



EVERYDAY LAW FOR WOMEN

Kiran
FOUNDATION

INTRODUCTION

Being a women was never easy. Every country has it's history of ill - treating women. Women empowerment is something that has actually become very important in today's world. As a women we have the restrictions which is set by the society and we are bound to follow it. Education being the basic and primary right of any human being, was not given to women. Knowing and understanding of the nation we live in, makes us choose what is right for us. Educating a women would help her choose her path, make her own decisions and would make her independent which is very much necessary.

Kiran foundation has taken this initiative "EVERYDAY LAW FOR WOMEN" which will provide knowledge on certain laws of India which every women should be aware of.

This course covers topic such as sexual harassment at workplace, right to private defense, domestic violence, right to free legal aid, maternity benefits, right to get equal share in the inheritance and about national commision for women. This course will help women in making decisions, being more confident and asserting their rights without hesitation to build a more resilient society.

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DOMESTIC VIOLENCE

Domestic violence refers to violent behaviour between current or former intimate partners – typically where one partner tries to exert power and control over the other, usually through fear. It can include physical, sexual, emotional, and economic abuse.



TYPES OF DOMESTIC VIOLENCE

Physical Abuse :

Physical abuse is the most recognizable form of domestic violence. It involves the use of force against the victim, causing injury (a punch or a kick, stabbing, shooting, choking, slapping, forcing you to use drugs, etc.). However, the injury doesn't need to be a major one. For example, your abuser slaps you a few times, causing only minor injuries that don't require a visit to the hospital. Although the injury is minimal, the slapping would constitute domestic violence.

Emotional Abuse

Emotional abuse involves the destruction of the victim's self-worth, and is brought about by persistent insult, humiliation, or criticism. Emotional abuse can be a difficult type of domestic violence for many people to understand, since, on the surface, it appears to be quite common in unhealthy relationships.

Sexual Abuse

Sexual abuse is a common form of domestic violence. It includes not only sexual assault and rape, but also harassment, such as unwelcome touching and other demeaning behaviors. Many victims don't realize how broadly sexual abuse is interpreted. For example, if you've ever been coerced into not using contraception (the pill, a condom, an IUD, etc.) or having an abortion, then you may have actually been sexually abused. This form of abuse is known as reproductive coercion.

Financial Abuse

Of the types of domestic violence, financial abuse is perhaps the least obvious. Financial abuse may take on many forms, such as a husband preventing his wife from obtaining an education or a job outside the home. Financial abuse is extremely common, particularly when families have pooled their money into joint accounts (with one partner controlling) and where there's little or no family support system to help. Financial abuse is simply another form of control, even though it is usually less obvious than physical or sexual abuse.

HOW TO PREVENT IT ?

- Know the signs
- Don't ignore it
- Lend an ear
- Know the number to a nearby shelter
- Write it down.



SEXUAL HARASSMENT AT WORKPLACE

Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favours or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated and/or intimidated, where a reasonable person would anticipate that reaction in the circumstances.



WAYS OF SEXUAL HARASSMENTS

VERBAL :

Referring to a women with some unwanted name, whistling at someone, making sexual comments on other's body, discussing about sexual life or desires, making sexual noise and spreading unwanted rumors about a person's sexual life .

NON - VERBAL :

staring at a person unwantedly, following a person, displaying sexual suggestive visuals, making sexual gestures by body, making facial expressions.

PHYSICAL :

giving a massage around the neck or shoulders, touching the person's clothing or hair or body, hugging or kissing or patting or stroking, touching or rubbing oneself sexually around another person, standing close or brushing up against another person.

TEXTUAL OR ELECTRONIC :

electronically sending messages with sexual content including pictures and video, the use of sexually explicit language or harassment or cyber stalking and threats via all forms of electronic communication,

TYPES OF SEXUAL HARASSMENT

QUID PRO QUO:

latin term meaning "this for that"

HOSTILE ENVIRONMENT :

occurs when soldiers or civilians are subjected to offences, offensive, unwanted and unsolicited comments or behaviours of sexual nature.

MATERNITY BENEFITS

**The Maternity Benefit Act, 1961
protects the employment of
women during the time of her
maternity and entitles her of a
'maternity benefit'**



BENEFITS AVAILABLE

- **Increased Paid Maternity Leave:**

The Maternity Benefit Amendment Act has increased the duration of paid maternity leave available for women employees from the existing 12 weeks to 26 weeks. Under the Maternity Benefit Amendment Act, this benefit could be availed by women for a period extending up to a maximum of 8 weeks before the expected delivery date and the remaining time can be availed after childbirth. For women who are having 2 or more surviving children, the duration of paid maternity leave shall be 12 weeks (i.e. 6 weeks before and 6 weeks after expected date of delivery).

- **Maternity leave for adoptive and commissioning mothers:**

Maternity leave of 12 weeks to be available to mothers adopting a child below the age of three months from the date of adoption as well as to the "commissioning mothers". The commissioning mother has been defined as biological mother who uses her egg to create an embryo planted in any other woman.

- **Work from Home option:**

The Maternity Benefit Amendment Act has also introduced an enabling provision relating to "work from home" for women, which may be exercised after the expiry of the 26 weeks' leave period. Depending upon the nature of work, women employees may be able to avail this benefit on terms that are mutually agreed with the employer.

- **Creche facility:[4]**

The Maternity Benefit Amendment Act makes creche facility mandatory for every establishment employing 50 or more employees.[5] Women employees would be permitted to visit the crèche 4 times during the day (including rest intervals)

ELIGIBILITY

Women employed in any establishment, whether directly or through any agency are eligible to claim maternity benefits.

The employee should have worked for her employer for at least 80 days in the last 12 months.

A woman could request her employer to assign her light work to avail maternity benefits. This request should be made at least before 10 weeks of her date of expected delivery.

The woman should produce a certificate 10 weeks before her delivery to the employer confirming her pregnancy.

The employee needs to give written notice to the employer before 7 weeks of her date of delivery regarding her absence period.

RIGHT TO FREE LEGAL AID

Free legal aid is the provision of free legal services in civil and criminal matters for those poor and marginalized people who cannot afford the services of a lawyer for the conduct of a case or a legal proceeding in any Court, Tribunal or Authority.



WHO CAN AVAIL THIS ?

- (a) A member of a Scheduled Caste or Scheduled Tribe;**
- (b) A victim of trafficking in human beings or begar as referred to in Article 23 of the Constitution;**
- (c) A woman or a child;**
- (d) A mentally ill or otherwise disabled person;**
- (e) 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; or**
- (f) An industrial workman; or**
- (g) who has income less than the amount prescribed by the state govt.**

HOW TO APPLY FOR FREE LEGAL AID ?

You can apply for free legal aid either offline or online. You can fill up the ready-made form/application form that is available at your nearest Legal Services Authority and submit the same at either the Authority physically, or post the application to the Authority.

You can even make an application in writing on a simple piece of paper with the necessary details such as your name, gender, residential address, employment status, nationality, whether SC/ST (with proof in support), income per month (with affidavit), the case for which legal aid is required, reason for seeking legal aid, etc. and submit it physically or send by post.

Another option is to send the application online i.e. by email to NALSA (at nalsa-dla@nic.in), or through the online application form available online at NALSA's website by going on the 'Online Application' Link on the Home Page, along with uploading necessary documents.

It is also possible to make your application orally - a paralegal volunteer or an officer of the concerned Legal Services Authority will assist you in such cases.

RIGHT TO PRIVATE DEFENSE

**the right of private defence is the right
to defend the person or property of
himself or of any other person against
an act of another, which if the private
defence is not pleaded would have
amounted to a crime**



WHEN IS PRIVATE DEFENSE AVAILABLE ?

The right of private defence against Body:

Under section 97, every person has a right to defend his body or of any other person or to defend against any offence which affects the human body. The person can also exercise the right against his property including both movable property such as a car or jewellery and immovable property such as land or house.

The right of private defence against property:

A person can also exercise the right against the property of other people along with his own property. The right of private defence against property can only be exercised against offences in the category of theft, robbery, mischief or criminal trespass or against theft, mischief or house-trespass the person is under reasonable fear of probable death or grievous hurt.

What are the Exceptions to the rule of private defence?

Act of a public servant or under the direction of a public servant:

A person cannot exercise his right of private defence if the following conditions are satisfied:

- There was no fear of death or grievous hurt
- The act was done or attempted to be done by a public servant or under the direction of public servant
- The public servant was acting in good faith
- The public servant was under colour of his office
- It does not matter if the act or direction was justified by law or not



When a person has time to recourse:

If a person has reasonable time to have recourse to the protection of the public authorities; he has no right to use its private defence. For example, if a person is threatened that he will be killed after three days, he has sufficient time to inform the police. If in case he waits for the person who threatened him and shot him dead. He cannot say that he was using his right of private defence.

When the act of private defence extends to inflicting of more harm than it is necessary to inflict for the purpose of defence:

The right of private defence is restricted to not inflicting more harm than necessary for the purpose of defence. To determine the amount of force which was necessary to be inflicted, the facts and circumstances are needed to be considered. There is no protection available in case the harm is inflicted unnecessarily and is much extended than what was reasonable [62]. For instance, if a person is going to slap you, you cannot shoot the person with a gun in self-defence.

RIGHT TO EQUAL SHARE IN THE INHERITANCE

The right of inheritance is passing the titles, rights, debts, property, and obligations to another person on the death of an individual.



HOW IT WORKED EARLIER ?

HINDU SUCCESSION ACT 1956:

SURVIVORSHIP : The Hindu Succession Act 1956 has given full effect to the same principle. Doctrine of survivorship: the property after the death of the common ancestor devolves by the survivor. The sons of the family have a birth right in the property by virtue of the following two rules: Females will not inherit.



TESTAMENTARY SUCCESSION :

Where succession is governed by a testament or a will, it is called testamentary succession. Under Hindu Law, a Hindu male or female has the capability to make a will of his/her property in favour of anyone. In such cases, the property will devolve according to the will of the deceased.

INTESTATE SUCCESSION :

For female Hindus, the order of intestate succession for legal heirs is: (i) sons, daughters, and husband; (ii) heirs of the husband; (iii) parents; (iv) heirs of the father; and (vi) heirs of the mother. Each category is preferred to the later ones, in that order of preference.

TYPES OF PROPERTY

1. Coparcenary property or Joint Hindu family property –

The joint family property is also called Coparcenary property. The coparceners have the right to alienate or dispose this property. This property is jointly held by the members of the joint Hindu family or Hindu Undivided Family (HUF) who have lineally descended from the common ancestors including their wives and daughters in possession and they have common interest in it like maintenance etc.

Coparcenary property is again divisible into two types:

(a) Ancestral property – As per Supreme Court in R.Virupakshaiah vs. Sarvamma & Anr.[1], Ancestral property is inherited up to four generations of male lineage and should have remained undivided throughout this period.

(b) Property which is not Ancestral – This property consists of property acquired with the aid of ancestral property and property acquired by the individual coparcener without such aid but treated by them as property of the whole family.

2. Separate or Self- Acquired property

Self- acquired property is the one which is acquired by a person through his own money or by way of gift. A person can gift, transfer or alienate this property during his life.

This property gets devolved onto heirs through two modes:

(a) Testamentary Mode – In this mode, the property is transferred to the heirs through will as per the wishes of the owner of the property after his death.

(b) Intestate Mode- In this mode, the property is transferred to the wife, children or other relatives of the person after his death without will.

NATIONAL COMMISSION FOR WOMEN

The National Commission for Women (NCW) is the statutory body of the Government of India, generally concerned with advising the government on all policy matters affecting women. It was established in 31 January 1992 under the provisions of the Indian Constitution, as defined in the 1990 National Commission for Women Act. The first head of the commission was Jayanti Patnaik. As of 30 November 2018, Rekha Sharma is the chairperson



How can I file a complaint before the National Commission for Women?

A person intending to file a complaint before the National Commission for women may do so by making a complaint on the official website of the Commission ncwapps.nic.in under the section of 'register online complaints'. One can also send a written application containing all the important details (along with supporting documents, if any) through post or by hand.

What all information do I need to provide while filing a complaint?

- Contact details of the complainant and the respondent (if available)**
- Brief description of the incident**
- Details of remedies already exhausted**
- Supporting documents (If any)**

How will I know if my complaint has been accepted by the National Commission for Women?

An acknowledgment along with complaint number, login ID and password is sent to the complainant upon receipt of complaint by the National Commission for Women if the complaint has been accepted by the National Commission for Women. In the event of the complaint being rejected, the same shall be communicated to the complainant at the earliest. One can also check it telephonically or by personally visiting the National Commission for Women.

How is my complaint processed in the National Commission for Women?

On receipt of a complaint, the commission:

1. Scrutinizes the complaint as per NCW mandate
2. Mandated complaints are registered and case number allotted
3. Non mandated complaints are summarily dismissed upon intimation
4. As per the nature of the complaint, the mandated complaints are taken up with the concerned authorities. Following actions are mainly taken to redress the grievances of the complainants :
 - a. Expediting/monitoring police investigation
 - b. Monitor proper implementation of statutory provisions
 - c. Resolving the issues through mediation/counseling
 - d. For serious crimes, the National Commission for Women forms an Inquiry committee which further examines various aspects of the case.

