of the Technical Support Group in preparation of Peoples Bio-diversity register?**

The Technical Support Group (TSG) consists of experts belonging to various disciplines, universities, research institutes, colleges, schools and non-governmental organizations. The TSG provides inputs and advice to the BMCs for the identification of plants and animals. They also monitor, evaluate the PBR process and maintain the database on biodiversity resources.

## **9. What is Associated traditional knowledge?**

Associated traditional knowledge refers to the knowledge that is growing, evolving, generated in traditional practices, preserved by the indigenous and local communities from generations to generations. It includes traditional know-how, skills, innovations, practices, and learning. For instance, the hakims and vaids are persons who may be considered as having the traditional knowledge on medicinal plants and its usage.

## **10. What is the process of determination of benefit sharing?**

With regard to the determination of benefit sharing, the State Biodiversity Boards (SBB) shall follow the Guidelines on Access to Biological Resources and Associated Knowledge and Benefits Sharing Regulations, 2014. A particular biological resource is of high economic value, the benefit sharing may include an upfront payment as decided by the SBB on a case by case basis.

- State Bio-Diversity Boards retain a share not exceeding 5% of the benefits realized towards administrative charges

- The remaining 95% share of the benefits shall be passed on to BMC concerned or to the benefit claimers, if identified.
- Where benefit claimers are not identified, funds shall be deposited in the State Biodiversity Fund. It can be utilized to support conservation and sustainable use of biological resources and to promote livelihoods of the local people.

## 11. What is the process of applications for Access to Biological Resources?

The process of applications is under Section 7 of the BD Act. The concerned officer verifies the exact purpose of accessing biological resources and ascertains whether it is for commercial utilization or for bio-survey and bio-utilization.

Applications would not be entertained by SBBs if the purpose is for research on a biological resource or associated knowledge and obtaining Intellectual Property Rights for inventions based on any research or information on a biological resource obtained from India. Application would also not be entertained for transfer of results of research related to biological resources occurring in, or obtained from India, to any non-Indian/non-Indian entity.

## 1. What is Single-use plastic?

Plastic Waste Management Rules, (PWM) 2021 classifies plastic items that are intended to be used only for a single time, after which it would be disposed of as single-use plastic commodities. Plastic bags, straws and plastic cups are some of the examples of single-use plastic commodities.

The PWM, 2021 has classified plastic into four categories namely,

- **Rigid packaging** – Articles such as paperboard boxes, aluminum cans, cereal boxes, cans in foods beverages, detergent bottles fall under the ambit of rigid packaging.
- **Flexible packaging** – Sample pouches, food and beverages pouches, cosmetics and personal care pouches are examples of flexible packaging.
- **Multi-layered packaging** – Laminated layers of polymers, paperboard and aluminium in tetra-pack, packaging of articles such as cheese and potato chips, food packaging in hotel and restaurant are some of the examples of multi-layered packaging.
- **Compostable plastics** - Compostable plastic are the plastics made from using more renewable content and eco-friendly materials.

## 2. What are the single use plastics that are prohibited?

The new rules prohibit the manufacture, stocking, distribution, import, sale and use of the following single-use plastic commodities from 1<sup>st</sup> July 2022:

- Ear buds with plastic sticks;
- Plastic flags;
- Plastic sticks for balloons;
- Ice-cream sticks;
- Candy sticks;
- Polystyrene (thermocol) for decoration;
- Cups, plates, cutlery like spoons, forks, straw and knives;
- Wrapping/packing films around sweet boxes, trays;

- Cigarette packets, and invitation cards;
- Plastic or PVC banners less than 100 microns; and
- Stirrers.

### **3. What is the amendment in thickness of plastic carry bags?**

The thickness of the plastic carry bags is increased in the following manner:

- First from 50 microns to 75 microns with effect from 30<sup>th</sup> September 2021;
- Thereafter, from 75 microns to 120 microns with effect from 31<sup>st</sup> December 2021.

### **4. What is plastic waste management and plastic waste processing?**

Plastic waste management includes collection, storage, transportation reduction, re-use, recovery, recycling, composting or disposal of plastic waste in an environmentally safe manner. Plastic waste processing refers to the process where plastic waste is handled for reuse, recycling, transformation as a new product or co-processing.

### **5. What are the requirements related to marking or labeling?**

The following are the amendments relating to marking or labeling:

- The producer or brand owner of the carry bags is required to mention the information like name, registered number and thickness of the carry bags.
- The plastic packing should include the information like name, the registered number of the manufacturer or producer or brand owner, and thickness needs to be mentioned.
- Multi-layered packaging used for imported goods is excluded from the requirement of mentioning of name and registered number of the manufacturer.

### **6. Who is a manufacturer under Plastic Waste Management Rules, 2021?**

The PWM Rules, 2021 defines ‘manufacturer’ as a person or unit or agency engaged in production of plastic raw material. In order to sell or supply plastics it is mandatory for the manufacturers to register themselves with the State Pollution Control Board or Pollution Control Committee. Similar mandates of registration are applicable for recyclers. These registrations have to be renewed from time to time.

### **7. What is Municipal Authority under the PWM Rules 2021?**

The municipal authorities under the PWM Rules, 2021 are the Gram Panchayats for rural areas and Municipal Corporation in urban areas. These Municipal authorities under the Rules are entrusted with duty to:

- Ensuring segregation, collection, storage, transportation, processing and disposal of plastic waste;
- Channelizing recyclable waste to recyclers;
- Channelizing non-recyclable waste as per the guidelines issued by CPCB;
- Spreading Awareness among various stakeholder about plastic waste management;
- Interacting with civil societies or groups working with waste pickers;
- Ensuring that open burning of plastic waste is not taking place; and
- Ensuring the plastic waste is managed in an eco-friendly manner.

# 16

## POWER OF ATTORNEY

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### **1. What is the meaning of Power of Attorney (“POA”)? Why is a Power of Attorney drafted?**

Power of Attorney is a vital legal document. It is a legal arrangement which permits a person to appoint another person or entity to manage his/her property, medical affairs and finances in his/her absence. Power of Attorney is drafted to authorise a person to act on his/her behalf who is known as the principal or grantor.

### **2. Who can be appointed as the Power of Attorney?**

The eligibility criteria for a person to be appointed as the Power of Attorney are as follows:

- Any person who is trustworthy;
- A person who is above 18 years;
- A person who is of sound mind.

### **3. Who can revoke the Power of Attorney?**

The grantor of Power of Attorney, who is of sound mind and competent can revoke the Power of Attorney. Additionally, the deed of Power of Attorney may also provide for revocation of the general power of attorney.

### **4. Can a person appoint multiple Power of Attorney Agents?**

Yes, there can be more than one Power of Attorney Agent. It is to be decided by the grantor whether they must act separately or jointly while making a decision.

### **5. Is it mandatory to get a Power of Attorney registered?**

No, registration of Power of Attorney is optional and not mandatory. However, in light of various fraudulent actions being undertaken in respect to sale of immovable properties, lands, etc., any Power of Attorney for sale of land or immovable assets requires to be registered. Such Power of Attorney shall be a special power of attorney, and not by way of a general power of attorney.

## 6. What is a General Power of Attorney?

A General Power of Attorney is where the agent is authorised to take decisions on behalf of the principal. It covers a very broad spectrum of authority provided to the agent.

## 7. What is a Special Power of Attorney?

Special Power of Attorney is limited to a specified area or on a specific transaction. Once the purpose is fulfilled, the Power of Attorney immediately comes to an end.

## 8. What is the procedure followed for the registration of Power of Attorney?

In the event of Power of Attorney in respect of immovable property, it is required to be registered. Further, it must be authenticated by a sub-registrar or it must be notarized in case power to sell land is granted to the agent.

## 9. Under what circumstances can a Power of Attorney be revoked?

A Power of Attorney can be cancelled or revoked at any point of time, as long as the principal of Power of Attorney is in sound mind and competent.

## 10. Can Power of Attorney be given to a non-relative?

Yes, a Power of Attorney can be given to a non-relative. However, it is to be noted that the stamp duty levy is more in such cases, and the stamp duty is lesser when issued to a blood relative.

## 11. Is the stamp duty payable towards Power of Attorney?

Under Section 48 of the Indian Stamp Act, 1989, stamp duty is payable towards Power of Attorney. It can be paid either by the principal or the agent based on the prevailing laws in each State.

## PREVENTION OF CRUELTY TO ANIMALS

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### 1. Does the Constitution of India mandate the protection of animals?

Yes. Under the Directive Principles of State Policy, Article 48 and Article 48(A) state that the State should endeavour to improve and preserve the lives of animals. Further, under Article 51A(g), every citizen has the duty to protect, improve and have compassion for living animals.

### 2. Which law in India guarantees the right to protect animals from cruel treatment?

The primary legislation that offers protection to animals against cruelty is the Prevention of Cruelty to Animals Act, 1960. In addition to this, there is a plethora of rules formulated under the Act such as the Performing Animals Rules, 1973, Slaughter House Rules, 2001, Animal Birth Control (Dog) Rules, 2001, Transport of Animals on Foot Rules, 2001 etc.

### 3. What animals are protected under the Prevention of Cruelty to Animals Act, 1960?

Under section 2(a) of the Act, “animal” means as any living creature other than a human being. This can include birds, dogs, cows, or any animal that is domesticated or wild. All animals are protected under the Act.

### 4. What kind of acts amount to inflicting cruelty treatment of animals?

Under the Prevention of Cruelty to Animals Act, 1960, various actions can be considered cruel treatment. They are:

- Physically harming an animal. For example, kicking, beating, torturing, overriding, overdriving, overloading an animal, etc.;
- Any attempt or any act to administer a drug that can be injurious to the animal;
- Any act that involved injecting air into the milch such as Phooka or Doom Dev;
- Treating the animal such that it is subject to any unnecessary pain;
- Employing an animal when it is unfit for the same;
- Overcrowding animals together or keeping them in uncomfortable positions that subjects them to unnecessary pain;

- Neglecting to provide exercise, food, drink, or shelter;
- Using the animal as bait or inciting animals to fight for entertainment purposes;
- Abandoning an animal such that it would likely suffer from starvation or thirst;
- Allowing an animal that is disabled or diseased to go large in any street or die;
- Offering an animal that is suffering because of mutilation, starvation, thirst, overcrowding, or ill-treatment; and
- Confining an animal such that there is no opportunity for movement or using a chain that is unreasonably short or heavy.

## 5. What are the punishments for cruelty against animals?

Under the Prevention of Cruelty to Animals Act of 1960, there can be a fine between rupees 10-50 imposed for the first offence and if repeated within three (3) years then a fine of rupees 25-100 can be imposed with or without imprisonment for up to three months.

## 6. How do you report cruelty against an animal and which is the authority that you can report to?

If you witness an act of cruelty against an animal you can first approach the State Animal Welfare Board. In the alternative, a complainant can dial **112**, following which the emergency response support system would visit the spot and the local police would be responsible to file an FIR.

## 7. What kind of information would the authorities want?

When filing a complaint, the complainant can provide the authorities, with pictures or videos of the incident, along with the location and contact details.

## 8. How do I follow up after filing a report?

There are two ways to approach this. Firstly, you could fill an RTI form provided on the Animal Welfare Board of India's page, available at <http://awbi.in/awbi-pdf/RTI.pdf>

## 9. Is there any specific protection available to animals in pet shops?

Under Prevention of Cruelty to Animals (Pet Shop) Rules, 2018, pet shop owners have a duty to ensure that:

- There is sufficient food in line with the animal's dietary requirements;
- There is clean drinking water and that the vessels used for feeding are clean and free from contamination and organic wastes are removed frequently;

- The enclosures are cleaned daily to reduce the possibility of a disease outbreak;
- There are sufficient attendants for the animals and the animal cannot be left alone at night;
- The animals are provided with adequate bedding;
- The owners provide a receipt and maintain a copy for every animal sold; and
- Every puppy that is sold is micro chipped.

Furthermore, the pet shop owner has a duty towards sick animals which includes taking adequate care of sick and dying animals along with proper care taken to ensure hygiene, ensure that the animal is not enclosed with healthy animals and that the pet shop owner shall not abandon or discard unsold pet animals.

#### **10. What action can be taken against pet shop owners for not complying with the law?**

Anyone can file a written complaint to the State Animal Welfare Board which the State would then inquire with the local authorities – this can include your local municipality organizations, Panchayat officials from the Department of Health or Animal Husbandry, or the Zilla or Taluk Panchayat.

If the concerned authority finds any violation, then the owner would be issued a show-cause notice and if the board is not satisfied, they may cancel the registration. This decision can be appealed but if the appeal is rejected then the board can seal the shop.

#### **11. Who does a person approach in case they suspect that a kennel is conducting illegal breeding or is a front for animal trafficking?**

You can take up your complaint with the State Animal Welfare Board. Based on the complaint, the board would inspect the premises by an inspector authorised in writing by it on this behalf.

#### **12. Where can a person check a pet shop's license?**

Under Prevention of Cruelty to Animals (Pet Shop) Rules, 2018, pet shop owners are required to show their license and make it visible. The implementation of the same lies with the State Animal Welfare Boards and individual Municipality Corporations.

**13. Apart from filing a complaint with the animal welfare boards is there any other action that citizens can take to report cruelty against animals?**

Citizens can also report an instance of animal cruelty to any of the following organisations:

- **People for Animals (Nationwide)**

Website: <https://www.peopleforanimalsindia.org/>

Email: [gandhim@nic.in](mailto:gandhim@nic.in)

Phone Number: + 91 11 23719293 / 94 / 23357088

- **Sanjay Gandhi Animal Care Centre (Delhi)**

Website: <http://www.sanjaygandhianimalcarecentre.org/>

Email: [sgacc1980@gmail.com](mailto:sgacc1980@gmail.com)

Phone: 011 25337751 / 25448062

- **Stray Relief and Animal Welfare (STRAW) India (Delhi)**

Website: <https://www.strawindia.org/>

Email: [contact@strawindia.org](mailto:contact@strawindia.org)

- **Charlie's Animal Rescue Centre (Bangalore)**

Website: <https://charlies-care.com/>

Phone: 9483911110 / 9035999372

- **Blue Cross of India (Chennai)**

Website: <https://bluecrossofindia.org/>

Phone: +91 44 46274999 / 44 71819575

Blue Cross of India also provides a rescue service which can be accessed here: <https://forms.zohopublic.com/bluecrossofindia/form/RCubeIncomingRescueRequest/formperma/>

- **Compassionate Unlimited Plus Action (Bangalore)**

Website: <https://cupabangalore.org/>

Email: [cupabl@cupaindia.org](mailto:cupabl@cupaindia.org)

Phone: 080 22947300 / 301



- **Animal Aid Unlimited (Udaipur)**

Website: <https://www.animalaidunlimited.org/>

Email: [info@animalaidunlimited.org](mailto:info@animalaidunlimited.org)

Phone: 9829843726 / 9602325253 / 9784005989

Animal Aid Unlimited has a reporting platform which can be accessed here: <https://www.animalaidunlimited.org/report-an-animal/>

- **Federation of Indian Animal Protection Organisation (Delhi)**

Website: <https://www.fiapo.org/fiaporg/>

Phone: +91 8750777701

## PROTECTION OF CHILDREN FROM SEXUAL OFFENCES

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### 1. What are the kinds of acts punishable under the POCSO Act?

The POCSO Act protects children from the following acts and offences:

- **Penetrative Sexual Assault which includes:**

- ▶ penetrating his penis into the vagina, mouth, urethra or anus of a child, or makes a child do the same, or
- ▶ inserts any other object into the child's body, or
- ▶ applies his mouth to a child's body parts.

- **Aggravated Penetrative Sexual Assault which include cases:**

- ▶ when a police officer, a member of the armed forces, or a public servant commits penetrative sexual assault on a child;
- ▶ the offender is a relative of the child, or if the assault injures the sexual organs of the child or the child becomes pregnant, among others;
- ▶ Where assault results in death of child; and
- ▶ Where assault is committed during a natural calamity, or in any similar situations of violence.

- **Sexual Assault which includes cases where:**

- ▶ Where a person touches the vagina, penis, anus or breast of a child with sexual intent without penetration;
- ▶ Where the assault is committed during a natural calamity; and
- ▶ Where the person administers or helps in administering any hormone or any chemical substance to a child for the purpose of attaining early sexual maturity.

- **Aggravated Sexual Assault where:**

- ▶ the person who perpetrates the assault is in a position of trust or authority vis-à-vis the child, like a family member, police officer, teacher, doctor, member of the armed forces, public servant, hospital staff, etc.; or
- ▶ when the abused child is mentally ill.

- **Sexual Harassment of the Child which includes:**

- ▶ Saying a word, or makes any sound or gesture, or exhibits any object or part of the body with the intention that the child will notice this Act;
- ▶ Making the child exhibit his body such that others can see it;
- ▶ Repeatedly following or watching or contacting the child; and
- ▶ Showing any object to a child for pornographic purposes.

- **Use of child for pornographic purposes which includes:**

- ▶ Storage of pornographic material for commercial purposes;
- ▶ Failing to destroy, or delete, or report pornographic material involving a child; and
- ▶ Transmitting, displaying, distributing such material except for the purpose of reporting it.

## 2. Who can claim protection under the POCSO Act?

Any child *i.e.* any person who has not attained the age of 18 years can claim protection under the POCSO Act. The Act is gender-neutral and is applicable to children of all genders and sexual orientations.

## 3. Who can report an offence committed under the POCSO Act?

Any person who has an apprehension that an offence may be committed or has witnessed or has knowledge an offence being committed must report such incident to the local police or special juvenile police unit. If any such person does not report the incident, they can be punished for a jail time of six months or a fine. A child against whom an offence has been committed under the Act, can also file a complaint.

## 4. What is the procedure to report an offence to the Police under the POCSO Act?

Information regarding an offence committed against a child under this Act can be filed in person at the police station or over the phone. The complaint/report must be recorded in writing which must be entered in a book kept by the police unit and the details of the report must be read over to the informant. The person reporting a complaint has the right to get a free copy of the FIR statement by the police.

Any statement taken from a child regarding any offence committed against him/her shall be recorded at the residence of the child or any place that the child chooses. The statement must be preferably taken by woman police officer not below the rank of sub-inspector. The police officer while recording the statement of the child shall not be in uniform. The statement should be recorded in a simple language so that the child understands the contents being recorded.

## 5. What are the rights guaranteed to the child under the POCSO Act?

- The child has a right to be represented by a lawyer. The family or the guardian of the child can seek assistance of a legal counsel of their choice for any offence under the Act. If the family or the guardian of the child are unable to afford a legal counsel, the Legal Services Authority shall provide a lawyer to them;
- The child cannot be detained in any police station in the night for investigation or any other reason under the Act;
- During any investigation under the Act, the identity of the child cannot be disclosed unless a special court requires. The identity of the child including his name, address, photograph, family details, school, neighborhood or any other particulars which may lead to disclosure of identity of the child cannot be disclosed by media. The publisher or owner of the media or studio or photographic facilities can be punished for such disclosure;
- The child has the right to have a social worker present when recording any statement with the police;
- During any investigation under the Act, the child can seek police protection to avoid any contact with the accused;
- While providing any statement to the police regarding any offence, the child has the right to have a translator or an interpreter to explain the contents being recorded;
- The child has the right to get urgent medical or psychological treatment before registering an FIR;
- The child against whom an offence has been committed has the right to get medical treatment at the nearest hospital within 24 hours of recording the report;
- A girl child against whom an offence is committed can be examined only by a female doctor or in the presence of a woman nominated by the head of the medical institution;
- A child who is in need of special care and protection can avail protection from the Child Welfare Committee in their State;
- Any child who makes a false complaint or provides false information under the Act cannot be punished with any imprisonment or fine; and
- A child against whom an offence is committed under the Act has the right to receive special compensatory relief for contingencies such as food, clothes, transport.



## 6. What are the alternate ways to report abuse or harassment of the child?

Any person, including a child can report a complaint to the National Commission for Protection of Child Rights by submitting a complaint through the following ways:

- **Online**

POCSO e-box - [https://ncpcr.gov.in/user\\_complaints.php](https://ncpcr.gov.in/user_complaints.php)

- **Phone:**

National Commission for Protection of Child Rights – **1800115455** (Toll free), **9868235077**

The Child-line in India to report a complaint for offences committed under POCSO is **1098**.

## RIGHT TO EDUCATION

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### 1. What right does the Right to Education Act (RTE Act) guarantee?

Article 21A of the Indian Constitution provides that the State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

- The RTE Act aids in the realization of this constitutional right. It is an Act that provides for the institutional mechanisms and lays down procedures through which the state is responsible for providing for free education to all children of the age of six to fourteen.
- The Act provides for free education - that is no child shall be liable to pay any kind of fee or charges or expenses for completing elementary education. Elementary education refers to education from classes 1 to 8.
- The word compulsory education has been used to signify the responsibility of the government to ensure that facilities for such free and compulsory elementary education at schools are provided.

### 2. Who can claim the right to free and compulsory education and where?

- This right can be claimed by every child, both male and female from the ages of 6 to 14 years.
- The right can also be exercised by a child belonging to a disadvantaged group such as a child with disability or a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or any other group having disadvantage owing to social, cultural, economical, geographical, linguistic or gender.
- The right can also be exercised by a child belonging to weaker section which means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification.

### 3. In which schools can the right to free & compulsory education be claimed?

To exercise this right the appropriate Government and the local authority are responsible to provide a school in the neighbourhood, which is at a walking distance for the children

to attend. For children in classes from I to V, the school should preferably be located within 1 kilometres and for children in classes VI – VIII, the school should preferably be at a distance of 3 kilometres. However, the child can be enrolled in any school despite the distance from the child's neighbourhood to receive education free of cost.

- However, it is important to note that a child can receive education only from those schools established, owned (e.g. state established schools like Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School Aarohi schools in Haryana etc.), controlled or substantially funded directly or indirectly by the government or a local authority.
- Schools which are unaided, like private schools also have to admit children belonging to weaker section and disadvantaged group in the neighbourhood in class I, to the extent of at least twenty-five per cent of the strength of that class and provide free and compulsory elementary education till its completion.
- Which means, unaided schools have to allow the children who have been admitted under the 25% quota have to be permitted to complete elementary education till class 8.

#### **4. What is the process of admission?**

The admission process in schools covered under the RTE Act, differs across state. However, some of the common procedures followed in most states for admitting a child are as follows:

- Parents/guardians are required to fill a form provided by the requisite governments. These forms are generally available on the government website of each State, as each state has a separate website/portal for admissions. The neighbourhood schools can also be approached to obtain the form.
- Certain identification documents are required to be submitted along with the admission form. These generally include child's ID as a proof of age and parents' IDs, photograph of applicant, aadhar card or ration card of the parent or guardian, income certificate for weaker section candidates, community certificate for disadvantaged group candidates, disadvantaged group special category certificate, disability certificate (if applicable), caste certificate, certificate of children of HIV-infected parents (if applicable) etc. However, no child can be denied admission in a school for lack of age proof. Further, no school is allowed to charge any capitation fee which refers to any kind of donation or payment for the admission under schools covered under the Act.
- Schools are also prohibited from conducting any screening procedure like any interview of the parents/guardian or any test of interview of the child before admission.

The school should randomly select the children and employ an open lottery method for filling up vacant seats. This can be done in the form of writing the names of the children on paper slips and then randomly picking them out of a container to ensure transparency. Schools may be fined up to Rs. 25,000/- for the first contravention of this provision and may extend to Rs. 50,000/- for any subsequent contraventions.

## 5. What are the other rights of children under the RTE Act?

- If a child wishes to get enrolled in the after the commencement of the academic term, the schools should not deny admission to the child.
- No child can be subjected to physical punishment or mental harassment in school. Physical harassment could include hitting the child, pulling their hair, slapping, hitting with any object (ruler, chalk), making them stand in sun for several hours etc. Mental harassment includes mocking the child with regard to his/her background, caste, parental occupation or shaming the child to improve their performance.
- No child can be expelled from school until they have completed their elementary education.
- A child who is older than 6 years old and who has never attended school or has dropped out of school can be admitted to an age appropriate class. For example, a 10-year-old child who has never gone to school will be admitted to class 4 or class 5, and not class 1 or 2 and will be allowed to complete elementary education. Additional help would be provided to such children to catch up with other children of their age.
- Students between the ages of six to fourteen years who enroll and attend the school are entitled to one hot cooked meal in Government and Government-aided schools from 2021-22 to 2025-26 at no cost under the **PM POSHAN (Poshan Shakti Nirman) Scheme**, earlier known as Mid-Day Meal Scheme. This is a Centrally-Sponsored Scheme which covers all school children studying in Classes I-VIII in Government, Government-Aided Schools.

## 6. If parents or children face any difficulty in accessing this right, what can be done?

The parents or children can file a complaint regarding the education being imparted to the child, or for denial of admission, the following authorities may be approached:

- **Local Authorities:** Written Complaints can be made to the local authority - Gram Panchayat or the Block Education Officer. The Block Education officer is in charge of the education of students within their block and also supervises the functioning of the schools. After receiving the complaint the local authority is expected to decide

the matter within a period of three months after affording a reasonable opportunity of being heard to the parties concerned.

- **National/State Commission for Protection of Child Rights:** The National and State Commission for Protection of Child Rights works for the protection of all children till the age of 18 years. If there are any grievances with respect to the exercise of this right, complaints can be filed before the National Commission and the commissions set up in each state. Any person aggrieved by the decision of the local authority can file an appeal to the State Commission for Protection for Child Rights in case of grievances. The helpline numbers and email addresses differ from state to state but can be found on their website.
- **Online**  
One can file an online complaint through [www.ebaalnidan.nic.in](http://www.ebaalnidan.nic.in)
- **Via Phone**  
National Commission for Protection of Child Rights - **011-23478200/250**  
Childline India (Childline is a helpline for offences committed against children)-**1098**

**1. What is Information?**

Information as per the Right to Information Act, 2005 (**RTI Act**) includes records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, data material, and information relating to any private body that relates to public authority under the law in force.

**2. What does ‘Right to Information’ mean?**

Right to Information refers to the right of an Indian citizen to request information from a public authority, seeking records related to particular public department in order to review or inspect or learn about the work carried out/being carried out.

**3. What is the purpose of filing an RTI Application?**

The purpose behind filing an RTI Application is to enable every citizen to obtain information under the control of the public authorities. It brings transparency and accountability in the working affairs of the government.

**4. What is an RTI Application? How to file an RTI Application offline and what is the application fee to be paid?**

- An RTI Application is an application requesting information from a particular public authority with regards to a specific subject matter.
- The application form should include basic information with regards to the sender's name and address, information sought for ease of convenience.
- The fee for the RTI Application is INR 10/- rupees and no such fee shall be charged from the persons who are below poverty line.

**5. Can an RTI request be made orally?**

Yes, an RTI request can be made orally. A citizen can make an oral request for information to the concerned Central Public Information Officer (**CPIO**) or Assistant Public Information Officer (**APIO**), as the case may be, and the concerned officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

## 6. In which language can the RTI Application be filed?

The RTI request shall be made in English or Hindi or in the official/regional language of the area in which the application is being made accompanied by the fee as prescribed.

## 7. Do you need to provide a reason for requesting information under the RTI Act?

It is not required to state any reason whatsoever for requesting information or any other personal details apart from those details that shall be necessary to send the information back.

## 8. What are the steps to file RTI Application Offline?

Steps to file a RTI Application offline:

**Step 1** Draft an RTI Application in writing on a plain paper (handwritten/printed).

**Step 2** Include details of the information that you wish to seek from the public authority under headings such as ***Subject Matter of the Information, The period to which information relates*** and ***Specific Details of Information Required*** section.

Please note that **one application** should be limited to **one particular subject matter only**.

**Step 2** Purchase an Indian Postal Order (“IPO”) (this acts as the Application fee) of INR 10 rupees from the Post Office.

Fill in details of the officer (in the **PAY TO** part) to whom it is being sent and the sender’s name & address (**SENDER MAY FILL IN HIS NAME AND ADDRESS**).

Please do not write anything on the **AT THE POST OFFICE AT** part.

**Step 3** Tear the small part of the IPO for your own reference (the sender’s reference).

**Step 4** Attach the IPO along with the application (by stapling or a pin) and courier it to the public authority’s office address.

**Step 5** Keep the courier receipt and the IPO number in safe custody for future references and wait for the information to reach you.

## 9. What does public authority mean and are they mandated to provide information?

- Public authority refers to a body or institution established under the Constitution or made by virtue of a law passed by the Parliament or made by virtue of a law passed by the State legislature or made by virtue of a notification and order passed by an appropriate government (Central Government/State government).

- A body owned, controlled or substantially financed by the Government or a non-governmental organisation which is substantially financed or directly or indirectly controlled, or which carries out duties of public importance, is under deep and pervasive state control or enjoys a monopoly status in a particular sector status in a particular sector are all considered as a public authority and will be under the obligation to provide information under the RTI Act.
- Examples of such bodies include: Indian Oil Corporation, ISRO, IIMs, IITs, NLUs, ECI, CBI, Police authorities, Indian Olympic Association, Delhi State Transport Corporation, Gram Panchayat(s), National Parks & Tiger Reserves, amongst others.

All these bodies are mandated to provide information under the RTI Act.

## **10. What are the kinds of information that can be requested from public authorities?**

The kinds of information that can be requested from public authorities are as follows:

- All and any documents, records, data, e-mails, opinions, advices, circulars, orders, reports, memos, data in electronic form that is in the possession of public authorities related to tenders, inspection of work, and ancillary documents.
- Information held by public authorities that is furthering the cause of the larger public interest.

## **11. What information cannot be disclosed by public authorities or what information cannot be asked from public authorities under the RTI Act?**

Information related to the disclosure of the following cannot be disclosed:

- India's sovereignty, integrity, security, strategic, scientific or economic interests, relation with foreign states.
- Records forbidden to be published by a competent court.
- Commercial confidence, trade secrets or intellectual property related to third party.
- Disclosure that would compromise with the life or physical safety of an individual.
- The provisions of this Act will not apply to certain organizations as mentioned in the second schedule of the RTI Act.

## **12. What is the time frame to obtain information after filing an RTI Application to the concerned authority?**

The time frame when an RTI Application is made before a concerned public authority

**(CPIO/APIO)**, the concerned good office is mandated to respond within a time frame of 30 (Thirty) days from the receipt of the RTI Application.

However, if the RTI Application concerns the life or liberty of a person, the information must be provided within 48 (Forty-Eight) hours from the time of the receipt of the request.

**13. What will happen if an RTI Application is not answered or replied or denied within the 30-days time frame?**

- First Appeal is Invoked – When an RTI Application is not replied and/or is denied by the concerned CPIO or APIO within the time period of 30 (Thirty) days, the process of first appeal can be invoked. There are two scenarios which may follow:

- ▶ **Scenario A** – When there is an inaction or no response has been received from the concerned CPIO or APIO.
- ▶ **Scenario B** – When the concerned CPIO or APIO has clearly denied sharing the information that was asked.

In both these cases, the concerned person has a right to appeal before an officer who is senior in rank to the CPIO or APIO within thirty days from the date on which the 30-day period expires, to receive information in case of **Scenario A**. In case of **Scenario B**, the appeal period of 30 (Thirty) days begins from the date on which the denial was received from the concerned CPIO or APIO.

**14. What steps can be taken when a concerned PIO has denied information stating that the ‘information pertains to third party, involving commercial confidence and trade secret’ knowing that the information should be a public record?**

When the concerned PIO has denied information on the above grounds being fully aware that the information must be made public, then while filing the first appeal/second appeal, as the case may be, in the section for ‘Grounds for Appeal’, the applicant may cite relevant judgments or orders wherein the Courts and Central Information Commission (CIC) have made its stand clear that the same may be shared. A few judgments/orders have been provided for reference in **Appendix – A**.

**15. What is the procedure, documents and application fee to be complied with in order to file the second appeal under the RTI Act?**

A second appeal may be preferred by the applicant if even by filing a first appeal, the information has been rejected or denied. The time period for filing a second appeal against the decision taken during the first appeal is 90 (Ninety) days from the date on which the

decision should have been made or a denial was received. The second appeal may be preferred before the CIC or the State Information Commission as the case may be.

- **Second Appeal** – A list of documents need to be annexed to the second appeal application such as – the copy of the first RTI application submitted to the CPIO, copy of the reply received (if any), copy of the first appeal before the First Appellate authority, a copy of the order received (if any), copies of orders/judgments and other materials relied during this process.
- The second appeal application shall contain particulars of the CPIO, particulars of the First Appellate Authority, date of receipt of the order (if any), brief facts leading to the appeal, prayer or relief sought and the grounds for the prayer.
- Thus, the second appeal application along with the annexed documents needs to be sent to the First Appellate Authority.
- **Note:** While filing the first or the second appeal, **no fee has been prescribed.**

## 16. What is the time period within which the first appeal must be disposed by the First Appellate Authority?

The first appeal must be disposed of within thirty (30) days from the receipt of the appeal or within a period not extending a total of forty-five (45) days from the date of filing the appeal. However, if the latter is being complied with, the reasons for the same must be recorded in writing.

## 17. Can an RTI Application be filed online?

Yes, RTI Application can be filed online. For the same, the Department of Personnel and Training, Government of India has created the Online RTI Portal.

The online filing website link can be accessed at <https://rtionline.gov.in/request/request.php>. The conditions for online RTI application are same as the general RTI application under the RTI Act 2005. Fee for online RTI application is same as the fee for an RTI application filed in offline manner.

However, the above portal caters only to the public authorities under the Central Government. State public authorities are not covered under this portal. Therefore, the only way to file an application to a state public authority is by the offline means as has been elaborated above.



## APPENDIX-A

### RIGHT TO INFORMATION IN GOVERNMENT TENDERS

- **In State of Jharkhand and Ors. v. Navin Kumar Sinhga and Ors. (AIR 2008 Jhar 19) it has been held that –**

*If tenders are invited by the public authority and on the basis of tender documents, the eligibility of a tender or a bidder is decided, then those tender documents cannot be kept secret, that too, after the tender is decided and work order is issued on the ground that it will amount to disclosure of trade secret or commercial confidence.*

*Moreover, disclosure of information, sought for by the petitioner, cannot and shall not be a trade secret or commercial confidence; rather disclosure of such information shall be in public interest, inasmuch as it will show the transparency in the activities of the Government.*

*Besides a citizen has a right to know the genuineness of a document submitted by the tenderer in the matter of grant of tender for consultancy work or for any other work.*

- **In CIC's order dated 04.11.2009 in CIC/SM/A/2009/000981, it has been held that –**  
The tender process cannot remain a confidential affair after the tender is finalized and the successful bidder selected and appointed. In fact, such information should be *suo moto* placed in the public domain by the Public Authority without having to be told to do so.
- **In CIC's order dated 13.06.2006, in CIC/WB/C/2006/00176, it has been held that –**  
Had it been a case of quotations, bid or tender or any other information prior to the conclusion of a contract, it could be categorized as trade secret, but once concluded the confidentiality of such transactions cannot be claimed. Any public authority claiming exemption must be put to strictest proof that the exemption is justifiably claimed.

## 21

### RIGHT TO LEGAL AID

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#### 1. Do citizens have a Right to Legal Aid in India?

Yes. Under the Constitution, Article 39A mandates that the State is required to provide free legal aid by suitable legislations and schemes. The Legal Services Authorities Act, 1987 has also been formulated by the Parliament to provide citizens from economic and weaker sections of the society with the right to free legal services.

#### 2. What kind of legal services are people entitled to under the Legal Services Authorities Act, 1987?

Legal Services includes rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matters. This also includes:

- Legal consultation/legal advice on a case or any matter;
- Representation by an advocate in a court of law or a tribunal;
- Payment of process fees, translation expenses, fees for summoning of witnesses and other such charges;
- Preparing pleadings, legal documents, drafting of legal documents; and
- Availing certified copies of judgements, orders, decrees etc.

#### 3. Who is entitled to free legal services under the Legal Services Authorities Act, 1987?

Under Section 12 of the Act, the following persons are entitled to free legal services:

- a member of a Scheduled Caste or Scheduled Tribe;
- a victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution;
- a woman, irrespective of her income or financial/economic status;
- a child, until the child attains the age of 18 years;
- a mentally ill or otherwise disabled person;

- a person under circumstances of undeserved want such as being a victim of a mass disaster, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster;
- an industrial workman;
- a person with disability as defined in clause (i) of section 2 of the persons with Disabilities (Equal Opportunities, Protection of Rights & Full Participation) Act,1995; and
- a person whose annual income is less than the amount prescribed by the government.

#### **4. How do you know if you fall within the prescribed income bracket to claim free legal aid?**

The income ceiling limit prescribed under the law for availing free legal services is determined by each state. To prove that a person is within the prescribed income bracket, the applicant may furnish the **income certificate** or **make an affidavit** as to the income, which is sufficient proof of eligibility. The income ceiling limit for each state is as follows:

<b>Telangana</b>	Rs.1,00,000
<b>Tamil Nadu</b>	Rs. 3,00,000
<b>Tripura</b>	Rs. 1,50,000
<b>Uttar Pradesh</b>	Rs. 1,00,000
<b>Uttarakhand</b>	Rs. 3,00,000
<b>West Bengal</b>	Rs. 1,00,000
<b>A&amp;N Islands</b>	Rs.3,00,000
<b>Chandigarh UT</b>	Rs. 3,00,000
<b>Dadra &amp; Nagar</b>	Rs. 15,000
<b>Daman &amp; Diu</b>	Rs. 1,00,000
<b>Delhi</b>	General-Rs. 1,00,000 Senior citizen- Rs. 2,00,000 Transgender – Rs. 2,00,000
<b>Lakshadweep</b>	Rs. 9,000
<b>Puducherry</b>	Rs. 1,00,000

## 5. If an applicant is not a person covered under Section 12 of the Act, whom can he/she approach?

If the applicant is not covered under the categories mentioned in section 12, the Legal Service Authority must advise him/her to seek assistance from any other body or person rendering free legal services either voluntarily or under any other scheme.

The Legal Services Authorities shall maintain a list of such agencies, institutions or persons who have expressed willingness to render free legal services so that applicants may approach such agencies/institutions.

## 6. How can a person avail free legal services under the Legal Services Authorities Act, 1987?

- To avail any legal service, a person entitled under the Act can approach the nearest District Legal Service Authority, Taluk Level Legal Services Committee, State Legal Service Authority or the National Legal Service Authority and make an application in person.
- The application shall be made by filling in Form - I in English or the local language. The summary of the grievances must be provided in a separate sheet. If the applicant is illiterate or unable to give the application on his or her own, the Legal Services Authority may make arrangement for helping the applicant to fill up the application form and to prepare a note of his or her grievances.
- A person may also make an application online either by dropping an e-mail or by using the online facility.
- The application process is an entirely free process. There is no fee chargeable to or cost to be borne by the applicant when making an application for free legal services.

## 7. How can you file an application online with the National Legal Service Authority?

- Any person who is entitled to free legal services under the Act can submit an application on the Learning Management System Portal of the National Legal Services Authority. The National Legal Services Authority will direct the applicant to the concerned State Legal Services Authority for further action.
- The form for filing the application can be accessed at <https://nlsa.gov.in/lsams/nologin/applicationFiling.action?requestLocale=null>. Before filling in the above form, applicants must ensure they have a soft copy of a photograph to be uploaded along with other personal details of the applicant and a registered phone number to which all communication regarding the application can be made.

## **8. What is the procedure to be followed after the application is submitted?**

Once an application is submitted to the appropriate authority, the same will be scrutinised by the Member Secretary, Secretary or any other deputed person for further action. The applicant is entitled to receive a decision about the application within a period of 7 days from the date of receipt of the application.

If the application is made in person, the decision of the application will be sent to the correspondence address provided at the time of making the application. If the application has been received from Government Departments / Centralized Public Grievance Redress and Monitoring System (CPGRAM), an email is sent to the applicant. The applicant can also get a scanned copy of the application on the CPGRAM website. Remarks regarding the application are also made on CPGRAM website and the website of the Legal Services Authority. For online applications, applicants can track the same on the LMS portal.

If the application is selected for availing legal aid, the applicant will receive an intimation about the lawyer assigned for the case.

## **9. How can you track your application once you submit it online via the LMS Portal?**

Every applicant who makes an application online via the LMS portal can track their application by entering the registration details on the tracking portal. The status of the application can be tracked at <https://nalsa.gov.in/lsams/nologin/applicationTrackingForm.action?requestLocale=null>

If there has been no progress with regard to the application submitted, the applicant can send reminders or seek clarifications by providing specific remarks on the portal by clicking the following link: <https://nalsa.gov.in/lsams/nologin/reminderClarificationFilling.action?requestLocale=null>

## **10. What recourse does an applicant have if the application for free legal aid has been denied?**

In case the concerned authority denies the application, the applicant can file an appeal before the Executive Chairman or the Chairman of that concerned Legal Services Authority.

## **11. Does the applicant have the right to select a lawyer or have the lawyer replaced?**

Yes. The applicant can avail the services of a lawyer of their choice from the panel of lawyers enlisted. The decision-making authority can consider and allow the same if the applicant has expressed his/her choice of a lawyer on the panel.

If the applicant is not satisfied with the assigned lawyer, a formal complaint can be filed in any of the following manners:

- Writing a simple paper application and submitting the same to a Legal Services Authority;
- Writing an email to the appropriate authority or NALSA at [nalsa-dla@nic.in](mailto:nalsa-dla@nic.in)
- Accessing the “Grievance Redressal” option on NALSA website or the respective website of the state, district, taluk authority that assigned the lawyer.

## RIGHTS OF PERSONS WITH DISABILITIES

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**1. Who is defined as a Person with Disability?**

A person with a long-term physical, mental, intellectual or sensory impairment, which hinders their full and effective participation in a society, equally with others is defined as a person with disability.

**2. What is the objective of the Rights of Persons with Disabilities Act, 2016?**

The Act aims to uphold the dignity of every Person with Disability (PWD) in the society and prevent any form of discrimination against them.

**3. What kinds of disabilities are recognised under the Act?**

- Physical Disabilities of the following nature:

<b>Locomotors Disability</b>	<b>Visual Impairment</b>	<b>Hearing Impairment</b>	<b>Speech and Language Disability</b>
Leprosy Cured Person	Blindness	Deaf	Multiple Disabilities, i.e. a condition in which a person may have combination of hearing and visual impairments causing severe communication, developmental, and educational problems.
Cerebral Palsy	Low Vision	Hard of Hearing	
Dwarfism			
Muscular Dystrophy			
Acid Attack Victims			

- **Intellectual Disability** - Specific Learning Disabilities and Autism Spectrum Disorder come within the ambit of intellectual disability.
- **Mental Behaviour (Mental illnesses)**
- **Disability caused due to Chronic Neurological Conditions** such as Multiple Sclerosis or Parkinson's Disease and **due to blood disorder** such as hemophilia, thalassemia and sickle cell disease
- Any other category of disabilities notified by the Central Government.

#### 4. What are the rights & entitlements of Persons with Disabilities under the Act?

- i. Right to Equality, Protection & Dignity;
- ii. Right to live in a community;
- iii. Reproductive Rights;
- iv. Voting Rights;
- v. Legal Capacity;
- vi. Education;
- vii. Employment;
- viii. Vocational Training & Self-Employment;
- ix. Limited Guardianship;
- x. Access to Justice;
- xi. Social Security, Health, Rehabilitation & Recreation; and
- xii. Right to barrier-free access to information & infrastructure.

#### 5. What actions could amount to a violation of the Act?

Some examples of violation under the Act are as follows:

- Discrimination against Persons with Disabilities, on grounds of their disability in matters related to employment. Such discrimination could include denial of promotion due to disability, removal from service/demotion upon acquiring disability;
- An establishment's refusal to create a barrier free, accessible environment for Persons with Disability;
- Making a Person of Disability a subject of research without their free & informed consent and without prior permission of Committee of Research on Disability constituted by the State Government;
- Refusal of authorities under the Act to carry out the functions assigned to them under the Act;
- Fraudulently availing any benefits meant for Persons with Disabilities under the Act; and
- Perpetrating atrocities against Persons with Disabilities, including public humiliation, intimidation, assault, sexual exploitation, inflicting injuries, coercion to undergo medical procedures such as abortion, etc.

## 6. Who is the appropriate authority under the Act?

The appropriate authorities under the Act are:

- **Grievance Redressal Officers & District Level Committee** – Responsible for redressal of grievances in every Government Establishment.
- **Appropriate Governments** - which is the Central Government for the functions at the Central Level and State Governments at the State level. They are in charge of implementation of the Act, and taking measures for securing the various rights of Persons of Disabilities, as given under the Act.
- **Chief and State Commissioners** - Responsible for identifying the gaps in the Act and schemes made under it, and making recommendations to rectify them. They are also responsible for redressal of grievances.
- **Central and State Advisory Boards**: Responsible for advising the Government regarding the policies made under the Act, as well as reviewing and co-ordinating activities of different Government Departments.

## 7. What are the punishments prescribed under the Act?

- The violation of any provisions of the Act, or the Rules made under it invites a fine upto Rs. 10,000. A subsequent violation would invite a fine between Rs. 50,000 to Rs. 5 lakhs.
- Any person fraudulently availing the benefits meant for persons with benchmark disabilities would be punished with imprisonment for upto 2 years or a fine upto Rs. 1 lakh.
- A person shall be subject to imprisonment between 6 months to 5 years and a fine, if they are found to be:
  - ▶ Insulting or intimidating a person of disability, intentionally in public view;
  - ▶ Assaulting a person with disability or outraging the modesty of a woman with disability;
  - ▶ Denying food or water to a person with disability, whom they have charge or control over;
  - ▶ Sexually exploiting a child or woman with disability; and
  - ▶ Performing or directing to be performed, an abortion of a woman with disability, without her express consent (except in cases where abortion is carried out in severe cases of disability);

## 8. What is the procedure for obtaining certificate of disability under the Act?

- A person with specified disability who seeks to avail benefits available to a Person with Disability has to submit certificate of disability. Such individual may apply for a Disability Certificate through Form IV and submit the application to:
  - ▶ A medical authority or other competent authority in the district where the applicant lives (according to the proof of residence in their application); or
  - ▶ The concerned medical authority in a government hospital where they are undergoing or have undergone treatment for their disability;
  - ▶ Along with the application, the applicant must submit their proof of residence, two recent passport sized photographs and Aadhar number.
- A legal guardian or a concerned registered organization can make the application on behalf of the applicant if the applicant is a minor, or is suffering from intellectual disability or any other disability due to which he is unable to make the application himself.

## 9. What is a Unique Disability ID (UDID), and how can you obtain one?

A Unique Disability ID (UDID) or a **Swavalamban Card** contains all essential details for the identification & verification of a Person with Disability in a single document, enabling them to avail several benefits. One can apply for a UDID at: <https://www.swavlambancard.gov.in/pwd/application>. Further, one can also use this portal to apply for the disability certificate, renewal of UDID, to apply for a lost UDID and downloading e-disability certificate & e-UDID card.

### *How to apply?*

**If you do not have a disability certificate** - Fill the online application at <https://www.swavlambancard.gov.in/pwd/application> and attach the scanned copies of documents required. Select the option ‘No’ to ‘Have Disability Certificate?’ under the ‘Disability Details’ tab, and submit the application.

**If you have a disability certificate** - If your **details have been transferred to the UDID portal**, click on the ‘Already have Disability Certificate’ option (at the top right corner of the application form), mention Beneficiary ID/Aadhar No. (if linked), State & District Details, fill application and submit. If your details have **not been transferred to the UDID portal**, fill a fresh application and click on ‘Yes’ option to question ‘Have Disability Certificate?’ under the ‘Disability Details’ tab, fill other details and submit.

## 10. Who can be approached for redressal of grievances or violation of the Act?

- Every Government establishment is mandated to appoint a Grievance Redressal Officer (GRO) for dealing with complaints from a Person with Disabilities. The Grievance Redressal Officer needs to investigate the complaints within two weeks, and maintain a register for all such complaints.
- A complainant may approach the District Level Committee on Disability, if their complaint is not resolved satisfactorily by the Grievance Redressal Officer.
- Further, in matters of abuse, violence and exploitation, complaint can be made to Executive Magistrate of the District or a Police Officer. Such complaint may be made by the victim, any other person or any registered organization.
- An aggrieved person may also make a complaint (along with Certificate of Disability) to the Chief Commissioner/ State Commissioner and send it either through registered post or email. The complaint should contain:
  - ▶ the name, description and the address of the complainant;
  - ▶ the name, description and the address of the opposite party;
  - ▶ the facts relating to complaint and when and where it arose;
  - ▶ documents in support of the allegations in the complaint; and
  - ▶ the relief claimed by complainant.
- Any grievances against the Department of Empowerment of Persons with Disabilities can be filed on the Centralised Public Grievances Redress & Monitoring System (CPGRAMS) by registering on the portal which can be accessed at <https://pgportal.gov.in/Signin>

### Contact Details of State Commissioners of Certain States:

States	Latest contact details available at:
<b>Chief Commissioner (Ministry of Social Justice &amp; Empowerment)</b>	<a href="https://disabilityaffairs.gov.in/content/page/chief-commissioner-for-persons-with-disabilities.php">https://disabilityaffairs.gov.in/content/page/chief-commissioner-for-persons-with-disabilities.php</a>
<b>Haryana</b>	<a href="https://socialjusticehry.gov.in/commissioner-for-persons-with-disabilities/">https://socialjusticehry.gov.in/commissioner-for-persons-with-disabilities/</a>
<b>Karnataka</b>	<a href="https://scd.karnataka.gov.in/page/Contact/Office+of+the+State+Commissioner+forDisabilities+Act/en">https://scd.karnataka.gov.in/page/Contact/Office+of+the+State+Commissioner+forDisabilities+Act/en</a>
<b>Odisha</b>	<a href="https://ssepd.gov.in/index.php?route=catalog/whoiswho">https://ssepd.gov.in/index.php?route=catalog/whoiswho</a>
<b>West Bengal</b>	<a href="http://wbcommissionerdisabilities.gov.in/User/contact">http://wbcommissionerdisabilities.gov.in/User/contact</a>



<b>Nagaland</b>	<a href="https://scpd.nagaland.gov.in/contact/">https://scpd.nagaland.gov.in/contact/</a>
<b>Tripura</b>	<a href="https://socialwelfare.tripura.gov.in/whoiswho">https://socialwelfare.tripura.gov.in/whoiswho</a>
<b>Maharashtra</b>	<a href="https://sjsa.maharashtra.gov.in/en/commissioner-persons-disability">https://sjsa.maharashtra.gov.in/en/commissioner-persons-disability</a>
<b>Rajasthan</b>	<a href="https://dsap.rajasthan.gov.in/commission.aspx">https://dsap.rajasthan.gov.in/commission.aspx</a>
<b>Gujarat</b>	<a href="https://sje.gujarat.gov.in/disability/contact-us?lang=English">https://sje.gujarat.gov.in/disability/contact-us?lang=English</a>
<b>Kerala</b>	<a href="http://www.scpwd.kerala.gov.in/index.php/contact">http://www.scpwd.kerala.gov.in/index.php/contact</a>
<b>Other States</b>	<a href="https://www.niepid.nic.in/images/Chief%20&amp;%20state%20commissioners%20office_s_%20for%20disabilities.pdf">https://www.niepid.nic.in/images/Chief%20&amp;%20state%20commissioners%20office_s_%20for%20disabilities.pdf</a>

**1. Who is a Worker?**

The Labour Codes of 2020 provides a consistent definition of worker as any person engaged in any manual, unskilled, skilled, technical, operational, clerical, or supervisory work in an establishment or industry. Such a person is paid remuneration, and irrespective of the terms of agreement being expressed or implied, is considered to be a worker. However, the Codes indicate that a person who is mainly employed for the purposes of management or administration shall not be considered as a worker.

**2. What are the Labour Codes?**

In India, there were many overlapping labour laws which made it difficult for the workers to raise a claim under them. To bring overall simplicity and clarity to the labour law regime, the Central Government amalgamated 29 labour laws into 4 Labour Codes. These Codes are as follows:

- a. **Wage Code** - 4 existing laws have been amalgamated into this code. It deals with all issues related to wages and bonus to workers. It targets at ensuring minimum wage guarantee to workers in both organized and unorganized sectors.
- b. **Social Security Code** - 9 laws have been amalgamated to provide a comprehensive framework to secure the rights of insurance, pension, gratuity, maternity benefit, etc. to the workers in both organized and unorganized sector.
- c. **Occupational Safety, Health and Working Conditions Code** - Under this Code, 13 existing Labour Laws were amalgamated to create a safe working environment for workers. This Code pays special emphasis on the working conditions of workers involved in factories, mines, transport sector, bidi and cigar workers, and contract and migrant workers.
- d. **Industrial Relations Code** - With the aim to streamline the compliance process and make it more efficient, the Code has unified 3 laws- the Industrial Disputes Act 1947, the Industrial Employment (Standing Orders) Act 1946, and the Trade Unions Act 1926.

There are tremendous benefits attached to this new regime of Labour Code. For instance, the benefits under these Codes would be given to workers in both organized and unorganized sector. The amalgamation is expected to improve India's ranking in the Ease of Doing Business. Moreover, consolidation of laws has led to a uniform set of definitions, and has done away with discrepancies amongst different laws.

### 3. What are the rights guaranteed to the workers under the Wage Code?

- Right to Minimum Wage - Under this code, the government fixes the minimum wage which is to be given to the workers. The Minimum Wages, as set by the Ministry of Labour & Employment, for different workers involved in agriculture, construction, mining, etc. can be found here- <https://clc.gov.in/clc/node/690>. Further, the Code provides a periodic review of the minimum wages in every 5 years.
- The Central Government would decide on the floor wage, which would be based on the living standards of the workers. The minimum wage would be more than the floor wage.
- The workers have been guaranteed timely payment of wages.
- The Code ensures equal payment to males and females.
- Central and State Governments would appoint Advisory Boards under the Code. The predominant task of the Advisory Boards would be to fix the minimum wages, and strategize opportunities to increase women employment. These Boards would have members representing the employers and employees. Further, one-third of the Board would be reserved for women.

### 4. What are the rights guaranteed to the Workers under the Social Security Code?

- Under the Social Security Code, the following statutes have been consolidated -
  - ▶ The Employees' Compensation Act, 1923;
  - ▶ The Employees' State Insurance Act, 1948;
  - ▶ The Employees' Provident Funds and Miscellaneous Provisions Act, 1952;
  - ▶ The Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959; the Maternity Benefit Act, 1961;
  - ▶ The Payment of Gratuity Act, 1972;
  - ▶ The Cine Workers Welfare Fund Act, 1981;
  - ▶ The Building and Other Construction Workers Welfare Cess Act, 1996; and
  - ▶ The Unorganized Workers' Social Security Act, 2008.

- **Employees' Provident Fund** - Under the Code, the employer has to contribute 10% of the wages payable to the employee to the Fund, and the same amount has to be matched by the employee. Further, the Code also provides for voluntary registration under the Employee State Insurance Scheme.
- **Gratuity** - The Code provides for the payment of gratuity to the employee upon retirement or resignation, death or accident of the employee, or termination of the contract. It is necessary for the employee to have rendered continuous service for a period of five years to be eligible to claim gratuity. However, such a condition is not necessary upon the death or accident of the employee.
- **Maternity Benefit** - The Code aims to consolidate the maternity benefits available to the women workers.
  - ▶ Women workers are exempted from work for 6 weeks following the delivery of the child. It even extends to the situations of miscarriage and medical termination of pregnancy.
  - ▶ Further, the pregnant worker can make a request to the employer to not assign her work, which would involve long hours of standing, or work which would have any impact on her pregnancy, six weeks before her expected delivery.
  - ▶ Women workers are entitled to payment of their average daily wage during their absence immediately preceding and for the duration post after the delivery of the child.
  - ▶ The Code also empowers women workers to receive Rs. 35,000/- from their employer in case the employer did not provide any pre-natal confinement and post-natal care free of cost.
- **Employees' Compensation** - If any injury is caused to the worker due to any accident or occupational disease arising out of the course of employment, the employer would have to compensate the worker. The Code provides for the compensation that has to be paid by the employer in the event death or permanent total disablement has been caused to the worker owing to the injury at the workplace.
- **Social Security extended to the Building and Other Construction Workers** - The Code prescribes for a mandatory cess, between 1% to 2% of the cost of construction, to be paid by the employers for the purposes of social security and welfare of the building workers.
- **Social Security for unorganized and gig workers** - The Act recognizes that the Central Government would draft schemes from time to time, to provide for life and

disability cover, health and maternity benefits, education, old age protection, and other such securities to the unorganized workers, gig workers, and platform workers.

## 5. What are the rights available under the Occupational Safety, Health and Working Conditions Code?

- The Code confers responsibility on the employer to make sure that the workplace is free from hazards which could lead to injuries or occupational diseases to the employees. Further, the employer is responsible for the hygiene and cleanliness of the working environment, and making available potable drinking water, adequate lighting, and latrines-urinals for the workers.
- National Occupational Safety and Health Advisory Board has been set up under the Code to lay down the standards, rules and regulations for the purposes of ensuring the safety of the workers.
- The workers are entitled to mandatory free annual health check-up at the cost borne by the employers.
- The number of working hours have been limited to 8 hours a day for the workers in order to prevent their exploitation. Further, the workers cannot be made to work more than 6 days a week in an establishment. The Code also provides for annual paid leaves for workers.
- In the event of overtime work, the Code makes the workers eligible for the payment of wages at twice the rate of wages.
- Women workers have the right to work at night upon their consent. Further, the employers would be responsible to make sure that there exist adequate arrangements to ensure safety of the women workers at night.
- In lieu of the Code, the Central Government has also conferred workers with the right to register themselves as Inter-State Migrant Workers on the national portal. Earlier, the workers who were appointed by the contractor could be recognized as Inter-State Migrant Workers. Thus, by enabling independent registrations by the workers, legal identification has been extended to the workers, thereby making them eligible for benefits under all social security schemes.
- Inter-state Migrant workers have been entitled to journey allowance to travel to and fro their native places under the Code. The employer is bound to pay a lump sum amount for the same to the workers.

- The Code further provides for conditions that the employers have to follow in employments related to mines, factories, bidi workers, plantation, and building or other construction workers.

## **6. What are the rights available under the Industrial Relations Code?**

- The Code indicates that prior permission from the government is required in instances of closure, lay-offs, and retrenchment. Such permission should be sought by establishments with more than 300 workers.
- Under the Code, in the event of multiple trade unions, the trade union with 51% of the workforce would be declared as the sole negotiating union. If all the trade unions fail to meet this requirement, then the employer is required to form a Negotiation Council with representatives from all the trade unions having at least 20% of the workforce.
- The Code mandates establishment of Grievance Redressal Committees by the employers in all establishments which have employed 20 or more workers.

## **7. Are there any NGOs working for the rights of the labour force in India?**

- Nirmana** - This NGO specifically works for recognizing social security and dignified livelihoods of the workers employed in the unorganized sector.

Address: C-484, Millennium Apts, Sector-18, Rohini, New Delhi 110085

Contact Number: 011-49409546

Email address: [info@nirmana.org](mailto:info@nirmana.org)

Website: <https://nirmana.org/>

- Society for Labour and Development** - It is an organization working for the recognition of labour rights in the country.

Address: A 24, Gulmohar Park, New Delhi, India- 110049

Contact Number: (+91) 11-46179959

Email address: [info@sld-india.org](mailto:info@sld-india.org)

Website: <https://www.sld-india.org/>

- Cividep** - This organization specifically works towards recognizing the rights of the workers in export sectors such as garments, and plantations.

Address: 12, 1st Cross Rd, Venkataramiah Layout, Banaswadi, Bengaluru, Karnataka 560043

Email address: [info@cividep.org](mailto:info@cividep.org)

Website: <https://cividep.org/>

- **Jan Sahas Social Development Society** - This organization works towards eliminating forced labour, and making the social securities accessible to the migrant workers.  
Address: 40/2, Civil line, Dewas, Madhya Pradesh, India, 455001  
Contact Number: +917272254490  
Email id: [info@jansahasindia.org](mailto:info@jansahasindia.org)  
Website: <https://jansahas.org/>

## 8. Are there any Central Government schemes for the labor force in India?

Some of the important schemes implemented by the Central Government include:

- **National Child Labour Project Scheme:** To suitably rehabilitate the child withdrawn from employment, thereby reducing the incidence of child labour in the areas of known concentration of child labour.
- **Aam Aadmi Beema Yojana:** Scheme for the workers from unorganised sector to meet the frequent incidences of illness, poverty, risks of hazardous work culture etc.
- **Grant in Aid for Child and Women Labour:** Under this Scheme, Voluntary Organizations/NGOs were being provided funds by way of grants-in-aid to take up action-oriented projects for the benefit of women and child labour. The focus of the Scheme is awareness generation among women labour, in the area of wages, like minimum wages, equal remuneration, etc. to disseminate information on various schemes of Central/State Government Agencies available for the benefit of women labour.
- **Pradhan Mantri Shram Yogi Maandhan Yojana:** Government scheme meant for old age protection and social security of unorganised workers.

## SENIOR CITIZENS RIGHTS

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### 1. Who is Elderly/Senior Citizen?

Under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 the term “senior citizen” has been defined as a person who is the citizen of India and has attained sixty (60) years of age and above.

### 2. How does the Indian Constitution safeguard the interest of Senior Citizens?

Article 41 and Article 46 of the Indian Constitution, falling under the purview of Directive Principles of the State Policy (DPSP), speaks about rights offered to the senior citizens. Article 41 of the Indian Constitution secures the right of senior citizens to employment, education and public assistance. It also ensures that the State upholds these rights in cases of disability, old age or sickness. On the other hand, Article 46 puts an accent on educational and economic rights of the elders that must be protected by the State.

It is pertinent to note here that DPSP embodied in part IV, is a non-justiciable part of the Constitution as it fails to create a justiciable right approving of a particular individual. It means that a person cannot enforce them in the Court of Law. However, it imposes a positive obligation on the State and are regarded as rudimentary principles in maintaining good governance. The State must make sure that DPSP is not violated and is unreservedly applied while drafting laws.

### 3. What is the legislative support provided to Senior Citizens in terms of maintenance?

The special objective behind providing senior citizens with such legal rights is to attain a social purpose and to put an end to homelessness that inflicts mental anguish, by ensuring them speedy and inexpensive redressal mechanisms.

- **Hindu Personal Law** - Under the Hindu Adoption and Maintenance Act, 1956, the senior citizens are vested with a legal right to ask for maintenance from their children. Section 20(3) of the Act emphasizes upon “moral and legal obligation” of children to take care of their parents. In pursuance of the same, section 23(2) of the given Act mandates the courts to consider specific particulars while ascertaining the amount of maintenance to be granted. However, the courts have their own discretion

in modifying the amount of maintenance if it is convinced that the decided amount would not suffice the needs of senior citizens.

It is to be noted that the provisions are applicable only to the senior citizens falling under the purview of Hindu law. The adoptive parents can claim for maintenance from their adopted children given that they do not have their own children. The latter would be held responsible because once the adoption order gets issued by the court, the adopted child holds status of a lawful child and is manifested with the similar rights, duties and responsibilities of a biological child.

- **Code of Criminal procedure** - In the year 1973, under Section 125 of the Criminal Procedure Code, doors were opened for senior citizens to reach out to courts for seeking maintenance for their sustainable well-being. It is a legal mandate for children having sufficient means to provide their parents with appropriate financial assistance and that there is no means to escape from the consigned commitment.

If the maintenance is refused by children, the Magistrate of First class, may, upon the presented evidence of such refusal, issue an order against that person, making it compulsory for him to arrange for a monthly allowance for his parents, at a rate the Magistrate may consider appropriate.

The Section, which is secular in nature, provides benefit to “senior citizens from every religion” in quest of maintenance. It even holds married daughters responsible for taking care of her parents.

This Act makes it mandatory for the adult son/daughter to take care of his/her biological/adoptive/step parents, parents-in-law or grand-parents who face difficulty in maintaining himself/herself. Other than this, this Section of the Act also makes it mandatory for legal heirs of the childless senior citizens to extend their financial support, provided that he/she is already in possession of property of that senior citizen or he/she is likely to attain it in the future.

#### 4. How to claim maintenance under the Maintenance and Welfare of Parents and Senior Citizens Act, 2007?

- In case of inability on part of senior citizens to seek maintenance, a **formal application** can be drafted either by a relative, or any other person or an organization approved by them.
- Maintenance Tribunal should give its acceptance within a **time frame of one-hundred and twenty (120) days** from the date of service of notice to children/legal heir.



- In case of non-compliance with the order passed by the Magistrate, **children/legal heir can even be charged with imprisonment upto one month.**
  - If the tribunal has fixed a rate for monthly allowance, their children/legal heir would be required to fulfil the obligation.
  - **Maximum limit for maintenance: Rs. 10,000/-**
  - Maintenance here would include availability of food, housing, medical facilities including regular check-ups, security and safety of senior citizens to have a dignified standard of living.
- 5. Is there any nation-wide helpline dedicated to Senior Citizens wherein they can seek support in times of disturbance?**

The Union Ministry of Social Justice and Empowerment, India, launched a toll-free PAN India helpline number **14567** for senior citizens called the “Elder Line” in the year 2017 to ring in a hope for senior citizens. National Stock Exchange Foundation and Tata Trusts had jointly given their significant contribution to the government in the process of starting it. The Ministry has set up a National Implementing Agency which is presently hosting the elder line in collaboration with National Institute of Social Defence, state departments and agencies, NGOs, voluntary and senior citizen groups etc.

- **Name and no. of States that have already opened Elder Line:** Six states including Telangana, Tamil Nadu, Madhya Pradesh, Rajasthan, Karnataka and Uttar Pradesh have already started providing socio-legal services to the senior citizens through Elder Line. The ones left are in the process of implementing it;
- **Time slot:** You can call the helpline number **anytime between 8 am and 8 pm; and**
- **Aim of Elder Line:** The primary aim is to take the escalating need to assist the elder population of our country into consideration.
- **Objectives of Elder Line:**
  - ▶ To come up with a single platform across the nation for all the senior citizens and fellow citizens;
  - ▶ To provide them with necessary information on medical facilities, old age homes and activity centres, legal right to maintenance and pension schemes, available remedies against physical, mental and financial abuse, ways to enhance their well-being etc. They would even intervene, directly or indirectly to address the disputes; and

- ▶ To elucidate upon the implications of persisting bias against senior people and give them emotional/psychological support and guidance on the issues that they come across on an everyday basis.
- **Who can contact Elder Line:** All the senior citizens and their well-wishers can contact Elder Line to seek assistance on the aforementioned matters.

## 6. What is an elder abuse and what steps should be taken by a senior citizen while filing a complaint against elder abuse/assault/violence?

In so far as the elements of elder abuse are concerned:

1. Illegal or improper use of an elder's property, funds or assets;
2. A non-consensual sexual contact with or towards a senior person;
3. The use of physical force that may result in physical pain or impairment;
4. Refusal to fulfil a person's obligations or duties to a senior person; and
5. Mental disturbance, emotional pain, psychological trauma would fall under the purview of elder abuse.

### Steps to be followed while filing a complaint against elder abuse/assault/violence:

**Step 1:** The primary step would be to file a **written complaint** at the nearest police station (falling within its jurisdiction). If a person filing a complaint is facing difficulty in writing, he/she can even orally communicate about the issue to the police officials who will further make a note of factoids and get the complainant's thumbprint on the document. Oral complaints alone would not suffice as it will lead to unwarranted discrepancies in future.

**Step 2:** In case if there is a physical offence with grievous injury, you can directly file an First Investigation Report (FIR) at the nearest police station. Once it is filed, further investigation will be undertaken by the officers to be cognizant of the authenticity and intensity of the complaint filed.

**Step 3:** After a thorough investigation if the police officials feel that the filed complaint justifies all the essentials of a valid complaint, it becomes mandatory for the cops to take a senior citizen to a government health care centre for an appropriate check-up. After a thorough evaluation, the wounded citizen will be granted a "certificate" stating the injuries incurred, making it a ready reference and evidence for the officials to file a charge sheet against the offender. **Make sure that a senior citizen is taken to the hospital and granted a "wound certificate".**

**Online mode:** If nothing works, a senior citizen can always seek assistance from the service providers of “Elders Helpline” in their respective cities without any hesitation. The facilitators will make sure that the petition to report the violence/assault/ abuse gets filed. A special counseling session is also provided to the senior citizens where they disseminate knowledge about redressal mechanisms. After understanding the facts of the case, they can file a written complaint to the offender through the law enforcement officers.

On the online helpline portal, facilitators who are legal experts follow a dispute resolution mechanism wherein they develop a platform for two parties to communicate and amicably resolve the issue, especially in land and property related issues.

## 7. What are the steps taken by the Government in order to safeguard the interests of Senior Citizens?

The Central Government had adopted the “National Policy for Older Persons” in the year 1999. In so far as the benefits for senior citizens under this policy are concerned:

1. A separate pension fund has been established with an aim to benefit the senior citizens who were a part of unorganized sector;
2. Old age homes and day care centres have been established **in five major** districts of every state. (You can visit the centres, submit the proof of your documents and get yourself enrolled);
3. Concession in various means of transportation has been approved for the senior citizens to travel within and between two areas/cities. **For train (30%) and air lines (50%);**
4. **Geriatric care** - to focus exclusively on their health.

Other policies by the Government:

- ▶ Ministry of Social Justice and Empowerment- National Council for older person (Age-well foundation);
- ▶ Training programs that sensitise children/ employees at workplace; and
- ▶ Under the Income Tax Act, (as per sections 88B, 88D and 88DDB) the tax rate for senior citizens has been marked down.

## RIGHTS OF STREET VENDORS

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### 1. Who is a Street Vendor? Is there any legal definition for this term?

Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014, enacted to safeguard the rights of street vendors and modulate street vending, defines the term street vendor as anyone who is a vendor of articles, goods, food and items of daily use or offers service to the general public in public or private areas such as streets, lanes, pavements, footpath, sidewalk etc. The vending of goods and offering of services must be done through temporarily built structures or through modes which can be moved from one place to another. Thus, it includes persons such as hawkers, peddlers and squatters.

### 2. What subsistence is granted to Street Vendors under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014?

The predominant objective of the Act is to safeguard the rights and liberties of street vendors and extend financial backing to them in order to enable their sustainable living. The preponderant rights accessible to the street vendors under the Act include:

- The street vendor, not having any means of livelihood, shall have a right to undertake the business of street vending himself or through any of his family members, after submitting an undertaking to the town planning committee, who will further issue the 'Certificate of Vending'.
- In case of death or permanent disability, the spouse and in her absence, the dependent child of the street vendor shall have a right to continue with the business till the validity of the Certificate of Vending.
- A stationary vendor, a mobile vendor, or any other vendor specified under the act can be issued the Certificate of Vending.
- In case of relocation, every vendor holding a Certificate of Vending shall be moved into a new site or an area, as prescribed under the Act.
- Preference would be given to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, women, Persons with Disabilities, minorities, or such other categories that would fall under the category of marginalized person.
- It shall be the duty of every local authority to promote the vocation of street vendors, once in every five years.



- No street vendor, who carries on the street vending activities in accordance with the terms and conditions of his certificate of vending, shall be prevented from exercising such rights by police officials or any other individual or a regulatory body.
- Demarcation of the hawking zones must be specific. City authorities should provide sufficient spaces, designated as ‘vendors markets’ in layout plans at locations of such natural markets.
- The vendors shall be permitted in all areas even outside the designated vendor’s markets unless designated as a ‘no-vending zone’ through a participatory process.

### **3. Is there a Grievance Redress Mechanism for Street Vendors?**

- **Appropriate Committees headed by a Chairperson who has been a civil judge:** Street vendors, who have a dispute or grievance, can file a written application to the Chairperson of the committee that is exclusively formulated by the appropriate government to take steps for the redressal of such grievance or resolution of such dispute, within a stipulated period of time.
- **Local Authorities:** After the congruous inquiry and verification, appropriate steps shall be undertaken by the committee in disseminating their judgment. If an individual is aggrieved by the decision of the committee, he can always lodge an appeal to the local authority, who is further, after giving a fair opportunity to the aggrieved individual of being heard, required to dispose of the appeal within a reasonable time period.

### **4. Is there any organization dedicated to street vendors where they can seek support in times of disturbance?**

- **The National Association of Street Vendors of India (NASVI)** a national federation of all the street vendor organizations, is a coalition of Trade Unions, Community Based Organizations (CBOs), Non-Government Organizations (NGOs), and professionals.

Nationwide helpline number: **9835674364**

Email address: **help@nasvinet.org**

Contact no. of registered office: **0612-2220772, 2220773**

Contact no. of coordinated office: **+91-011-47553013**

Website URL: **<https://nasvinet.org/>**

Email address of registered office: **info@nasvinet.org; singharbind@hotmail.com**

Email address of coordinated office: **office@nasvinet.org**

## 5. Under which schemes of the Central Government are the Rights of Street Vendors covered?

- **National Policy for Urban Street Vendors (NPUSV)** - With an overarching objective to upscale a sympathetic and reassuring environment for the sustainable wellbeing of street vendors as well as to set the seal on intensifying the hygiene standards, the Government of India (GOI) had launched National Policy for Urban Street Vendors (NPUSV) in the year 2004. The scheme aims to grant legitimate recognition to street vendors and hawking zones by enacting and implementing the new laws, modifying the existing ones, and repealing the outdated rules and regulations. This scheme also provides for regulatory procedures, capacity-building campaigns, compliance and distribution, rehabilitation of child vendors, provision of civic facilities and providing social and financial certainty.
- **Deendayal Antyodaya Yojana - National Urban Livelihood Mission** - The Government of India is also granting support to the urban street vendors through the centrally sponsored Deendayal Antyodaya Yojana - National Urban Livelihood Mission implemented by the Ministry of Housing and Urban Affairs. The motto of this scheme is to address the concerns of individuals falling under the forenamed category by facilitating access to suitable spaces, institutional credit, social security, etc.
- **PM Street Vendor's AtmaNirbhar Nidhi (PM SVANidhi)** – Under this Scheme, working Capital loans up to INR 10,000/- at a subsidized rate of interest of 7% shall be vouchsafed to all the beneficiaries. They have provision for digital transactions (with monthly cash-back). A debit card or QR code will also be provided. The loan amount shall be provided at regular intervals. Funds under this Scheme can be disbursed by Scheduled Commercial Banks, Regional Rural Banks, Small Finance Banks, Cooperative Banks, Non-Banking Financial Companies, Micro-Finance Institutions and SHG Banks. The tenure of this scheme has been extended to December 2024. For assistance regarding this scheme, one can reach out to the toll-free helpline number **1800111979**. The toll-free helpline number is active from Monday to Saturday between 09:30 am and 06:00 pm.

Further information about the scheme can be availed from the Official website of the Ministry accessible at <https://pmsvanidhi.mohua.gov.in/>

## 26

### SUCCESSION CERTIFICATE

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#### 1. What is a Succession Certificate?

As provided in the Indian Succession Act, 1925, a succession certificate is a document to establish the rightful claim of legal heirs when any person dies without a will, viz. intestate. It ensures the transfer of any assets, debts or securities to the legal successor of the deceased person.

#### 2. What are the prerequisites for making an application to obtain a Succession Certificate?

The documents required to obtain a Succession Certificate are:

- Death Certificate signifying time, date and place of death;
- Address of the deceased person at the time of death;
- Complete details of the family and all the legal heirs of the deceased person;
- List of assets, securities and debts of the deceased person; and
- No Objection Certificate from other legal heirs.

#### 3. What is the procedure to be followed to obtain a Succession Certificate?

- The applicant will prepare a petition and submit it in the appropriate court after paying the appropriate court fees;
- The district judge conducts a preliminary hearing followed by a final hearing, if the petition is admitted;
- After hearing all the interested parties, if satisfied, the judge issues a succession certificate to the applicant; and
- The judge may also ask for a bond with one or more sureties so as to make good any possible loss arising out of the use or misuse of such certificate.

#### 4. Who is a ‘Nominee’?

A Nominee is merely a trustee to receive the proceeds due to a deceased person on behalf of their legal heirs. In simpler terms, the nominee is a caretaker of the property and not the owner. His/her purpose is to transfer the property or assets to the legal heirs once the court declares them.



**5. Can a Succession Certificate be challenged before a Court of Law? If yes, who can challenge the Succession certificate?**

A Succession Certificate can be challenged only after filing an application with the courts. All legitimate heirs and family members are sent notices by the courts to file their objects within a certain period.

**6. Can a Succession Certificate be revoked?**

Yes, Succession Certificate can be revoked in the following cases:

- If the Certificate is obtained in a fraudulent manner by deceiving the court;
- If the procedure followed for the issuance of Certificate is proven defective or incomplete;
- If the claim of succession made by the petitioner is found to be false; and
- The Certificate is no longer useful or operative due to the circumstances.

**7. Who is empowered to issue a Succession Certificate?**

The Certificate is issued by the concerned District Judge of the living place of the deceased person at the time of his/her death. If no such place is found, jurisdiction is transferred to where assets of the deceased person could be found.

**8. What is the difference between a ‘Nominee’ and a ‘Beneficiary’?**

Nominee is a person appointed to look after his/her assets, accounts, etc., after his demise. It is the responsibility of the nominee to disburse the proceeds among the legal heirs. A Beneficiary is an individual or an entity who has a financial interest in the person.

The Beneficiary can be either the legal heirs or financial institutions like banks who must have provided a loan to the person.

**9. In the absence of a ‘Nominee’, who acts as the guardian of assets of a deceased person?**

In the absence of a Will or Nominee, legal heirs of the deceased would have to submit several documents to banks, insurance companies, etc., to get assets transferred in their name. Legal heirs are required to obtain a succession certificate to collect the assets and disburse it to all legal heirs as per the various laws of succession.

**1. What is Surrogacy?**

Surrogacy is an assisted reproduction method wherein a female (gestational surrogate) carries the child (foetus) of another couple/woman (intending couple/woman) till the birth of the child. In this reproductive technique, the gametes from the mother's egg and father's sperm are artificially fertilized through IVF. The resultant embryo is then placed inside the womb of the surrogate female. This entire process is known as gestational surrogacy. The Surrogacy (Regulation) Act, 2021 (hereinafter the Act) aims to regulate the practice of surrogacy in the country. A surrogate mother does not have any parental right over the surrogate child born. Further, the intending couple/ woman is considered to be the parent(s) of the child born. The surrogate child is treated as the biological child of the intending couple/woman.

**2. What kinds of Surrogacy are permitted?**

The Act only permits altruistic surrogacy, and bans all forms of commercial surrogacy. Altruistic surrogacy, as the name suggests, does not involve any kind of remuneration or monetary consideration. The surrogate mother does not receive any fees or other monetary incentive, apart from the medical expenses and the insurance coverage. On the other hand, in a commercial surrogacy, the intending couple usually pays some kind of remuneration to the surrogate mother in exchange for her services. Commercial surrogacy may also involve selling or trading of human embryo/ gametes.

To illustrate this further, let us consider an example where, a couple, A (husband) and B (wife) have aimed to opt for surrogacy. The gametes from A and B would be artificially fertilized outside their bodies, and the resultant embryo would be inserted into the surrogate mother, C's womb. Here, A and B would be the intending couple, C would be the surrogate mother, and the child born, D, would be the surrogate child.

- If C does not receive any kind of remuneration from A and/or B, then it would be an altruistic surrogacy, legal in India. However, if C receives any remuneration from A and/or B, then it would amount to commercial surrogacy, which has been banned by the Act.

- C would have no right over the child D. Further C cannot keep the baby after the birth.
- D would be considered as the biological child of A and B.

### 3. Why commercial surrogacy has been banned?

Commercial surrogacy is strictly prohibited by the Act. No person or organization can undertake or cause to promote any kind of commercial surrogacy. The intention of the legislators behind banning commercial surrogacy was to protect the surrogate mothers from exploitation, and protect the rights of the surrogate child. Further surrogate children born with defects were often abandoned. It was observed that under commercial surrogacy, the surrogate mothers were exploited. The Act also penalizes any person causing exploitation of the surrogate mother or encouraging abandoning of the surrogate child. Instead of making a complete ban on surrogacy as it would interfere with the rights of the infertile couples and widows, the Act has sought to provide for a mechanism to legalize and regulate altruistic surrogacy to uphold the rights of all the parties involved in surrogacy – the couples desiring to have children, the surrogate mothers and surrogate children.

### 4. Who is eligible to opt for surrogacy?

The Act lays down an exhaustive list of conditions that need to be satisfied for a couple to become eligible for opting in for surrogacy. The conditions are as follows:

- The primary requirement is that intending couple must have a medical condition which would necessitate gestational surrogacy to bear a child. Further, the intending couple or woman requires a certificate of recommendation from the District Medical Board to undergo surrogacy.
- The intending couple must be married.
- The intending female should be within the age of 23 to 50 years, whereas the male should be between 26 to 55 years.
- The intending couple should not have any surviving child, either biological, or through adoption, or through earlier surrogacy. However, if the child of the intending couple is physically/mentally challenged or suffers from a life-threatening disorder which has no cure, then such a couple can opt for surrogacy.
- Intending woman - the Act also permits a single woman to opt for surrogacy, however, certain conditions need to be met, such as-
  - ▶ She should either be a widow or a divorcee.
  - ▶ She should be between the ages of 35 to 45 years.

For instance, Couple X and Couple Y, both have a child through an earlier surrogacy. However, Couple Y's child suffers from a life-threatening disorder which has no cure, whereas Couple X's child suffers from no such illness. In such a situation, Couple X would not be eligible for another surrogacy but Couple Y would be, subject to meeting other eligibility criteria.

## **5. Who can be a surrogate?**

The Act lays down eligibility conditions for a woman to qualify as a surrogate mother. These eligibility criteria have been laid down keeping in mind the health and other interests of the surrogate mother. The conditions are as follows:

- The willing woman should be married;
- The willing woman should have a child of her own;
- The willing woman should be between the age of 25 to 35 years;
- The woman cannot provide her own gamete to become a surrogate mother;
- A woman cannot be a surrogate mother more than once; and
- Such a willing woman should be certified for medical and psychological fitness for surrogacy by a registered medical practitioner.

## **6. Where can surrogacy be conducted in India?**

The entire process of surrogacy has to be undertaken at a registered surrogacy clinic only. Every clinic which is conducting surrogacy procedures shall within a period of sixty days, from the date of appointment of the appropriate authority, apply for registration of their clinics. Registration shall be renewed after every 3 years. Manner of application for obtaining a certificate of recommendation by the Board has been specified in Form 1 of the Rules framed under the Act.

## **7. What are the rights of a surrogate mother?**

Prior to the enactment of the Act, the surrogate mothers were often exploited in commercial surrogacy. They were often paid a measly amount, and the agents or middlemen would take up the majority of the amount received from the intending couple. Further, the surrogate mother suffered the risk of maternal mortality, and other health risks without any post-natal care. Women were often forced to take up surrogacy owing to the economic pressures. In this context, the Act while penalizing commercial surrogacy, also intends to guarantee a set of rights to the surrogate mother to protect her interests and health. These rights are as follows:

- **Right to be informed** - the surrogate mother has to be explained all the side effects and procedures of surrogacy in a language she understands. Thereafter, written informed consent of the surrogate mother is required to start the process of surrogacy.
- The surrogate mother also has the **right to withdraw such consent** before the embryo has been implanted in her womb.
- **Abortion** - the Act provides that written consent of the surrogate mother is required for abortion. Further, no person or clinic or organization can force the surrogate mother to undergo abortion.
- **Insurance Coverage for 36 months** - the Act provides for a mandatory 36 months insurance coverage for the surrogate mother covering postpartum delivery complications.

## 8. What are the rights of the surrogate child?

Prior to this Act, there was no regulation coherently defining the rights and protection of the surrogate child. There were several reported instances wherein the surrogate child was abandoned by the intending couple due to certain medical deformities in the child born.

There have been multiple cases such as *Baby Manji Yamada v. Union of India and Jan Balaz v. Anand Municipality*, wherein the Supreme Court upheld in favour of protecting the rights of the abandoned surrogate children. It has also been observed that the surrogate parents would often indulge in the sex selection of the child.

There were also instances of human trafficking of children born via surrogacy. To regulate such instances, and conclusively protect the rights of the surrogate child, the Act recognizes certain rights of the surrogate children. They are as follows:

- Sex selection of the child, in any form, is prohibited by the Act;
- The surrogate child would be considered as the biological child of the intending couple/woman. Thus, such a child would have all the rights and privileges which a natural child would have;
- The Act strictly prohibits intending couples and women to abandon the surrogate child. Thus, any kind of genetic/birth defect or any other medical condition can be no ground for the intending couple/woman to abandon the child; and
- The Act prohibits sale and trade of human gametes, embryos, and children born via surrogacy.

**9. Is there any NGO that works for safeguarding the rights of surrogate mothers and children?**

- **UPKAAR** - upliftment of the conditions.

Address: H-6, Green Park (Main) New Delhi -110016 India

Phone: +91 - 11 - 40666680, +91 - 95555 44421 / 22

Skype address: [internationalfertilitycentre](#)

Email: [mail@internationalfertilitycentre.com](mailto:mail@internationalfertilitycentre.com)

- **NIDS-SATYA** - It is concerned with protecting the rights of surrogate children.

Address: 105, Vardhmaan Building, Ajmer Rd, Tagore Nagar, Jaipur, Rajasthan 302021, India

Phone: +91-9351325672, 9024025966

Email address: [satya\\_anngo@yahoo.com](mailto:satya_anngo@yahoo.com)

Fax: +91-141-2719066

Website: <http://www.satyaanngo.org/who-we-are/>

**10. Is there any financial assistance provided by Government for surrogacy?**

The Ministry of Health and Family Welfare has issued a **Three-year Health Insurance Scheme** under the Surrogacy (Regulation) Rules, 2022. Intending couples have to purchase a general health insurance cover for the surrogate mother from an insurance company or agent.

This should cover the cost of all complications including pregnancy and post-delivery complications. The number of attempts of any surrogacy procedure on the surrogate mother shall not exceed three times. During the process of surrogacy, the surrogate mother can be allowed to have an abortion as per the Medical Termination of Pregnancy Act.

## TRAFFIC RULES AND REGULATIONS

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### 1. What do traffic rules and regulations mean?

Traffic rules and regulations mean all the officially applicable laws that are in operation with regards to vehicles in general in order to ensure that there is no chaos on the road and drivers/riders and passengers have a safe commute.

### 2. What all documents should the driver/rider carry as per law?

The driver is expected to carry his/her original driving license, registration certificate (RC), fitness certificate, pollution under control certificate (PUC) of the vehicle and a valid insurance certificate. All these documents should either be in original form or a smart card form. Transport vehicles such as bus, taxi and auto-rickshaws are however required to carry their permit along with the fitness certificate.

### 3. Is it mandatory to carry original driving licenses and other documents in the physical form?

According to the law in India, it is required for a driver to produce original vehicle documents when asked by the cops. However, with the advent of technology, vehicle owners need not carry the physical version of them anymore.

The **DigiLocker** and **m-Parivahan** are the applications as an alternative to carrying vehicular documents in physical form. **DigiLocker** is an Indian digitization online service provided by Ministry of Electronics and Information Technology, Government of India.

**m-Parivahan** has been provided by the Ministry of Road Transport & Highways, Government of India. Verified applications like **DigiLocker** and **m-Parivahan** can be used to get the duly certified documents for the purpose of producing the same before the cops. These applications can be downloaded from Google's Play store or Apple's App store.

### 4. Does showing a photo of your driving license or a photo-copy of the original document before a police officer satisfy the legal obligations?

No, showing a photograph or a photo-copy to a police officer on duty is not going to make any difference. The only alternative are using applications such as DigiLocker and m-Parivahan to show the police officers, verified copies of the required documents.

**5. Is it necessary to keep old vehicle documents, like old car insurance and pollution certificates?**

No, it is not required to retain old vehicular documents. Once the renewed documents have been received, the old documents need not be stored any longer.

**6. What is the rule with respect to seat belts?**

The driver and the individual in the front passenger seat are required to wear seat belts while the vehicle is being driven.

**7. What are the circumstances under which the traffic authorities are allowed to tow a vehicle?**

A vehicle that is abandoned or has been left unattended or has been parked in a parking restricted zone (no parking zone) or has been parked in a manner that is causing inconvenience to other moving vehicles, then the particular vehicle can be towed away. Towing can never be done when an individual is inside the car.

**8. What is the punishment for driving under the consumption of any drugs and alcohol?**

The punishment for drunken driving or under the consumption of any drugs is 6 months imprisonment and/or INR 10,000/- fine for the first offence. However, if the offence is committed for the second time, the imprisonment increases to 2 years and/or a fine of INR 15,000/-. In addition, the police officer has the right to arrest an individual without a warrant if the individual has been under the influence of a banned drug or alcohol.

**9. What is the penalty with regards to rash driving?**

The penalty for rash and negligent driving is imprisonment of six (6) months to one (1) year and/or a fine of INR 1,000/- to INR 5,000/- for the first offence.

For the offence being committed for a second time, imprisonment up to 2 years and/or a fine up to INR 10,000 can be levied by the police authorities.

**10. Which traffic police officers are authorized to collect fine in case of a traffic violation?**

Only the officers listed below are authorized to receive fines against the violation of a traffic rule and issue a receipt:

- Asst. Sub-Inspector (one star);
- Police Sub-Inspector (two star); and

- Police Inspector (three star).

## **11. Does the police officer have the right to confiscate vehicle keys while trying to stop the vehicle?**

The police officer irrespective of his/her rank or authority has no right to confiscate vehicle keys. It is an illegal act for a traffic cop to forcefully take away the vehicle keys.

## **12. What are your rights as an individual when you are stopped by a traffic police?**

A few basic rights as an individual when you are stopped by the traffic police are as follows:

- You can request the traffic police to present their identity. If the traffic police refuses, to present their identity, you can refuse producing your driving licence and other documents as well.
- In case you feel that you were harassed and not treated properly by the traffic police, as an individual you have a right to file an online compliant about the incident or report the matter to the nearest police station, elaborating about the incident.
- A police officer does not have a right to force you to get out of your vehicle (until and unless there is a suspicious activity) or forcefully switch off the ignition of your vehicle.

## **13. Can the traffic police arrest women for drunken driving at night? What about arresting women at night in the presence of a female officer?**

The traffic police/police authorities cannot arrest women at night (i.e. after 6:00 pm and before 6:00 am). This is not only restricted to drunken driving; in general, under any reason a women cannot be arrested in between 6:00 pm and before 6:00 am. In very severe cases, the police authorities can detain her (i.e. restrict the movement) but they cannot arrest her (meaning put her behind lock-up) without a warrant and in the absence of a female officer. However, please note this is the rule, but if required there can definitely be an exception.

## **ROLES AND RESPONSIBILITIES OF URBAN LOCAL BODIES IN WASTE MANAGEMENT**

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### **1. What are the different types of wastes?**

The different types of wastes are – Wet waste, Dry Waste, Domestic Hazardous waste, E-waste and Biomedical waste.

- Wet waste consists of organic and kitchen waste which includes vegetable and fruit peels, tea leaves, eggshells, tissues and paper towels, vegetable market , yard waste, etc.
- Dry waste refers to waste other than biodegradable waste which is either recyclable or non-recyclable. It includes papers, glass, rubber, thermocol, fabric, leather, rexine, wood, etc. It can be kept for an extended period without decomposing and used for recycling.
- Domestic Hazardous Waste includes discarded paint drums, pesticide cans, CFL bulbs, tube lights, expired medicines, broken mercury thermometers, used batteries, used needles and syringes and contaminated gauge, etc., generated at the household level.
- E-waste or electronic waste consists of batteries, computer parts, wires, electrical equipment of any kind, electrical and electronic toys, remotes, watches, cellphones, as well as bulbs, tubelights and CFLs.
- Biomedical waste includes used menstrual clothes, sanitary napkins, disposable diapers, bandages and any material that is contaminated with blood or other body fluids.

### **2. How should households treat the waste in the house?**

The households should perform the process of segregation. The process of segregation involves sorting and separation of solid waste into wet waste, dry waste, domestic hazardous waste and E-waste. The households, after performing segregation, need to store them into different waste bins. Green coloured bins are to be kept for wet waste and bio-degradable waste whereas blue dustbins are for dry waste, disposable plastics and non-biodegradable waste. Red coloured bins are necessary for sanitary waste and black coloured bins are necessary for E-waste.



**3. What are the directions issued by Local Authorities to households for disposal of waste?**

- It is prohibited to throw, burn or bury the solid wastes on streets, open public spaces, outside the premises, or in the drain or water bodies.
- The sanitary wastes like diapers, sanitary pads etc. are to be disposed by placing them into the pouches provided by the manufacturers or brand owners of these products or in a suitable wrapping material as instructed by the local authorities.
- The households are required to store the horticulture waste and garden waste generated from their premises separately in their own premises and dispose of as per the directions of the local body from time to time.

**4. What is to be kept in mind before organising an event of more than one hundred people?**

To organise an event or gathering of more than one hundred people, the local body is to be informed at least before three working days. The organizer of such an event shall ensure segregation of waste at source and hand over the segregated waste to waste collector or agency as specified by the local body.

**5. What should the street vendors do to manage the waste generated at their stalls?**

The street vendors are required to keep suitable containers for storage of waste generated during the course of their activity such as food waste, disposable plates, cups, cans, wrappers, leftover food, etc and deposit such waste at waste storage depot or container or vehicle as notified by the local body.

**6. What are the directions for segregation of waste collected from the households?**

- The Urban Local Bodies (ULBs) and Panchayats are required to arrange for door to door collection of segregated solid waste from all households including slums and informal settlements, commercial, institutional and other non-residential premises.
- For multi-storage buildings, large commercial complexes, malls, housing complexes, etc., this may be collected from the entry gate or any other designated location.
- The ULBs and Panchayats are required to establish waste deposition centers for domestic hazardous waste and give direction for waste generators to deposit domestic hazardous wastes at this centre for its safe disposal. Such facility shall be established in a city or town by the Local authorities.

- The ULBs and Panchayats have to separately collect the waste generated from sweeping of streets, lanes and by-lanes and not put the same together with the wastes generated from households and other waste generators.
- The ULBs and Panchayats are required to collect horticulture, parks and garden waste separately and process them in the parks and gardens, as far as possible.

#### **4. How are the wastes collected from streets and drains stored?**

The ULBs and Panchayat can set up covered secondary storage facility for temporary storage of street sweepings and silt removed from surface drains in cases where direct collection of such waste into transport vehicles is not convenient. Waste so collected should be disposed of at regular intervals as decided by the local body.

#### **5. How can a consumer file a complaint of waste mismanagement?**

A complaint can be made to the Urban Local Authorities through the **Swachch Bharat App.**

Citizens can download the mobile application and use it to file complaints. Citizens only need to take a picture of the complaint there on the ground and post it through the Swachh Bharat app.

The app automatically finds the location of the complaint and the complaint gets forwarded to the municipal corporation for action. Citizens can also get regular updates and notifications on the status of their complaint.

## 30

### **VICTIM COMPENSATION SCHEME**

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#### **1. Who is a victim?**

The term “victim” has been defined under Section 2(wa) of the Code of Criminal Procedure, 1973 to mean “a person who has suffered any loss or injury caused by reason of the act or omission for which the accused person has been charged”. The guardian or legal heirs of such person are also included in the definition of the victim.

#### **2. Can a victim of crime get compensation in India?**

Yes. A victim of a crime can get compensation in India. However, compensation for a crime cannot be claimed as a matter of right. Rather, it is granted at the discretion of the Court.

#### **3. What are the legal provisions in India that provide for compensation to victims of crime?**

The legal provisions governing victim compensation are contained in Sections 357, 357A, 359, of the Code of the Criminal Procedure, 1973. Section 357(1) provides when a court imposes a sentence of fine or a sentence (including a death sentence), when passing judgments, the court may order the whole or any part of the fine recovered to be applied in the payment to any person of compensation for any loss or injury caused by the offence, when compensation is recoverable by such person in a Civil Court. Even if fine is not part of the sentence imposed by the Court, the Court may order the accused person to pay compensation to the person who has suffered any loss or injury by reason of the act of which the accused person has been sentenced under Section 357(3) of the Code.

#### **4. What is Victim Compensation Scheme (VCS)?**

Section 357A of the Code of Criminal Procedure, 1973 provides that the State Governments (in coordination with Central Government) have to prepare a scheme for providing funds for the purpose of compensation of the victim or his dependents who have suffered loss or injury as a result of the crime and who require rehabilitation. This Scheme is called Victim Compensation Scheme. This compensation payable under Section 357A is in addition to the payment of fine to the victim under Section 326A (voluntarily causing

grievous hurt by use of acid etc.) or Section 376 D (sexual intercourse by hospital staff) of the Indian Penal Code, 1860. Further, the Central Government has also formulated Central Victim Compensation Fund (CVCF) to enable support to victims of cases like rape, acid attacks, human trafficking and women killed or injured in the cross border firing.

#### **5. Who determines the Quantum of Compensation?**

As per Section 357A, the quantum of compensation is determined by the District Legal Services Authority or the State Legal Services Authority on the recommendation of the Court.

#### **6. Can compensation be granted even if the accused is acquitted in trial?**

Yes. As per Section 357A(3), even if the case ends in acquittal or discharge of the accused and the court, at the conclusion of trial, is satisfied that the victim has to be rehabilitated, it may make recommendation for compensation.

#### **7. Can compensation be granted even if the offender is not identified or traced?**

Yes. Section 357A(4), provides that where the offender is not traced or identified, but the victim is identified, and where no trial takes place, the victim or his dependents may make an application to either the DLSA or SLSA for the award of compensation.

#### **8. Can costs of prosecution be recovered from the accused?**

Yes. Section 359 of the Code of Criminal Procedure, 1973 make provisions for recovery of costs from the accused in cases of non-cognizable offences. It states that where a court convicts an accused of non-cognizable offence, then in addition to the penalty imposed upon him, the court may also order him to pay to the complainant, the costs incurred by him in the prosecution and such costs may include expenses incurred in respect of process-fees, and witness and pleader's fees. In default of the payment of such costs, the court may impose a simple imprisonment of a maximum of thirty days on the accused.

#### **9. What is the difference between Compensation under Section 357 & Section 357A CrPC?**

Under Section 357A CrPC, it the offender who is made to pay the compensation. Under Section 357A, it is the state that pays compensation to the victim in accordance with the State's Victim Compensation Scheme. Under Section 357A the state can also provide interim compensation as listed under the State's VCS regardless of whether the case has resulted in conviction.

**10. What is the minimum amount of compensation as per the Central Victim Compensation Fund (CVCF) Scheme?**

Under the CVCF Scheme, the Central Government has set the minimum amount of compensation that can be awarded. The minimum amount of compensation is as follows:

S. No.	Description of Injuries/loss	Minimum amount of Compensation
1.	Acid Attack	Rs. 3 Lakhs
2.	Rape	Rs. 3 Lakhs
3.	Physical abuse of minor	Rs. 2 Lakhs
4.	Rehabilitation of victim of Human Trafficking	Rs. 1 Lakh
5.	Sexual Assault (excluding rape)	Rs. 50,000/-
6.	Death	Rs. 2 Lakhs
7.	Permanent Disability (80% or more)	Rs. 2 Lakhs
8.	Partial Disability (40% to 80%)	Rs. 1 Lakh
9.	Burns affecting greater than 25% of the body (excluding Acid Attack Cases)	Rs. 2 Lakh
10.	Loss of Foetus	Rs. 50,000/-
11.	Loss of Fertility	Rs. 1.5 Lakhs
12.	Women victims of cross border firing: (a) Death or Permanent Disability (80% or more) (b) Partial Disability (40% to 80%)	Rs. 2 Lakhs Rs. 1 Lakh

**11. What is the procedure for obtaining compensation under the VCS?**

As the VCS under Section 357A of the CrPC are framed by the State Governments, there is no standard procedure that is uniformly applicable to all states. Hence, one will have to refer to the Specific Scheme formulated by the respective states to follow the procedure. However, a brief layout of the procedure is as follows:

- Applications for compensation have to be submitted before the DLSA/SLSA.
- The application must be submitted along with a copy of the FIR, medical report & other certificates (such as death certificate if applicable), copy of the judgement (if the application is in pursuance of the court recommendation).
- Application can be made by victims/their dependents or the Station House Officer (SHO) of the area.



- The respective Legal Service Authority will scrutinize the application, and verify its content and based on a plethora of factors, determine the quantum of the compensation that needs to be granted.
- After the amount is ascertained the Legal Services Authority will disburse the amount by depositing the same in a nationalized bank in the joint or single name of victim/ dependent(s).
- 75% of this amount is put in fixed deposit (FD) for a period of 3 years and only 25% is available initially for immediate utilization.
- In case of a minor, 80% is put in FD which can be drawn only on attainment of the age of majority, but not before 3 years for the deposit.

**1. What are the steps taken by the Government in order to ensure women's safety and well-being?**

Considering the significance of maintaining the safety of women in the country, the Ministry of Women and Child Development (MWCD) and the Ministry of Home Affairs (MHA) of the Government of India have undertaken a number of measures for safeguarding the interest of women.

- The Central Government has set up a corpus **Nirbhaya Fund** for enhancing safety and security of women. MWCD has been implementing numerous schemes under the framework of this Fund.
- Using technology to aid smart policing and safety management, **Safe City Projects** have been sanctioned in the first phase in 8 cities (Ahmedabad, Bengaluru, Chennai, Delhi, Hyderabad, Kolkata, Lucknow and Mumbai) under this Fund. MWCD has been administering various **special laws** relating to women, which deal with rape, domestic violence, kidnapping and abduction, torture, dowry, molestation, sexual harassment at workplace, other sexual offences, child marriage, juvenile matters, etc. These laws mandate completion of investigation and trials within the stipulated time period as well as imposition of stringent penalties in all warranting circumstances. MWCD has in fact prepared a **National Policy** with a goal to bring about the advancement, development and empowerment of women.
- MHA, on the other hand, has set up a **Women Safety Division** to strengthen the measures for safety of women in the country and instil greater sense of security in them through speedy and effective administration of justice in a holistic manner and by providing a safer environment for women.
- An online analytic tool called **Investigation Tracking System for Sexual Offences** for police has been launched to monitor and track time-bound investigation in sexual assault cases. **Emergency Response Support System**, which provides a single emergency number **112** based computer aided dispatch of field resources to the location of distress, has been operationalized in several States/ UTs.
- A **Cyber-Crime Portal** has also been launched facilitating reporting of obscene content. Even several States are equipped with **Cyber Crime Forensic Labs** and

thousands of personnel, including Public Prosecutors and Judicial Officers, have been properly trained in identifying, detecting and resolving cyber-crimes against women in this regard.

## **2. What is the procedure to file an online complaint on National Cyber-crime Reporting Portal?**

### **In order to report anonymously:**

- You can visit the website of the portal: <https://cybercrime.gov.in/>
- Without providing any information, a complainant will be registered automatically as an **autonomous complainant**.
- For anonymous complaints, the issue must be in lines with **sexually explicit content**.
- Details like category of the cybercrime, date, time and place of incident, platform used to commit an offence etc must be provided along with concrete evidence.
- Identity of the suspect including name, address proof, mobile number and PAN card must be uploaded.
- Requirement of uploading other documents and details would depend upon the case. The complainant however can mention in brief about the hurdles faced.

## **3. Is there any nation-wide helpline dedicated to women wherein they can seek support in times of disturbance or emergency?**

- The Ministry of Women & Child Development has launched the **Women Helpline '181'** to provide free, confidential, immediate and 24x7 support and assistance to women in distress and in need of care and protection – both in public and private spaces, to facilitate crisis and non-crisis intervention through referral to appropriate agencies and to provide details about the support services, schemes and programmes available.
- Also, whenever a woman from any part of the country needs urgent help from the police or wants the police to come and rescue her, **she can immediately dial the Police Helpline number '1091', which is majorly useful for requiring help in emergency situations like rape, molestation, eve teasing, domestic violence, kidnapping and such other acts.** As soon as a call is received, it is directed to the respective police station in the district, with the Superintendents of Police and Commissioners of the district being held responsible for cases in their jurisdiction.

- Apart from these, the dedicated helpline number '**7827170170**' of the **National Commission for Women** aims to provide round-the-clock counselling and support services to women affected by violence.

#### 4. What is the procedure to file an online complaint on National Commission for Women portal?

- Visit webpage of the commission. Link: <http://newapps.nic.in/>
- There is a button for registering a complaint. Click on the button and move to the other page.
- You are required to fill all the details of complainant.
- You are required to fill all the details of victim.
- You are required to fill all the details of the respondent.
- You are required to fill all the details of the complaint
- You are required to fill complete details of the incident
- Lastly, submit your complaint.

#### Contact details:

Email address: [complaintcell-new@nic.in](mailto:complaintcell-new@nic.in); [chairperson-new@nic.in](mailto:chairperson-new@nic.in)

Contact no: +91 - 11 - 26944880/83.

#### 5. Which special laws have been framed for the purpose of monitoring women safety and equality?

There are various legal provisions for women safety and empowerment in various special laws that have been enacted for the purpose. Although some of the laws are not gender-specific, the provisions significantly affecting women have been periodically reviewed and amendments have been carried out thereto in order to keep pace with the emerging requirements.

- The **Indian Penal Code, 1860** deals with women related crimes viz. rape; kidnapping and abduction; homicide for dowry, dowry deaths or their attempts; torture – mental and physical; molestation; sexual harassment; importation of girls (upto 21 years of age), etc.
- This spirit also finds place in the **Criminal Procedure Code, 1973** through the provisions relating to maintenance *inter alia* of wives.

- The **Protection of Women from Domestic Violence Act, 2005** has been enacted to protect women from domestic violence, which is primarily meant to provide protection to the wife/ female live-in partner from domestic violence at the hands of the husband/ male live-in partner/ his relatives and which also extends its protection to women living in a household such as sisters, widows or mothers.
- The **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013** seeks to protect women from sexual harassment at their place of work – be it in public or private.
- The **Equal Remuneration Act, 1976** has been drawn up to provide for payment of equal remuneration to men and women workers and for prevention of discrimination, on the ground of sex against women in the matter of employment and for matters connected therewith or incidental thereto.
- The provisions of the **Hindu Marriage Act, 1955** and the **Special Marriage Act, 1954** have been amended to make sure that the interest of women is safeguarded and no rave financial or other hardship is caused to them.
- The **Dowry Prohibition Act, 1961** prohibits the request, payment or acceptance of a dowry as consideration for marriage, where ‘dowry’ is defined as a gift demanded or given as a precondition for a marriage.

## 6. What is the procedure of filing a complaint against domestic violence?

It is a general misconception in this connection that domestic violence is only committed by the husband on his wife, which is untrue. A woman can file a complaint against her husband or any of his relatives. A woman who is staying in a live-in relationship with a man can also file a case against him if he commits domestic violence.

- An aggrieved person or any other person on her behalf may present an **application to the Magistrate** under Section 12 of the Protection of Women from Domestic Violence Act, 2005.
- The Magistrate shall thereafter fix the first hearing, which shall not ordinarily be beyond three days from the date of receipt of the application by the Court. A request can also be made to the Magistrate to conduct the proceeding in-camera.
- The Magistrate shall then endeavor to dispose of every application within a period of sixty days from the date of its first hearing. The Court, after conducting the hearings of the case, if satisfied that a genuine case of domestic violence was filed and the accused has actually committed the offence, shall arrive at a verdict, which may consist of a

**protection order** (restraining the accused to commit the act of domestic violence, residence order), **residence mandate** (preventing the accused from dispossessing the aggrieved from her matrimonial home and/ or disallowing him to enter that area of the household in which the aggrieved person might be residing), **monetary/ compensatory relief** and/ or **custody of the child**.

- If the order of the Court is not passed in the aggrieved person's favour, she can file an **appeal** against the order within thirty days from the date on which the order is passed.

## 7. What sort of welfare schemes are in place for women in India?

Since the State shall direct its policy towards securing that the citizens – both men and women, equally – have the right to an adequate means of livelihood, various schemes and campaigns have been framed from time to time. Women have the **right to seek benefits** from the recent programmes initiated by the Government like:

- The **Mother and Child Tracking System**, launched in 2009, helps to monitor the health care system to ensure that all mothers and their children have access to a range of services, including pregnancy care, medical care during delivery and immunizations.
- The **Indira Gandhi Matritva Sahyog Yojana, Conditional Maternity Benefit** is a scheme having begun in 2020, sponsored by the National Government for pregnant and lactating women aging 19 and over for their first two live births, providing money to help ensure the good health and nutrition of the recipients.
- The **Rajiv Gandhi Scheme for Empowerment of Adolescent Girls – Sabla** is an initiative launched in 2012 that offers a package of benefits and services to girls falling within the age group of 10 to 19 in an attempt to help them become self-reliant, including nutritional supplementation and education, health education and services, and life skills and vocational training.
- The **Rashtriya Mahila Kosh (National Credit Fund for Women)**, created by the Central Government in 1993, aims to deliver women from lower income groups with access to loans to begin small businesses.
- The **Digital Laado - Giving Digital Wings to Daughters** initiative became operational nation-wide with the motive of empowering and strengthening daughters on digital platforms, in which every daughter shall be taught and trained to develop her talent and skills to work from home itself and get connected with the global platform.

## ANNEX 1

<b>HELP LINE NUMBERS GOVERNMENT AND NON-GOVERNMENT ENTITIES</b>			
<b>Legal Issue</b>	<b>Helpline Number (Government)</b>	<b>Helpline Number (Private)</b>	<b>Website</b>
Consumer Protection	<b>1800-11-4000/14404</b>		<a href="https://edaakhil.nic.in/edaakhil">https://edaakhil.nic.in/edaakhil</a>
Cyber Bullying	<b>1800-180-5522</b> (ragging in colleges) <b>1930</b> (cyber bullying) <b>7827170170</b> (cyber bullying against women)		<a href="https://cybercrime.gov.in/">https://cybercrime.gov.in/</a>
Cruelty to Animals	<b>112</b>	People for Animals - <b>+91 - 11 23719293/94, 23357088</b>	<a href="https://www.peopleforanimalsindia.org/">https://www.peopleforanimalsindia.org/</a>
Dowry Harassment	<b>1091</b> <b>181</b> <b>7827170170</b>	Dhwani Crisis Hotline - <b>044-43111143, 1800 102 7282</b> Sayodhya – <b>18005991811</b> ShaktiShalini - <b>01124373737, 9654462722, 7838957810</b>	<a href="http://ncwapps.nic.in/">http://ncwapps.nic.in/</a>
Farmer's rights		Rythu Swarajya Vedika – <a href="mailto:contact@rsvonline.org">contact@rsvonline.org</a> Krushi Vikas Va Gramin Prashikshan Sanstha - <b>07267-224710</b> Gramya Resource Center for Women - <b>040- 42601382</b>	<a href="http://rsvonline.org/">http://rsvonline.org/</a> <a href="https://www.krushivikas.org/">https://www.krushivikas.org/</a> <a href="https://gramya.org.in/">https://gramya.org.in/</a>



Fishermen's rights		South Indian Federation of Fishermen Societies - <b>0471-2343711, 2343178</b> National Fish worker's Forum - <b>04714000292, 8289905239</b>	<a href="http://www.siffs.org/">http://www.siffs.org/</a>
Labour Rights		Nirmana - <b>011-49409546</b> Society for Labour and Development - <b>(+91) 11-46179959</b> Jan Sahas Social Development Society - <b>+917272254490</b>	
Maternity Benefit	<b>011-26944880</b> and <b>011-26944883</b>		<a href="http://ncw.nic.in/">http://ncw.nic.in/</a> <a href="http://ncwapps.nic.in/onlinecomplaintsv2">http://ncwapps.nic.in/onlinecomplaintsv2</a>
Motor accidents	<b>1073</b> - Road accident emergency service. <b>112</b> - All-purpose emergency number <b>102</b> - Ambulance <b>108</b> - Medical helpline number		
National Green Tribunal	<b>01123043528</b>		<a href="https://ngtonline.nic.in/efiling/mainPage.drt">https://ngtonline.nic.in/efiling/mainPage.drt</a>
POCSO	<b>1800115455</b> <b>9868235077</b> <b>1098.</b>		<a href="https://ncpcr.gov.in/user_complaints.php">https://ncpcr.gov.in/user_complaints.php</a>
Right to Education	<b>011-23478200/250</b> <b>1098</b>		<a href="http://www.ebaalnidan.nic.in">www.ebaalnidan.nic.in</a>
Right to Information			<a href="https://rtionline.gov.in/request/request.php">https://rtionline.gov.in/request/request.php</a>



Right to Legal aid	<a href="mailto:nalsa-dla@nic.in">nalsa-dla@nic.in</a>		<a href="https://nalsa.gov.in/lams/nologin/applicationFiling.action?requestLocale=null">https://nalsa.gov.in/lams/nologin/applicationFiling.action?requestLocale=null</a>
Rights of Persons with Disabilities			<a href="https://disabilityaffairs.gov.in/content/page/chief-commissioner-for-persons-with-disabilities.php">https://disabilityaffairs.gov.in/content/page/chief-commissioner-for-persons-with-disabilities.php</a>
Senior Citizens' Rights	<b>14567</b>		
Street Vendor's rights		<b>9835674364 0612-2220772, 2220773</b>	<a href="https://nasvinet.org/">https://nasvinet.org/</a>
Surrogacy		Upkaar - <b>+91-11-40666680, +91 - 95555 44421 / 22</b> NIDS – SATYA - <b>+91-9351325672, 9024025966</b>	





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