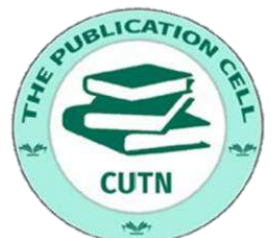


A COMPREHENSIVE GUIDE ON GENDER RELATED LAWS IN INDIA

Sangeetha Sriraam (Ed)



A COMPREHENSIVE GUIDE ON GENDER-RELATED LAWS IN INDIA

This book covers

Basic rights of Women

Acid Attacks

Dowry

How to prepare a Will

Abortion

Sexual Harassment at Workplace

Transgender Persons' Rights

Inheritance

Child Sexual Abuse

Domestic Violence

Marriage and Divorce

Cyber Offences

Availing Legal Aid

And much more...

All Data, Information, views, opinions, charts, tables, figures, graphs etc that are published in the volume are the sole responsibility of the authors or editors.

The publisher is not responsible for any issue.

ISBN : 978-81-961610-1-9

September 2023

Published by :

The Publication Cell

Central University of Tamil Nadu

Thiruvarur.

Contents

Terms	v
About Us	vi
Foreword	vi
Contributors	viii
Acknowledgements	ix
Cover Story	x
Introduction	xi
1. CONSTITUTION OF INDIA	1
2. RIGHTS OF TRANSGENDER PERSONS	2
3. WORK	4
3.1 Equal Remuneration Act, 1976	4
3.2 Maternity Benefit	4
3.3 Factories Act:	6
3.4 The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013	6
4. WOMEN AND PERSONAL LAWS	17
4.1 Marriage	18
4.2 Adoption	20
4.3 Guardianship	21
4.4 Divorce	21
4.5 Maintenance	25
4.6 Inheritance	26
5. PREPARATION OF A WILL	31
6. ABORTION AND SEX DETECTION	34
6.1 Medial Termination of Pregnancy Act, 1971	34
6.2 Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994	36
7. OFFENCES AGAINST WOMEN	37
7.1 Acid Attacks	37
7.2 Obscenity	38
7.3 Outraging the Modesty of Women	38
7.4 Sexual Harassment	38
7.5 Disrobing	40

7.6 Voyeurism	40
7.7 Stalking	40
7.8 Rape	41
7.9 Marital Violence	43
8. CHILD SEXUAL ABUSE	51
8.1 Features of POCSO	51
8.2 Penetrative and Non-penetrative Sexual Offences	52
8.3 Aggravated Forms of Offences	52
8.4 Reporting of Child Sexual Abuse	54
9. CYBER OFFENCES	56
10. WOMEN AND CRIMINAL LEGAL SYSTEM	59
10.1 As a Complainant/ Victim	59
10.2 As an Accused	60
10.3 Remand Procedure for Transgender Person	60
11. SPECIAL BODIES DEALING WITH GRIEVANCES PERTAINING TO WOMEN	61
11.1 National Commission for Women	61
11.2 National Legal Services Authority	64
REFERENCES	66
ONLINE PORTALS	68
HELPLINE NUMBERS	69

List of Figures

1	Rights under the Indian Constitution	1
2	Defining Sexual Harassment	8
3	The Procedure under POSH	12
4	Classification of Personal Laws	17
5	Devolution of self-acquired property of a Hindu Woman	28
6	Heirs of a Hindu Male	28
7	Devolution of Property as per Indian Succession Act	30
8	Clarifying the difference between MTP Act and PCPNDT Act	36
9	Defining Dowry	45
10	Protection Order for Domestic Violence	50
11	Residence Order for Domestic Violence	50
12	Child-Friendly Measures under POCSO	55
13	Complaint Options for Cybercrimes	56

List of Tables

1	Timeline for handling POSH grievances	16
2	Age of Consent under different personal laws	18
3	Grounds for Divorce under various personal laws	22
4	Number of Doctors required to recommend the termination of a pregnancy based on the length of the pregnancy	35
5	Different types of rape offences and the corresponding punishments	42
6	Compensation for various Gender based crimes	44
7	Defining Penetrative Sexual Assault	52
8	Punishment of various offences under POCSO	54
9	various cyber offences and punishments	57

Terms

- (a) Bailable: offences are not serious, bail is a right, and the arrested person must be released after depositing the bail with the police
- (b) Cognisable: Police can arrest the accused without a warrant
- (c) Offence: A wrongdoing or breach that is prohibited by law
- (d) Non-bailable: Offences are serious offences where bail is a privilege, and only the courts can grant it
- (e) POSH: The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- (f) POCSO: The Protection of Children from Sexual Offences Act, 2012
- (g) Suo moto: When an authority takes control of a matter on its own accord.

About Us

About CUTN

Central University of Tamil Nadu (CUTN) is an institution of higher education established by an Act of Parliament in 2009. The University aims to fashion an enlightened society founded on a relentless pursuit of excellence through innovation in the teaching-learning process, interdisciplinary studies, and research. With a host of diversified integrated postgraduate, postgraduate, and doctoral programmes and diploma and certificate courses of community college, both already rolled out and, on the anvil, the University has been keen to stay abreast of the ever-expanding academic frontiers.

Department of Law

Established in 2019, the department offers PhD in Law and Masters in Laws (LLM) program specialising in Corporate Law and Industrial Jurisprudence. Its vision is to emerge as a central hub for exceptional education and research in the realm of law, supported by robust academics and advanced courses. The focal areas include Corporate Laws, Corporate Governance, Labor Laws, and Industrial Jurisprudence. A distinctive trait of the department lies in its meticulously crafted curriculum delivered by highly qualified faculties that cater to both current and future industry and societal requirements. The department's teaching approach positions the LL.M. program at par with the country's premier law schools and universities. Students benefit from experiential learning, gaining practical exposure to real-life scenarios. The diverse research interests of the faculty not only invigorate the academic environment but also pave the research and industrial collaborations.

பேராசிரியர். மு. கிருஷ்ணன்
துணை வேந்தர்

பு. அ. கிருஷ்ணன்
கூலபதி

Prof. M. Krishnan
Vice Chancellor



தமிழ்நாடு மத்தியப் பல்கலைக்கழகம்

தமிழ்நாடு கீத்ரீய விஸ்வவித்யாலய

(சீஸட ட்வாரா பாரித அடிநியம 2009 கீ அ்தரீகத சூதாபித)

CENTRAL UNIVERSITY OF TAMIL NADU

(Established by an Act of Parliament, 2009)

நீலகூடூ பரிஸர்/Neelakudi Campus, கீகலாந்ரேரீ/Kangalancherry

திருவாரூர்/Thiruvārūr - 610 005 தமிழ்நாடு/Tamil Nadu (ஊர்த/India)

டூர்ஊப/Telephone: 04366-277351 / ஑ீக்ச/Fax: 04366-277222

஀-மீல/E-mail : ve@cutn.ac.in / psvc@cutn.ac.in

வீபசா஀ட்/Website: www.cutn.ac.in

FOREWORD

I am pleased to express my sincere appreciation for the publication of this handbook entitled "A Comprehensive Guide on Gender-Related Laws in India". As the Vice-Chancellor of Central University of Tamil Nadu, I am happy to see our institution embrace its commitment to promote academic excellence, social consciousness and gender equality. Gender equality is one of the most pressing issues of our time, and understanding the legal framework around it is crucial to creating a just and equitable society. The publication of this handbook exemplifies the spirit of our University – encouraging critical thinking, promoting social responsibility and fostering an inclusive culture. This comprehensive guide addresses various gender-related issues such as women's rights, rights and protection for women at work, marriage, divorce, adoption, domestic violence, sexual harassment, reproductive rights and transgender rights, it helps inform readers and empower advocates for gender equality. It caters to a diverse audience that includes students, scholars, teachers, activists and members of civil society organizations, making it a valuable asset to anyone seeking knowledge and understanding in this field.

This handbook is meticulously crafted by Dr. Sangeetha Sriraam and her students in the Department of Law. This handbook is a testament to the power of knowledge and the will to bring about positive change. As a University, we strongly believe in fostering an environment where creativity, research and community engagement can come together to make a difference. This handbook stands as a testament to the power of education in bringing about social progress, one step at a time. I appreciate Dr. Sangeetha Sriraam for spending considerable time and effort to compile a comprehensive resource that enriches our collective understanding of gender-based laws in India. I express my appreciation also to the Publication Cell, Department of Law and others who have supported this effort. I recommend this handbook to all readers as it provides an essential and accessible resource to deepen their understanding of gender-based laws in India.

Let us absorb the knowledge contained in these pages and strive for a future of equality, justice and compassion.

(Prof. M. Krishnan)

Vice-Chancellor

Central University of Tamil Nadu

Contributors

1. AKHILA A.
2. GOWSALYA R.
3. MATHANGI DILEEP
4. NIRANJANA DEVI K.
5. REVATHI LEKSHMI R.
6. SHYNI CHANDRA L.
7. UDHAYAKUMAR G.

Department of Law
2021-23 Batch

Acknowledgements

In the journey of creating this book, I find myself humbled and filled with gratitude to several individuals that have made this book possible.

For their immense contribution, I thank Akhila. A, Gowsalya. R, Mathangi Dileep, Niranjana Devi. K, Revathi Lekshmi. R, Shyni Chandra. L, and Udhayakumar. G, my students from Batch 2021-23. What started as a classroom activity turned out to be a thoroughly enriching activity. Their enthusiasm and zeal to take law to the masses has gone a long way into shaping this book.

To Prof. (Dr.) M. Krishnan, Hon'ble Vice Chancellor, Central University of Tamil Nadu, for wholeheartedly embracing my vision and providing unwavering support for this endeavour. Your belief in the value of knowledge dissemination has been instrumental in bringing this book to fruition.

I extend my sincere appreciation to the diligent team at the Publication Cell, Central University of Tamil Nadu for their efforts in transforming my manuscript into a published work.

I would like to express my gratitude to Prof. Dr. V. Madhurima for her insightful feedback and constructive criticism during the review process. Your thoughtful inputs have undoubtedly enriched the content of this book.

A special word of thanks and appreciation goes to Ms. Sai Sushma, Student of the Department of Social Work (2022-24) for her valuable perspective as a student reviewer. Your fresh insights helped me see this work through the eyes of the audience and facilitated me identify areas that needed refinement. Thank you for taking the time out to help me out.

I express my gratitude to Dr. Chandra Mouli P.V.S.S.R. for helping me with the editing and formatting. Thank you for making this process easy.

I am thankful to my Dean, Dr. Velmurugan P.S. for his constant encouragement and support in all my endeavours. I am also indebted to my colleagues, Dr. S.K. Balashanmugam and Ms. Bhagyalakshmi R. for their camaraderie and encouragement throughout this journey.

Lastly, I wish to acknowledge the Central University of Tamil Nadu for fostering an environment that encourages scholarly pursuits and intellectual growth. The university's commitment to excellence has provided the ideal backdrop for the creation of this work.

This book's realisation would not have been possible without the collective support and encouragement of the CUTN fraternity. I am truly grateful to you all.

Dr. Sangeetha Sriraam

COVER STORY

The cover artwork is inspired by the traditional Warli painting style of the tribal people of Northern Sahyadri Hills in India. The simplistic style that distinctively portrays folks of all genders, young and old in different walks of life was a natural choice for the subject of gender. The colour palette is chosen to represent the gender spectrum without stereotyping. The artist, V Madhurima, is a faculty member in the department of Physics at CUTN and sketches as a hobby. Her work has featured prominently in the infographics of the International Conference on Gender in Physics (ICWIP) 2023.

INTRODUCTION

India has a rich, long, and varied history. An unfortunate element of this history has been discrimination and exclusionary practices. For centuries, several classes of persons have been oppressed and denied opportunities on innumerable grounds such as caste, economic status, place of birth, religion, gender etc. Amongst these classes, women and transgender persons are significant as they constitute about 50% of the nation's population.

The Constitution of India strives to achieve equality for all persons. To ensure the same, various laws have been enacted, throughout the history of independent India, to protect women, fight bias, counter discrimination, and further women's rights. In recent times, laws to protect the rights of transgender persons have also been brought in.

An important factor in achieving equality and promoting rights is the awareness of the laws governing them. Unfortunately, this has been a challenge in India. Laws are multifarious and complex; laypersons often need help accessing and understanding.

To take laws regarding women and transgender persons to all, the students of the Department of Law, along with me, have come forward to present a collection of laws relating to gender in a simplified manner. The book focuses on the basic rights of women and laws relating to offences against women, such as dowry, domestic violence, acid attacks etc., cybercrimes, and sexual offences. It has been observed that women are often unaware of their property rights, particularly whom they inherit from and who inherit from them. Thus, inheritance laws pertaining to women, along with laws relating to marriage, divorce, adoption etc., form a central crux of this publication. The book also strives to shed light on the rights and obligations of women when they interact with the criminal legal system (police or courts) in any capacity, be it as a victim, witness, or accused.

We have strived our best to ensure the accuracy and comprehensiveness of information. The book is intended to be a ready reckoner for persons with no/little prior legal training and the language, tone and complexity of the book has been chosen accordingly. While we accept complete responsibility for errors and omissions, this book is not intended to be a substitute for legal advice.

We will endeavour to update this book regularly.

Dr. Sangeetha Sriraam

1. CONSTITUTION OF INDIA

The Constitution of India is the supreme law of the land. All laws stem from the Constitution. Any law, policy, or action of any person against the Constitution is invalid.

The Constitution guarantees the dignity of all regardless of gender, race, religion, community, caste, or place of birth. The drafters of the Constitution were fully aware of the historical injustice meted out to women. Accordingly, the Constitution contains several provisions that further the rights of women. It is essential to be aware of these rights.

You have a right...

- To be treated equal**
 - **To everyone else**
- To make your own decisions**
 - **In all matters including education, where to work, who to marry, what to do with your money etc. without interference from any one**
- To enjoy equal access to education**
- To work in an employment of your choosing**
- To participate in the effective administration of your country**
 - **This includes your right to vote, to stand in election, to question the government, to join the public services**
- To speak and express yourself freely**
- To move, to settle, to reside anywhere in India**
- To form associations**
 - **With like-minded people**

Figure 1: Rights under the Indian Constitution

2. RIGHTS OF TRANSGENDER PERSONS

Every person in India is entitled to be treated equally and in a dignified manner. However, with respect to certain groups, due to their socio-economic vulnerabilities, it becomes necessary to spell out these rights specifically and provide them with certain additional protections. Transgender persons are one such group, and the Transgender Persons (Protection of Rights) Act, 2019 (Transgender Persons Act) lays down specific protections for them.

The Transgender Persons Act defines the term “transgender person” as “a person whose gender does not match with the gender assigned to that person at birth and includes trans-man or trans-woman (whether or not such person has undergone Sex Reassignment Surgery or hormone therapy or laser therapy or such other therapy), person with intersex variations, genderqueer and person having such socio-cultural identities as kinner, hijra, aravani and jogta”.¹

Under the Act, a transgender person can obtain a “Certificate of Identity ”from a district Magistrate to be identified as the third gender.² The Certificate serves as proof of recognition and rights.³ A transgender person who has undergone the gender affirmation procedure can also identify as male or female.⁴

Discrimination against transgender persons is prohibited in all fields, especially education and employment.⁵ In educational institutions, it prohibits discrimination in admissions, expulsion, and equal access to institutional amenities, scholarships, awards, and other benefits and opportunities. Further, the Act prescribes inclusive education and opportunities for sports, recreation and leisure activities to transgender persons without discrimination on an equal basis with cisgender persons.⁶

The Act prescribes non-discrimination in healthcare as well. Denying or discontinuing treatment of transgender persons or mistreating transgender persons in a medical institution or establishment.⁷

The Transgender Persons Act prescribes penalties for certain offences. The offences listed in the Act are:

- Compelling or forcing a transgender person to do a forced or bonded labour⁸
- Denying a transgender person, the right to use a passage to a public place or obstructing

¹ Section 2(k), Transgender Persons (Protection of Rights) Act, 2019

² Section 6, Transgender Persons (Protection of Rights) Act, 2019

³ Section 6(3), Transgender Persons (Protection of Rights) Act, 2019

⁴ Rule 6(1), Transgender Persons (Protection of Rights) Rules, 2020

⁵ Sections. 9 and 10, Transgender Persons (Protection of Rights) Rules, 2020

⁶ Section 13, Transgender Persons (Protection of Rights) Act, 2019

⁷ Section 15, Transgender Persons (Protection of Rights) Act, 2019

⁸ Section 18(a), Transgender Persons (Protection of Rights) Act, 2019

them from using or having access to a public place to which cisgender persons have access to or a right to use⁹

- Forcing or causing a transgender person to leave a household, village or other place of residence¹⁰
- Harming or injuring or endangering the life, safety, health or well-being (mental or physical) of a transgender person or tending to do acts including causing physical abuse, sexual abuse, verbal and emotional abuse, and economic abuse¹¹

Punishment:

Minimum: Six months Six months imprisonment

Maximum: Imprisonment up to two years

⁹ Section 18(b), Transgender Persons (Protection of Rights) Act, 2019

¹⁰ Section 18(c), Transgender Persons (Protection of Rights) Act, 2019

¹¹ Section 18(d), Transgender Persons (Protection of Rights) Act, 2019

3. WORK

An important element of gender equity is the economic independence of women. To achieve this economic independence, women must enjoy the opportunity to equal, safe, and dignified work. To this end, the law has enacted several legislations to secure the same. This book explores some of these laws, specifically dealing with equal wages, maternity benefits, safe working conditions in factories and protection against sexual harassment.

3.1 EQUAL REMUNERATION ACT, 1976

The Constitution of India seeks to achieve pay parity for all its citizens and to eliminate discrimination in matters of employment on the grounds of sex.¹² The Equal Remuneration Act guarantees equal pay for male and female workers for work of equal value.¹³ Moreover, no worker can be treated differently or unfairly on the grounds of gender in matters of recruitment, promotion, training or transfers.¹⁴ Contravention of the Act may lead to imprisonment of three months to two years, along with a fine of up to twenty thousand rupees.¹⁵

Remedies under the Act:

If someone has a complaint about their workplace, they can report it to a government-appointed authority. This complaint can be made by the worker themselves, a lawyer, a representative from a registered trade union, or an inspector assigned by the government under the law.

If there is a violation of the law, a specific type of court called a Metropolitan Magistrate or a Judicial Magistrate of the first class has the authority to handle the case. When making a complaint to the designated authority under the law, the complaint must be submitted in three copies. Form A is used to report violations of the provisions of the law, while Form B is used when there is a problem of unequal payment of wages.

3.2 MATERNITY BENEFIT

Childbearing and rearing is an important facet of a person's life. However, motherhood often becomes an obstacle to the economic progress of women, particularly during pregnancy, labour and the post-natal phases. Maternity Benefit Act, 1961 seeks to effectively counter this by providing women with paid maternity leave and guarantees against discrimination on the grounds of pregnancy.

¹² Article 39(d), Constitution of India

¹³ Section 4, Equal Remuneration Act, 1976

¹⁴ Section 5, Equal Remuneration Act, 1976

¹⁵ Section 10, Equal Remuneration Act, 1976

Key Features

- Maternity Leave in India is available to women employees in the public and private sectors
- It applies to women who work in factories, mines, plantations, the circus industry, shops and establishments with more than ten employees
- The women employee should have worked with her employer for at least 80 days in the 12 months preceding the date of her expected delivery. If she fulfils this requirement, paid maternity leave must be mandatorily granted to her¹⁶
- An employee receiving benefits from this Act is not applicable for maternity benefits under the Employees' State Insurance Act
- A pregnant woman must not be given any work that may be detrimental to the development of the unborn child or interfere with her pregnancy

Rights under the Maternity Benefit

- Under the Maternity Benefit Act, 1961, women workers are entitled to twenty-six weeks of paid maternity leave for the first two children.¹⁷ Of these twenty-six weeks, women workers may avail up to eight weeks before the date of expected delivery¹⁸
- Beyond the first two children, women workers are entitled to maternity benefits for up to twelve weeks. Of these twelve weeks, six weeks may be availed before the date of expected delivery
- The marital status of the woman worker is immaterial for maternity benefits. Thus, even an unmarried woman is entitled to enjoy these benefits
- Women workers who adopt a child below three months are also entitled to maternity benefits for up to twelve weeks¹⁹
- Women workers who undergo miscarriage or medical termination of pregnancy are entitled to six weeks of paid maternity leave²⁰
- Where feasible and mutually agreeable, women workers may be allowed to work from home²¹
- Dismissal of a woman during her absence from work during pregnancy is unlawful
- Upon return to work, women workers are entitled to two nursing breaks until the child turns 15 months²²
- Every establishment with more than 50 employees must provide a creche facility and be permitted to visit her child at the creche four times daily²³

¹⁶ Section 5(2), Maternity Benefit Act, 1961

¹⁷ Section 5(3), Maternity Benefit Act, 1961

¹⁸ Proviso to Section 5(3), Maternity Benefit Act, 1961

¹⁹ Section 5(4), Maternity Benefit Act, 1961

²⁰ Section 9, Maternity Benefit Act, 1961

²¹ Section 5(5), Maternity Benefit Act, 1961

²² Section 11, Maternity Benefit Act, 1961

²³ Section 11A, Maternity Benefit Act, 1961

Penalties for violation and non-compliance:

If an employer doesn't pay maternity benefits to a woman or fires her while she is on maternity leave, they will be considered to have violated the rules of this Act. As a penalty, the employer can face a maximum punishment of one year in jail or a fine of up to Rs. 5,000, or both.²⁴

3.3 FACTORIES ACT:

The Factories Act, 1948 is a welfare legislation that seeks to protect the health and safety of the workers of factories and to prevent their exploitation. The Act lays down measures to regulate working hours, leave, ventilation, sanitation, safety, health etc. The Act also has certain women-specific regulations. These include:

- Women are prohibited from working in factories except between 6 a.m. and 7 p.m. In certain situations, the government can change these time limits, but no variation will permit the employment of women between 10 p.m. and 5 a.m.²⁵
- Women and children are not allowed to work in the area of a factory where cotton openers are used for pressing cotton. However, if a partition separates the feed end of the cotton opener from the delivery end, women and children can work on the side where the feed end is located²⁶
- Women cannot lift, carry, or move excessively heavy loads in factories. The government can set maximum weight limits for lifting, carrying, or moving loads for adult women, adolescents, and children working in factories²⁷
- Women must have separate toilets and washrooms with doors. These washrooms must be conveniently situated, accessible, clean and in a sanitary condition at all times. It must be adequately lit and ventilated²⁸
- If a factory has more than thirty women workers, the employer must provide a well-equipped creche with trained staff for the worker's children²⁹

3.4 THE SEXUAL HARASSMENT OF WOMEN AT WORK-PLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

Sexual harassment constitutes a gross violation of women's right to equality and dignity. Sexual harassment at work not only violates these rights but also makes the workplace unsafe for women employees. Safe workspaces are indispensable to enhancing women's participation in work, resulting in economic empowerment and inclusive growth. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH) was enacted to ensure safe working spaces and respect for women's right to equality of status and opportunity.

²⁴ Section 21, Maternity Benefit Act, 1960

²⁵ Section 66, The Factories Act, 1948

²⁶ Section 27, The Factories Act, 1948

²⁷ Section 103, The Factories Act, 1948

²⁸ Section 19, The Factories Act, 1948

²⁹ Section 48, The Factories Act, 1948

Workplace

POSH defines the workplace as any place an employee has to visit due to their employment.³⁰ Offices, restrooms at work, canteens, and buses/vans provided by the employer for commutation to and from work constitute a 'workplace'. If the employment requires an employee to travel to work outside the office, e.g., fieldwork, salespersons etc., these places will also constitute a workplace.

Workplace includes:

- Government organisations, including Government companies, corporations and cooperative societies;
- Private sector organisations, venture, society, trust, or service providers etc. providing any kind of service such as commercial, vocational, educational, sports, professional, entertainment, industrial, health-related or financial activities, including production, supply, sale, distribution or service;
- Hospitals, Nursing Homes;
- Sports Institutes and Facilities;
- Places visited by the employee (including while on travel), including transportation provided by the employer;
- A dwelling place or house
- Cooperative Societies
- NGOs

The workplace may belong to an Indian corporate or foreign company. POSH applies to both the organised and unorganised sectors.

While POSH applies to workplaces, separate norms have been put in place for higher education institutions. Please refer the UGC Regulations [UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015] and the Saksham guidelines. https://www.ugc.ac.in/pdfnews/5873997_saksham-book.pdf.

Aggrieved Person

According to the POSH Act, an "aggrieved woman" in a workplace can be any woman, regardless of her age or employment status, who claims to have experienced sexual harassment. It means that the woman doesn't have to be an employee; even a customer or client who faces sexual harassment at a workplace can seek protection under the POSH Act.³¹

³⁰ Section 2(o), The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

³¹ Section 2(a), The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Understanding Sexual Harassment

“Sexual Harassment” includes any one or more of the following unwelcome acts or behaviour, explicitly or implicitly.³²

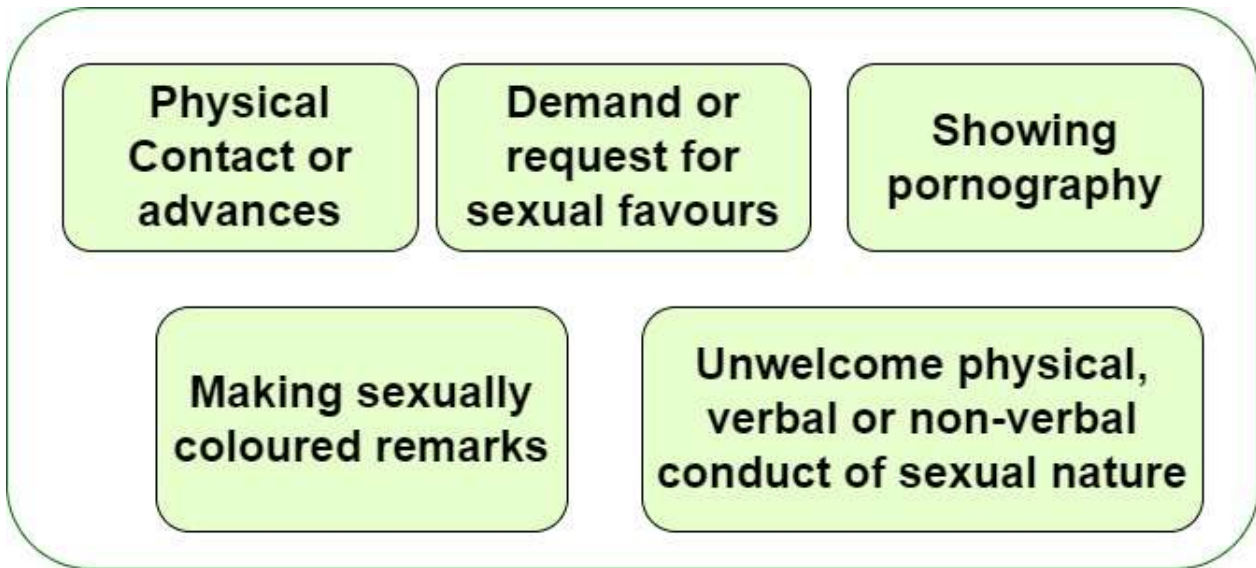


Figure 2: Defining Sexual Harassment

Physical contact or advances: Any unwanted physical touch or gestures of a sexual nature. It could include touching someone inappropriately, hugging without consent, or making unwelcome advances of a sexual nature.

Demand for or request for sexual favours: Making explicit or implicit requests for sexual activities in exchange for employment-related benefits, such as promotions, raises, or job security.

Making sexually coloured remarks: Comments or remarks of a sexual nature that are inappropriate or offensive. This can include lewd jokes, explicit comments about someone’s appearance or body, or any other sexually suggestive statements.

Showing pornography: This refers to displaying or sharing explicit sexual content, such as images, videos, or magazines, without the person’s consent or in a manner that creates a hostile or uncomfortable work environment.

Unwelcome physical, verbal, or non-verbal conduct of a sexual nature: This includes any unwelcome behaviour of a sexual nature that makes someone uncomfortable, fearful, or offended. It may be of the nature of unwanted sexual advances, comments, gestures, or any other form of behaviour that is sexually inappropriate and not welcomed by the person.

Sexual harassment is highly subjective. It is not right to be dismissive of someone else’s experience merely because we have/expect a higher tolerance for inappropriate or unprofessional behaviour. A behaviour of a person becomes sexual harassment if it is sexual in nature and is unwelcome. It is the impact that it has on the woman and not the intent of the person that matters. Sexual harassment often occurs where there is an imbalance in the power dynamic. Therefore, it is extremely important to take every complaint of sexual harassment very seriously.

³² Section 3, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Workplace sexual harassment may broadly be classified into ‘Quid Pro Quo’ and hostile work environment. Quid pro quo harassment refers to a promise (express or implied) of preferential/detrimental treatment in employment or a threat (express or implied) regarding a woman employee’s present employment status and benefits, prospective promotions etc. The Ministry of Women and Child Development’s Handbook on POSH lists a few examples of sexual harassment:³³

1. Making sexually suggestive remarks or innuendos
2. Serious or repeated offensive remarks, such as teasing related to a person’s body or appearance
3. Offensive comments or jokes
4. Inappropriate questions, suggestions or remarks about a person’s sex life
5. Displaying sexist or other offensive pictures, posters, MMS, SMS, WhatsApp, e-mails, reels, shorts etc.
6. Intimidation, threats, blackmail around sexual favours
7. Threats, intimidation or retaliation against an employee who speaks up about unwelcome behaviour with sexual overtones
8. Unwelcome social invitations with sexual overtones commonly understood as flirting
9. Unwelcome sexual advances which may or may not be accompanied by promises or threats, explicit or implicit
10. Physical contact such as touching or pinching
11. Caressing, kissing or fondling someone against her will (could be considered assault)
12. Invasion of personal space (getting too close for no reason, brushing against or cornering someone)
13. Persistently asking someone out, despite being turned down
14. Stalking an individual
15. Abuse of authority or power to threaten a person’s job or undermine her performance against sexual favours
16. Falsely accusing and undermining a person behind closed doors for sexual favours
17. Controlling a person’s reputation by rumour-mongering about her private life

The Handbook also lists examples of behaviour that might indicate underlying workplace sexual harassment and merit further inquiry:

1. Criticizing, insulting, blaming, reprimanding or condemning an employee publicly

³³ Ministry of Women and Child Development, Handbook on Sexual Harassment of Women at Workplace for Employers / Institutions / Organisations/Internal Complaints Committee / Local Complaints Committee (Prevention, Prohibition and Redressal) Act, 2013 (Nov. 2015) pg. 11-14

2. Exclusion from group activities or assignments without a valid reason
3. Statements damaging a person's reputation or career
4. Removing areas of responsibility unjustifiably
5. Inappropriately giving too little or too much work
6. Constantly overruling authority without just cause
7. Unjustifiably monitoring everything that is done
8. Blaming an individual constantly for errors without just cause
9. Repeatedly singling out an employee by assigning her demeaning tasks that are not part of her regular duties
10. Insults or humiliations, repeated attempts to exclude or isolate a person
11. Systematically interfering with normal work conditions, sabotaging places or instruments of work
12. Humiliating a person in front of colleagues and engaging in smear campaigns
13. Arbitrarily taking disciplinary action against an employee
14. Withholding resources (time, budget, autonomy, and training) necessary for a person to succeed.

Remember: Even a single incidence of sexually inappropriate behaviour is sufficient to constitute a case of sexual harassment under POSH.

Preventing Sexual Harassment

It is the obligation of the employer to prevent and redress instances of sexual harassment. Who is considered as the employer is highly contextual. In a government organisation, the head of the department/establishment/organisation is deemed the employer. In other contexts (particularly the private sector), the person responsible for the management and supervision of the workplace is the employer. In the case of domestic workers, the person who employs or benefits from the services of the domestic worker is considered the employer.³⁴

An employer must:

1. Create and communicate a detailed policy on gender harassment for the organisation
2. Ensure continuous and sustained awareness and orientation on the matter
3. Constitute Complaints Committee/s to redress complaints of sexual harassment
4. Ensure Complaints Committees are trained in both skill and capacity
5. Prepare an annual report and report to the respective state government

³⁴ Section 2(g), The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Complaints Mechanism under POSH

POSH seeks to provide every working woman subjected to sexual harassment with a feasible redressal mechanism. To this end, the Act envisages two types of redressal mechanisms: Internal Complaints Committee and Local Complaints Committee.

Every organisation with more than ten employees must have an **Internal Complaints Committee**. Every district must have a **Local Complaints Committee**. The Local Complaints Committee enables women in the unorganised sector, establishments with less than ten employees, and domestic workers to seek redressal from workplace sexual harassment. Also, where the complaint is against the employer himself, the aggrieved woman may approach the Local Complaints Committee.³⁵ All committees must have at least 50% women representation. Further, the internal complaints committee must have external members, i.e., persons who have expertise on sexual harassment issues and are not from the organisation.

File a complaint under POSH

The aggrieved woman is empowered to file a complaint before the ICC/LCC. However, if, for any reason, the aggrieved woman cannot file the complaint, any person who has knowledge of the incident with the consent of the aggrieved person may file the complaint.³⁶

The complaint must be in writing and must describe every incidence of sexual harassment. In particular, it must mention the name of the respondent (i.e., the person who committed the sexual harassment), date(s), time of the incidence, and the relationship between the aggrieved person and the respondent.

Complaints should be filed within three months of the incident. In case of a series of incidences, the complaint should be made within three months of the last incident. The ICC/LCC may waive or extend the time limit by another three months if the ICC/LCC thinks it is necessary/appropriate to do so.

Investigation and Redressal Mechanism

POSH and the Rules made under the Act (POSH Rules)³⁷ lay out the manner in which the ICC/LCC must make an The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013 investigation into the complaint. The procedure is briefly laid out:

Upon receipt of a written complaint from the aggrieved woman, the ICC/LCC must notify the respondent within seven days. A copy of the complaint must be provided to the respondent. The complainant will have ten days from receipt to respond to the complaint.

Meanwhile, the ICC/LCC must meet with her and explain to her the options for the redressal of her grievance. There are two broad options: informal and formal redressal mechanisms. If the woman requests, the Committee may adopt the informal mechanism.³⁸ Under the informal mechanism, the Committee may strive to settle the matter between the complainant and respondent. However, certain conditions are laid out for the same:

³⁵ Sections 4 and 6, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

³⁶ Section 9, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

³⁷ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013

³⁸ Section 11, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

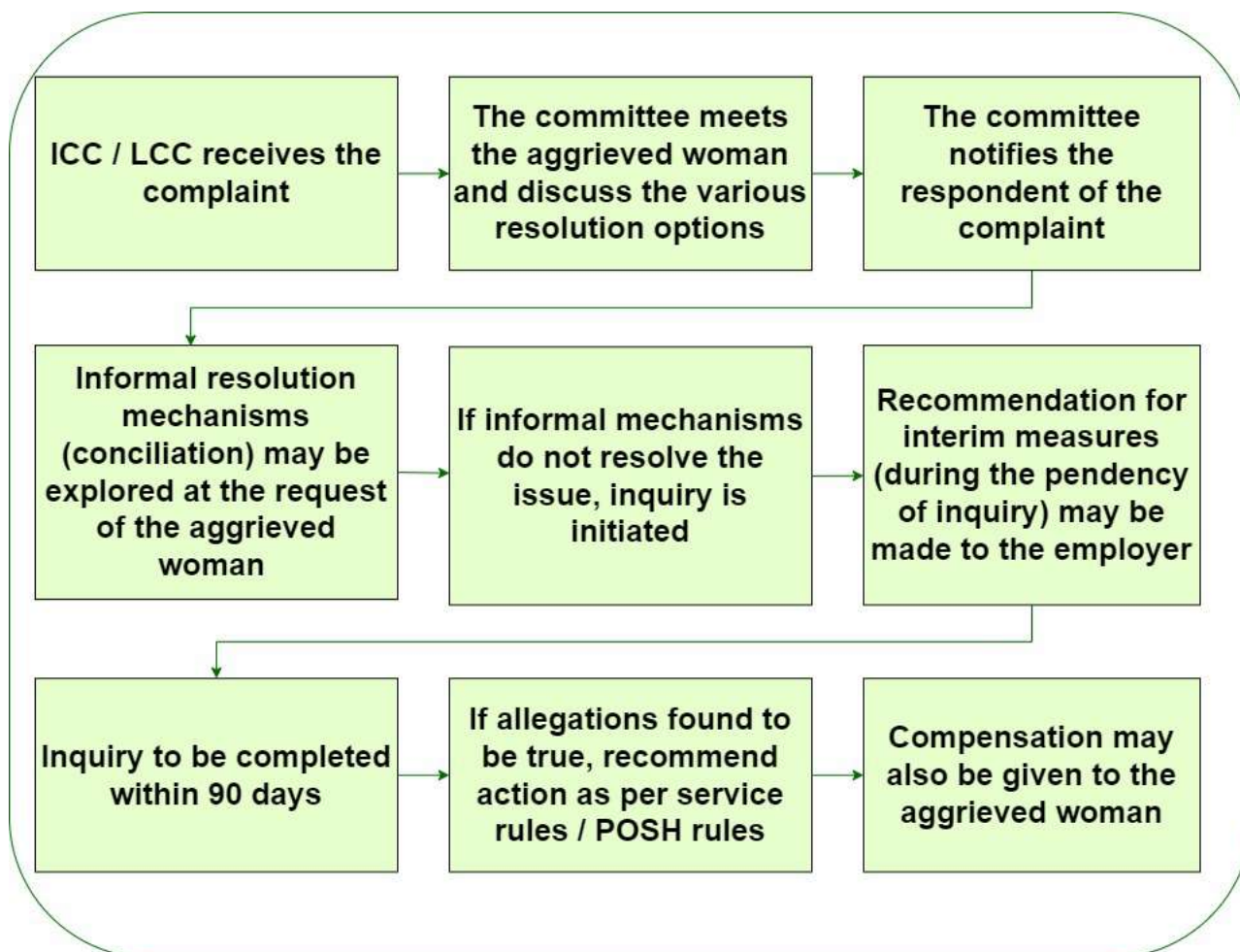


Figure 3: The Procedure under POSH

1. Informal mechanisms (i.e., conciliation) can only be initiated if the aggrieved woman requests it. The Committee, the employer, or the respondent cannot coax or pressurise her into going for conciliation
2. Conciliation must not be done in serious cases. The Committee must assess the severity of the case before it and advise and facilitate formal mechanisms in serious cases. The relationship between the complainant and respondent, gravity, and frequency of the harassment must be taken into account while determining the severity
3. Monetary compensation/settlement cannot be the basis for settlement
4. Measures such as counselling, educating, orienting, warning the respondent to stop the unwelcome behaviour, written apology etc., can be some of the measures that may be explored to achieve a settlement

No further inquiry or action is required if a settlement is successfully reached. If the matter is severe or if the complainant is not interested in conciliation, or if a settlement cannot be reached, a formal mechanism for redressal is set into motion.

Formal Inquiry

If the complaint is serious or if the complainant requests a formal inquiry, the Committee must immediately initiate the process.

- In cases where service rules pertaining to inquiry into sexual harassment complaints exist, the same procedure may be followed
- In the absence of service rules, the following procedure is to be followed:³⁹
 - a) The complainant must submit six copies of the complaint along with supporting documents (if any) and names and addresses of witnesses (if any)
 - b) The respondent must submit his reply with supporting documents and details of witnesses (if any) within ten days from receipt of the complaint
 - c) Both parties (and the witnesses) will be required to appear before the Committee and explain their stance.

The inquiry shall at all times be respectful of both parties and be conducted in a non-confrontational manner. The privacy and confidentiality of the parties and the issue shall be strictly protected
 - d) The statements of the parties and witnesses shall be taken down correctly. The Committee must ensure that no additions, deletions, or modifications are made to the statements of the parties
 - e) At the end of the inquiry, the statements must be shown to the person concerned. The parties and witnesses must carefully read and sign (with date) their respective statements

³⁹ Rule 7, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013

In the case of domestic workers, if a prima facie case is made out, i.e., if from the complaint and preliminary inquiry, it appears that the allegations seem true, the LCC must forward the complaint to the local police within seven days of the complaint. The police will file an FIR and investigate the matter further.

POSH is not an exception to the criminal laws pertaining to sexual harassment. If the act fulfils the conditions laid out in the Indian Penal Code, action through the Police can also be taken. For details on sexual harassment under the Indian Penal Code, refer to [7.4 Sexual Harassment](#).

Interim Measures during the Pendency of the Inquiry

While the matter is pending inquiry, a complainant may make a written request for interim measures to safeguard her interest and to prevent potential ongoing sexual harassment. These requests may include:

- Her transfer or the transfer of the respondent to any other workplace;
- That the respondent not be her supervising authority or
- That the respondent not have the authority to recommend, grant or deny her promotions/leaves etc.;
- Leave up to a period of three months⁴⁰

If the ICC/LCC finds the request acceptable, they may recommend it to the employer. If such a recommendation is received from the ICC/LCC, the employer must implement it.⁴¹

Remedies

Within ten days of completion of the inquiry, the ICC/LCC must prepare an inquiry report. The inquiry report must contain the following:

- A detailed description of the different facets of the complaint
- Background information and documents that support or refute the different aspects of the complaint
- Description of the process followed, including dates and timeline
- The Committee's analysis of the information obtained through the inquiry, documents and statements
- Findings
- Recommendations

⁴⁰ Section 12, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 read with Rule 8, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Rules, 2013

⁴¹ Section 12, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Based on the inquiry, records before the Committee, and statements of parties and witnesses, the Committee must arrive at a finding whether the complaint has been upheld (i.e., the allegations have been proved), not upheld, or are inconclusive. Based on the findings, the Complaints Committee must recommend appropriate action to the employer/district officer (as the case may be). The recommendations may include:

- If the complaint is not upheld, no action is recommended
- Where the complaint is upheld, the Committee may recommend action based on the service rules or the POSH Rules. Actions recommended may be
 - Seek a written apology
 - Undergoing a counselling session
 - Carrying out community service
 - Warning, reprimand or censure
 - Withholding of promotion
 - Withholding of pay rise or increments
 - Terminating the respondent from service
- If the complaint is made with malicious intent or if fake/forged documents are produced before the Committee, the Committee may recommend action against the complainant or the person who produced the false evidence.⁴² The action may be similar to the actions listed in the previous point
- The Committee may also recommend compensation for financial and non-financial damages suffered by the complainant. While computing the compensation, the Committee must consider the following:
 - Mental trauma, pain, suffering, and emotional distress suffered by the complainant
 - Medical expenses incurred
 - Loss of career opportunities
 - Income and financial status of the respondent⁴³

A copy of the inquiry report must also be provided to the concerned parties. The employer/district officer is obliged to act on the recommendations of the Complaints Committee within sixty days.

A summary of the timeline with respect to POSH complaint grievance is given in Table 1.

⁴² Section 12, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

⁴³ Section 15, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Table 1: Timeline for handling POSH grievances

S.No.	Particulars	Time
1	Submission of complaint	Within three months of the last incident
2	Notice to the Respondent by the Complaints Committee	Within seven days of receipt of the Complaint
3	Completion of Inquiry	Within ninety days
4	Submission of Report to the employer/district officer by ICC/LCC	Within ten days of completion of the inquiry
5	Implementation of Recommendations by the employer/district officer	Within sixty days

4. WOMEN AND PERSONAL LAWS

Introduction

In India, matters pertaining to marriage, adoption, divorce, inheritance and succession etc., are vastly determined by religion-based laws, broadly known as personal laws. Personal laws vary from religion to religion and between genders as well.

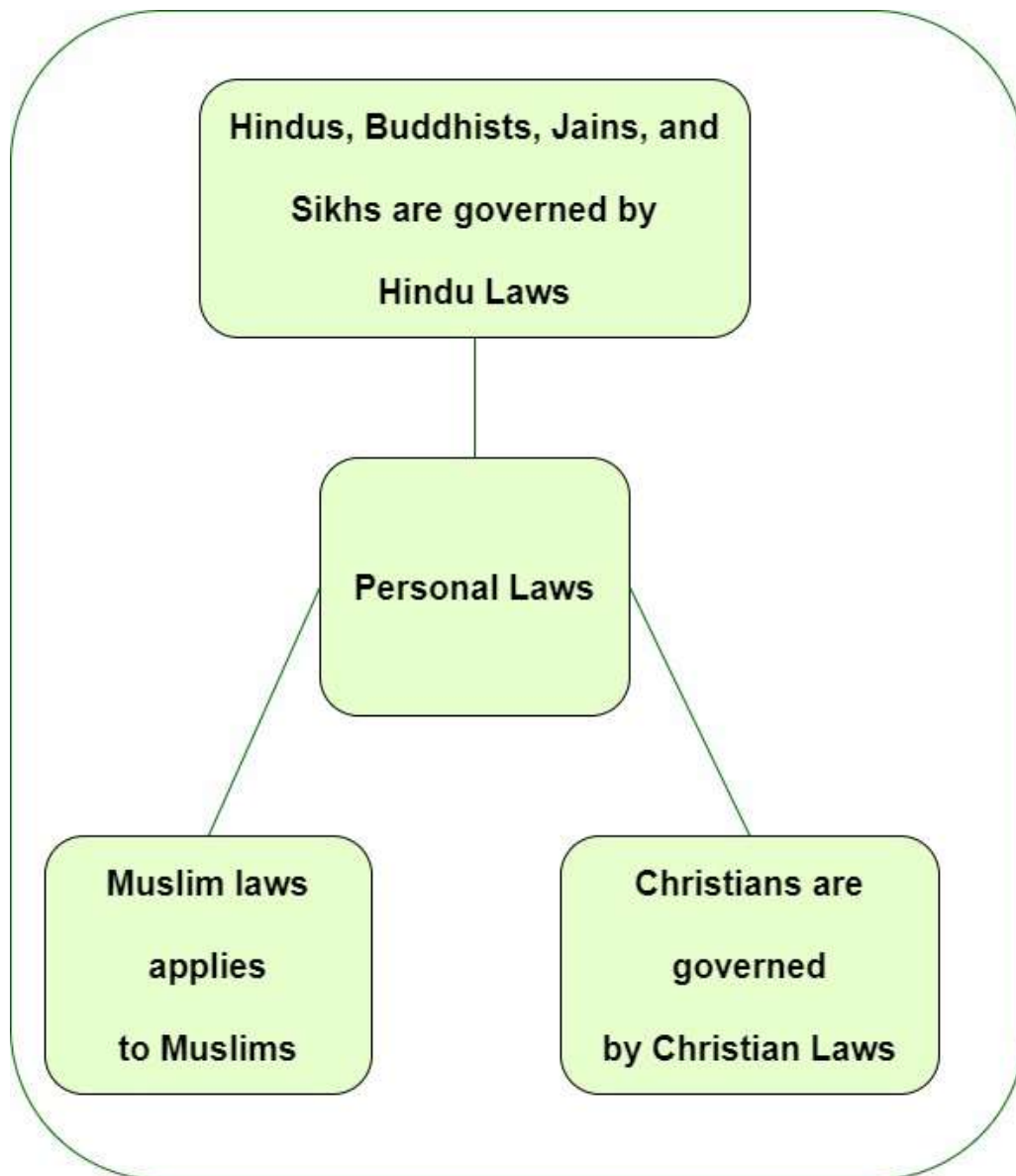


Figure 4: Classification of Personal Laws

4.1 MARRIAGE

There are three different religion-based marriage laws (Hindu Marriage Act, 1955, Indian Christian Marriage Act, 1872, and Parsi Marriage and Divorce Act, 1936). Muslim marriages are governed by their uncodified Islamic laws. Additionally, a secular law called the Special Marriage Act, 1954, an inter-religious marriage and divorce law, allows Indians to marry and divorce regardless of their faith or religion. Some of the principal conditions for marriage are dealt herewith.

Age of Marriage

Table 2 provides the age of marriage for females and males.

Table 2: Age of Consent under different personal laws

S.No.	Different Laws	Provision (s.)	Minimum Age of Marriage	
			Female	Male
1	Hindu Marriage Act, 1955	5(iii)	18	21
2	Special Marriage Act, 1954	4(c)	18	21
3	Indian Christian Marriage Act, 1872	60(1)	18	21
4	Parsi Marriage and Divorce Act, 1936	3(1)(c)	18	21
5	For Muslims	(Uncodified)	On puberty	On puberty
6	Prohibition of Child Marriage Act, 2006	3(1) r/w 2(a), 2(b)	18	21
7	Foreign Marriage Act, 1969	4(c)	18	21

Conditions for a valid marriage under Hindu law:

- The parties to the marriage have the capacity to give consent to the marriage
- Consent was obtained by force or fraud; either party has the option to revoke (i.e., cancel or annul) the marriage

Scenario: Gowri's father coerced her into marrying Prasad against her will and threatened to commit suicide if she refused to accept the marriage. Gowri marries Prasad and afterwards told Prasad everything. At their discretion, Prasad or Gowri can go to court and dissolve the marriage.

- The bride and groom cannot be sapindas, i.e., they should not be related by blood. However, sapinda marriage is permissible if a local custom otherwise allows for such a marriage
- The bride and groom cannot be married to someone else (unless divorced or widowed)

Muslim Marriages

Muslim marriages have a contractual character and are governed by customary laws. It allows divorce for both parties of the marriage. The following are the conditions stipulated:

- a) The parties must be Muslims
- b) A proposal (ijab) should be made by or on behalf of one party, and the same should be accepted (qubool) by the other party
- c) The parties should have attained puberty (15 years, unless evidence to the contrary is produced). If the parties have not attained puberty, a guardian (father/paternal grandfather/brother/mother) may consent
- d) Parties should be of sound mind
- e) Consent must not be obtained under coercion, unsound mind, or by a mistake of fact
- f) *Mahr* or consideration of marriage should be paid by the groom to the bride. The amount of *mahr* can be mutually determined
- g) The parties must not be related to each other by consanguinity, affinity, or fosterage
- h) The bride does not have an existing spouse, and the groom does not have more than three wives at the time of marriage.

Christian Marriage Law

Under the Indian Christian Marriage Act, 1872

- The marriage must be a voluntary act initiated from both ends
- The parties do not have a spouse at the time of this marriage
- There must be at least two eye-witnesses available at the wedding

Special Marriage Act 1954:

Regardless of caste or religion, anyone can marry under the Special Marriage Act, 1954. These marriages are officiated by a marriage officer (usually the Sub-Registrar). The conditions for a marriage under this Act are as follows:

- a) The parties must apply in writing to the marriage officer expressing willingness to marry
- b) The marriage officer gives a 30 days' notice period to accept objections on the marriage of the intended parties
- c) If there are no objections, the marriage can be solemnised after the passing of 30 days. If objections arise, the marriage officer can inquire into the matter and decide accordingly
- d) Parties must give their consent to the marriage in front of the marriage officer, along with three witnesses

- e) Both parties must be monogamous at the time of their marriage
- f) The parties should be mentally fit
- g) They should not be related to each other

Live-in-relationship

Parties living with each other in a marriage-like relationship without solemnising the marriage is legal in India and recognised by law. The parties are entitled to similar protection as in a marriage. For example, domestic violence laws apply to live-in relationships. Further, the children born out of a live-in relationship are considered legitimate and entitled to share in the property of the parents. The woman in the relationship is also entitled to maintenance.

4.2 ADOPTION

Adoption is the process through which the adopted child is permanently separated from his biological parents and becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities attached to a biological child. While adoption is possible under the Hindu Adoption and Maintenance Act, 1956, this book deals only with the laws governing adoption by women under the Juvenile Justice (Care and Protection of Children) Act, 2015 only.

Every mentally sound, physically fit, and financially capable woman is entitled to adopt a child. Whether married, divorced, widowed or single, any Indian woman can adopt. If you are married, you and your spouse must consent. You must be married for at least two years to be eligible.

The minimum age difference between an adoptive child and their parents should not be less than 25 years. The oldest age at which you can adopt is 55 years. The cumulative age of spouses (in the case of couples should not exceed 110 years).

You can adopt a child from any gender. If you already have three or more children, you are generally not allowed to adopt except under special circumstances.⁴⁴

A single male cannot adopt a girl child.

CARA (Central Adoption Resource Authority)

Cara⁴⁵ is a statutory body under the Ministry of Women and Child Development; it functions as the central or nodal body of the adoption of Indian children and monitors the in-country and inter-country adoptions. If you are interested in adopting a child, you must register on the CARA portal (CARINGS).

<https://cara.nic.in/parents/parents.html>

⁴⁴ Regulation 2(12), Adoption Regulation, 2017

⁴⁵ <http://cara.nic.in/>

4.3 GUARDIANSHIP

Guardianship refers to a bundle of rights and powers that an adult has in relation to the person and property of a minor. A minor is a person who has not completed eighteen years.⁴⁶ Law defines a guardian as a person “having the care of a minor or his property or both”.⁴⁷

There is a widespread misconception that fathers are the natural guardians of a child and that a mother can act as a guardian only on the death of the father. However, this is not the case. Father and mother are equally entitled to serve as the natural guardians of a child.⁴⁸

4.4 DIVORCE

The law recognises divorce for parties of all religions. However, the grounds and conditions for divorce vary depending on the applicable personal law. While comprehensively covering the entire ambit of these grounds and conditions is beyond the scope of this work, a broad overview has been provided hereunder Table 3.

Marriage among Muslims is considered a contract. The contract may be dissolved as per Islamic Law under the following circumstances:

- By the husband at his will (talaq), or
- By the wife if power to do so has been delegated to her by the husband (talaq-e-tafweez), or
- By mutual consent (khula and mubara'at)

Divorce at the instance of the husband can be affected extrajudicially without assigning any reasons. A wife can divorce only if the husband delegates the power to the wife. This delegation usually carries certain conditions under which it may be carried out. To better protect Muslim women, the Dissolution of the Muslim Marriage Act was passed in 1939.

Grounds for divorce:

- a) **Adultery** – Adultery means the consensual and voluntary intercourse between a married person with another person, married or unmarried, of the opposite sex. The Hindu Marriage Act, Special Marriage Act, Divorce Act, and Parsi Marriage and Divorce allow divorce on the ground of adultery of the other spouse. Dissolution of Muslim Marriages Act does not carry an explicit ground on adultery but may be argued as a ground of cruelty.⁴⁹
- b) **Cruelty** – Cruelty is a ground for dissolution of marriage under all personal laws. Except under the Muslim personal law, the parameters of what constitutes cruelty are not defined and, with time, have evolved and expanded. Cruelty includes mental as well as physical cruelty. Physical cruelty includes one spouse beating another or causing bodily injury, starving them,

⁴⁶ Section 3, The Majority Act, 1875

⁴⁷ Section 4(2), The Guardians and Wards Act, 1890

⁴⁸ Githa Hariharan v. Reserve Bank of India, (1992) 2 SCC 228

⁴⁹ Section 2(ix)(b), Dissolution of Muslim Marriage Act, 1939.

Table 3: Grounds for Divorce under various personal laws

S.No.	Grounds	The Hindu Marriage Act, 1955		The Special Marriage Act, 1954		The Divorce Act, 1869		The Parsi Marriage and Divorce Act, 1936		The Dissolution of Muslim Marriage Act, 1939	
		Sec.	Parties	Sec.	Parties	Sec.	Parties	Sec.	Parties	Sec.	Parties
1	Adultery	13(1)(i)	Both	27(1)(a)	Both	10(1)(i)	Both	32(d)	Both		
2	Cruelty	13(1)(ia)	Both	27(1)(d)	Both	10(1)(x)	Both	32(dd)	Both	2(viii)	Wife
3	Desertion	13(1)(ib)	Both	27(1)(b)	Both	10(1)(ix)	Both	32(g)	Both	2(iv)	Wife
4	Conversion	13(1)(ii)	Both			10(1)(ii)	Both	32(j)	Both		
5	Insanity at the time of marriage	5(ii) r/w 12(1)(b)	Both	4(b) r/w 24	Both	10(1)(iii)	Both	32(b)	Both		
6	Unsoundness of mind	13(1)(iii)	Both	27(1)(e)	Both	19(3)	Both			2(vi)	Wife
7	Leprosy	13(1)(iv)	Both	27(1)(g)	Both	10(1)(iv)	Both			2(vi)	Wife
8	Veneral Diseases	13(1)(v)	Both	27(1)(f)	Both	10(1)(v)	Both	32(e)	Both	2(vi)	Wife
9	Renunciation	13(1)(vi)	Both								
10	Presumed Death	13(1)(vii)	Both	27(1)(h)	Both	10(1)(vi)	Both			2(i)	Wife
11	Non-compliance with the Judicial Separation Decree	13(1A)(i)	Both	27(2)(i)	Both			32A(1)(i)	Both		
12	Non-compliance of Restitution of Conjugal Rights Decree	13(1A)(ii)	Both	27(2)(ii)	Both	10(1)(viii)	Both	32A(1)(ii)	Both		
13	Fraud	12(1)(c)	Both	25(iii)	Both	19	Both				
14	Bigamy	13(2)(i)	Wife					32(d)	Both		
15	Rape, sodomy, bestiality, etc.	13(2)(ii)	Wife	27(1-A)(i)	Wife	10(2)	Wife	32(d)	Both		
16	Failure to maintenance	13(2)(iii)	Wife	27(1-A)(ii)	Wife			32A(2)	Both	2(ii)	Wife
17	Repuadiation	13(2)(iv)	Wife							2(vii)	Wife
18	Mutual Consent	13B	Both	28	Both	10-A	Both	32B	Both		
19	Imprisonment of seven years or more			27(1)(c)	Both			32(f)	Both	2(iii)	Wife
20	Impotence	12(1)(a)	Both	24(1)(ii)	Both	19(1)	Both	30	Both	2(v)	Wife
21	Wilful non-consummation of marriage			25(1)	Both	10(1)(vii)	Both	32(a)	Both		
22	Pregnancy at the time of the marriage							32(c)	Husband		

sexual abuse etc. Mental cruelty includes humiliation of one spouse by another, aggressive behaviour, ill-treatment of family members, demand for dowry etc.

The Dissolution of Muslim Marriage Act specifies six specific situations under which a Muslim wife may claim divorce on the ground of cruelty:

- i. Habitually assaults her or makes her life miserable by cruelty of conduct, even if such conduct does not amount to physical ill-treatment, or
 - ii. associates with women of evil repute or leads an infamous life, or
 - iii. attempts to force her to lead an immoral life, or
 - iv. disposes of her property or prevents her from exercising her legal rights over it, or
 - v. obstructs her in the observance of her religious profession or practice, or
 - vi. if he has more wives than one, he does not treat her equitably in accordance with the injunctions of the Quran⁵⁰
- c) **Desertion** – Desertion means the permanent abandonment of one spouse by the other spouse without any reasonable justification and without his consent. Desertion is a ground for divorce under all matrimonial laws. Under Muslim law, desertion by the husband for a period of three years has to be proved.⁵¹ Under all other Acts, desertion by either spouse for two years is sufficient.
- c) **Conversion** – Conversion from the religion at the time of marriage to another religion by a spouse is a serious matrimonial misbehaviour and a ground for divorce under most laws. The Special Marriage Act being a secular law, is an exception. Under customary Islamic law, apostasy by either spouse results in the automatic dissolution of marriage. The Dissolution of Muslim Marriage Act differentiates between women who were non-Muslims before marriage and women who were Muslims before marriage. In the former case, the marriage is automatically dissolved if the woman re-embraces her former faith. But in the latter's case, the marriage is not automatically dissolved. This provision was introduced to ensure that she can continue to be governed by the beneficial Dissolution of Muslim Marriage Act and sue for divorce on any of the stated grounds under the Act.
- d) **Insanity** – Incurable unsoundness of mind grounds divorce under all laws except the Dissolution of Muslim Marriage Act. To be a valid ground for divorce, the insanity could be continuous or intermittent but must be of such a kind and to such an extent that the spouse cannot reasonably be expected to live with them.
- e) **Fraud** – Fraud vitiates consent to marriage and is a fit ground for annulment of the marriage. The Hindu Marriage Act and Special Marriage Act allow the victim-spouse to approach courts to annul the marriage. On the other hand, the Divorce Act declares a marriage performed by fraud as being null and void, i.e., an invalid marriage. Unfortunately, the Parsi Marriage and Divorce Act and the Dissolution of Muslim Marriage Act do not carry any provisions about fraud.

⁵⁰ Section 2(ix), Dissolution of Muslim Marriage Act, 1939.

⁵¹ Section 2(iv), Dissolution of Muslim Marriage Act, 1939.

- f) **Bigamy** – Bigamy is explicitly prohibited under the Hindu Marriage Act, Special Marriage Act, Parsi Marriage Act and Divorce Act. Under these Acts, the second marriage would be void. Under Muslim law, husbands are permitted up to four wives at a time, while a Muslim wife is enjoined to be monogamous.
- g) **Impotence and wilful non-consummation of marriage** – Impotence of the other spouse is grounds for divorce under all the personal laws. Wilful non-consummation of marriage is grounds for matrimonial relief under the Special Marriage Act, Parsi law, and Divorce Act. However, under the Dissolution of Muslim Marriage Act,⁵² the husband may move the court to grant him a period of one year to prove that he has ceased to be impotent. This provision is unfair. Expecting a woman to submit to her husband to experiment and confirm whether he has been cured is degrading. It is high time that the provision is done away with.
- h) **Unsoundness of mind** – Unsoundness of mind at the time of marriage vitiates consent and is an explicit ground for annulment of marriage under all personal laws except the Dissolution of Muslim Marriage Act. Subsequent insanity of a spouse is grounds for divorce under all personal laws except Parsi law. Under Muslim Law, the wife has to prove that the husband has been insane for over two years.⁵³
- i) **Leprosy** – Leprosy is an infectious disease of the skin, mucous membranes, nervous system, etc., transmitted from one person to another. Leprosy is a ground for divorce under all personal laws except Parsi Marriage and Divorce Act. Under Hindu Marriage Act and Divorce Act, leprosy must be virulent and incurable, whereas virulence or incurability are not required under the Special Marriage Act. The Divorce Act also requires leprosy to be present for over two years.
- j) **Venereal Disease** – Venereal disease that is communicable is a ground for divorce under all personal laws. The Parsi Marriage and Divorce Act requires the spouse seeking divorce to have contracted the disease from the other spouse. Thus, there is no uniformity under the different laws regarding the nature, gravity, and duration of leprosy or venereal disease to be a valid ground for matrimonial relief.
- k) **Renunciation** - When one of the spouses decides to renunciate the world (takes sanyas), the other spouse can approach the court and demand the divorce.
- l) **Presumption of death** – A person is presumed dead if no one has heard from them in seven years. This is a valid ground for divorce.
- m) **Non-resumption of cohabitation after a decree of judicial separation or restitution of conjugal rights** – Judicial separation and restitution of conjugal rights are two matrimonial reliefs provided in alternative to divorce. Judicial separation, unlike divorce, does not end the marital relationship but removes the obligation to cohabit while leaving the doors for reconciliation open. On the other hand, the restitution of conjugal rights requires the spouse who has withdrawn or left the other spouse without a reasonable excuse to resume social and conjugal relationships with the latter. Non-resumption of cohabitation after a decree of restitution of conjugal rights is grounds for divorce under all laws except

⁵² Section 2(c), Dissolution of Muslim Marriage Act, 1939

⁵³ Section 2(vi), Dissolution of Muslim Marriage Act, 1939

Muslim law. Similarly, non-resumption of cohabitation after a decree of judicial separation is ground for divorce under all personal laws except the Muslim Law and Divorce Act. As the Dissolution of Muslim Marriage Act does not provide the matrimonial reliefs of the nature of judicial separation or restitution of conjugal rights, subsequent reliefs for divorce are also not provided for. Under all laws except the Divorce Act, the period of non-resumption is fixed at one year, whereas under the Divorce Act, the period of non-resumption is two years.⁵⁴

- n) **Rape, sodomy, bestiality etc.** – Proven offences of rape, sodomy, and bestiality of the husband are grounds for divorce for the wife under the Hindu Marriage Act, Special Marriage Act, and Divorce Act. Interestingly, rape, sodomy, bestiality, fornication, and unnatural offences are grounds for divorce available equally to both spouses.
- o) **Pregnancy of the wife before marriage** – This relief is available exclusively to the husbands. If the wife is found to have been pregnant before the marriage, he may, within a year of discovering the fact in the case of the Hindu Marriage Act and Special Marriage Act, and within two years in the case of the Parsi Marriage and Divorce Act, file for matrimonial relief. Such marriages are voidable under the Hindu and Special Marriage Act, whereas Parsi divorce law allows for only divorce.
- p) **Divorce by mutual consent** – Divorce by mutual consent is permissible under all personal laws except the Dissolution of Muslim Marriage Act, as the Act only deals with divorce by Muslim wives in case of fault of the husband. Under the Divorce Act, separate living of two years is required, whereas under the Hindu law, Parsi law, and Special Marriage Act, separate living of one year is sufficient.

4.5 Maintenance

Maintenance refers to the reasonable amount of money required to support a dependent. The amount of money is determined by the facts of each case.

The right to maintenance is statutorily accessible in India under personal and general laws. These laws are:

1. There are various provisions that provide for the maintenance of the wife
2. Provisions under the Code of Criminal Procedure, 1973
3. Provisions under the Hindu Marriage Act, 1955
4. Provisions under the Hindu Adoption and Maintenance Act, 1956
5. Provisions under the Protection of Women from the Domestic Violence Act, 2005

The right to maintenance cannot be revoked by an agreement to the contrary.

Who has a right to maintenance:

- Wives

⁵⁴ Section 10(1)(viii), The Divorce Act, 1869

- Children
- Parents have the right to seek Maintenance

When is the wife entitled to maintenance?

A wife is entitled to maintenance in the following three cases:

- When the wife lives with her husband
- When the wife lives separately from her husband
- When the wife lives separately under the decision of the court (judicial separation) or when the marriage is dissolved.

When is the wife not entitled to maintenance?

- If she is unchaste or has committed adultery or any other illicit sexual relationship with anyone else, or
- If she has ceased to be a Hindu by conversion to another religion.

Maintenance of widowed daughter-in-law:

A Hindu wife shall be entitled to be maintained after the death of her husband by her father-in-law. She will be entitled to maintenance from her father-in-law to the extent that he is unable to maintain herself out of her own earnings or other property or unable to obtain maintenance from the estate of

- her husband
- her father or mother
- her son or daughter

She is entitled to maintenance from her father-in-law till she remarries.

4.6 Inheritance

The law of succession refers to the legal principles of the distribution of the property of a deceased person. Succession is of two types: testamentary succession and intestate succession. Testamentary succession refers to the devolution of property through a testament, i.e., a will. While diversity prevails in the laws of testamentary succession, it is not as varied as in the case of intestate succession.

The law of intestate succession, otherwise known as the law of inheritance, denotes the rules of devolution of the property where the deceased has not left any instructions on devolution in the form of a will. A variety of laws are in force and operate simultaneously. As with other personal laws, their applicability depends on factors such as religion, region, type of marriage, gender of parties etc. Hindus are generally governed by the scheme of inheritance laid down under the Hindu

Succession Act, 1956. Muslims are governed by the Islamic law of inheritance. Christians in India also display wide variation. While the general scheme was laid down under the Indian Succession Act, 1925 governs succession to the property of other Indian Christians, Jews, and Parsis.

Heirs of a Hindu Female

Under the Hindu Succession Act, two entirely different schemes of succession are based on the sex of the intestate.⁵⁵ The general rule for all kinds of property is that it will pass on to the children or children of the pre-deceased children. But in the absence of children, the scheme for a Hindu female is divided into three categories:

- property inherited by a female from her father or mother
- property inherited from her husband or father-in-law and
- property that does not come under the first two categories, including self-acquired property and property received in any other manner or source, provided she has absolute rights in that property.

One that she might have inherited from her parents, which goes back to her father's heirs in case she dies issueless, the second that she might have inherited from her husband or deceased father-in-law and that goes to her husband's heirs from whom or from whose father she had inherited the property.

The Act provides for a specific order in which the third category of property divests (Figure 5). Her property will first devolve upon her husband, sons and daughters (including children of predeceased son or daughter). In the absence of these heirs, the next in line are the heirs of the husband, in their absence, her mother and father and in their absence, the heirs of her father, and lastly upon the mother's heirs.

Note: The heirs of the husband are the same as a Hindu Male as indicated in Figure 6. If any heir of the husband is alive, even if they are a distant relative, the parents of the deceased woman do not get any property.

Heirs of a Hindu Male

A Hindu male dying intestate is succeeded by his class I heirs, who are his widow, mother, daughter or those who would inherit through them, such as children/widows of predeceased children (Figure 6). All class I heirs inherit equally. In the absence of class I heirs, his property devolves onto the class-II heirs, who include the father, brothers and sisters and their descendants, grandparents, maternal and paternal uncle and aunts and brother's widow and father's widow. Next comes the agnates and then finally cognates. An agnate is a person who is related to the deceased person through male relatives only. Cognate includes all other heirs of a deceased person and may be related through a chain of relatives of mixed sexes.

⁵⁵ Sections 8-13 and Sections 15-16, Hindu Succession Act, 1956

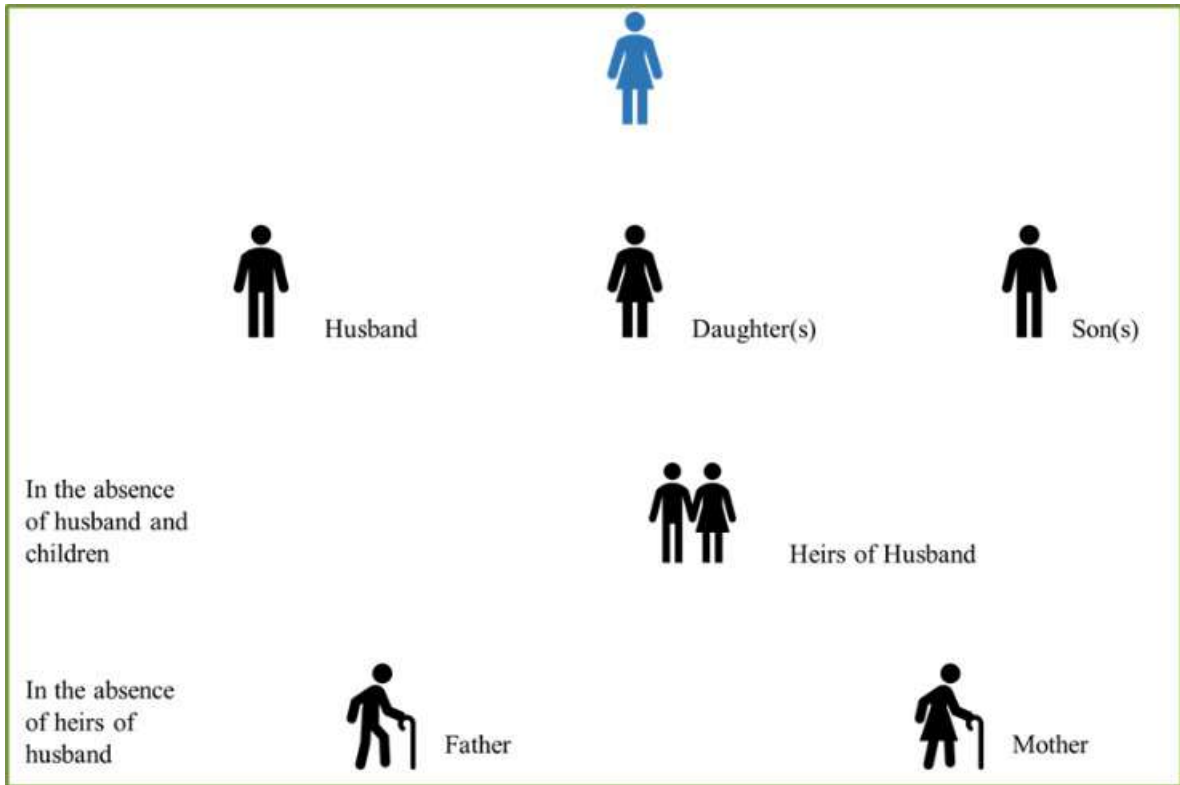


Figure 5: Devolution of self-acquired property of a Hindu Woman

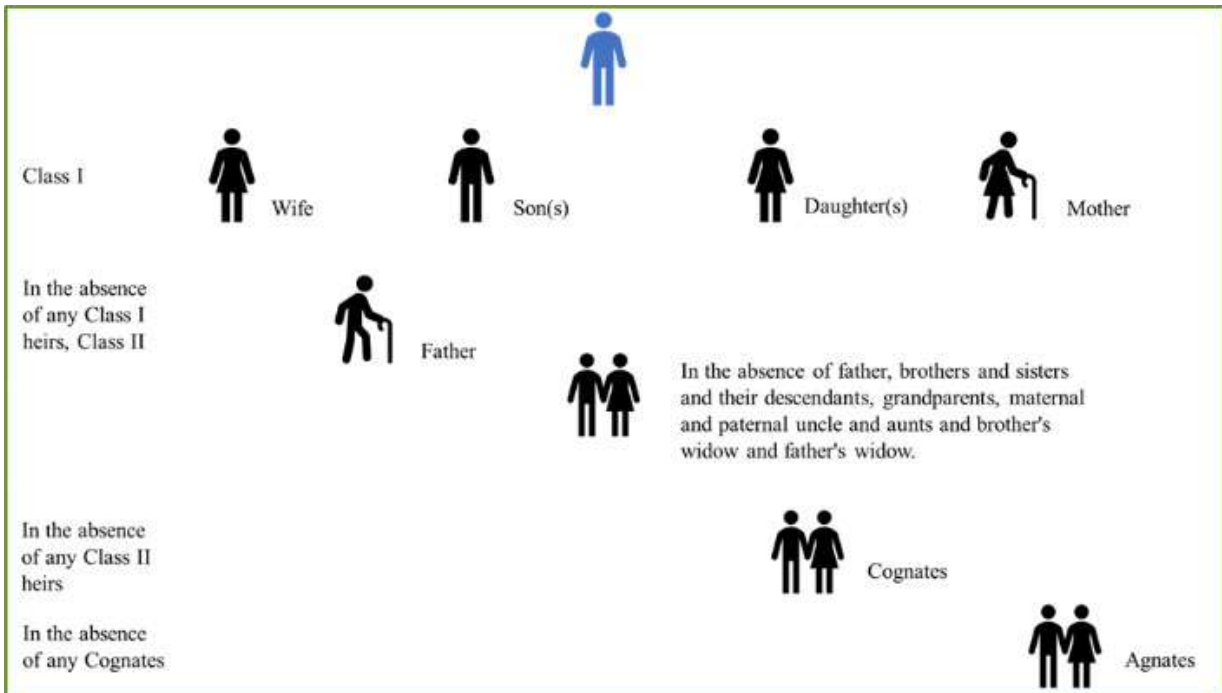


Figure 6: Heirs of a Hindu Male

Marriage among Muslims is considered a contract. The property of a male intestate devolves on blood relations and relations by marriage and does not extend to the relationship of the spouse. The marital status of a male does not in any way affect the scheme of devolution. However, the marital status of a woman is the determining factor for ascertaining the mode of succession for her property. In the case of females, there is a legal imposition of the husband's relatives over her blood relations. While the entire group of her husband's heirs inherits from her, she does not inherit from them. **ALWAYS prepare and register a will**

For details on the preparation and registration of the will, refer to Chapter 5. [Preparation of a Will](#)

Indian Succession Act, 1925

The provisions related to intestate succession under the Indian Succession Act apply to all Indian citizens who are not Hindu, Buddhist, Jain, Sikh, or Muslim. The prioritisation of heirs under the Indian Succession Act is as follows (Figure 7):

1. The spouse and lineal descendants share⁵⁶
2. If there are no lineal descendants, the spouse and kindred share. Among the kindred father has the highest priority, followed by the mother and siblings, followed by the remoter kindred⁵⁷
3. If there are no kindred and no lineal descendants either, then the spouse alone⁵⁸
4. If there is no spouse, then lineal descendants⁵⁹
5. If there is no spouse, nor lineal descendants, then father⁶⁰
6. If there is no father, then mother, brothers and sisters⁶¹
7. If none of these are living, then to remoter kindred, who are nearest in degree⁶²

Muslim Law of Inheritance is governed by Muslim Personal Law (Shariat) Application Act, 1937. The law is nuanced, and the shares of the heirs vary amongst the different sects of Islam. A detailed discussion of the Muslim Law of Inheritance is beyond the scope of this book.

⁵⁶ Section 33(a), Indian Succession Act, 1925

⁵⁷ Section 33(b), Indian Succession Act, 1925

⁵⁸ Section 33(c), Indian Succession Act, 1925

⁵⁹ Section 34, Indian Succession Act, 1925

⁶⁰ Section 42 read with Sections 33 and 34, Indian Succession Act, 1925

⁶¹ Section 43 read with Sections 33 and 34, Indian Succession Act, 1925

⁶² Section 48 read with Sections 33 and 34, Indian Succession Act, 1925

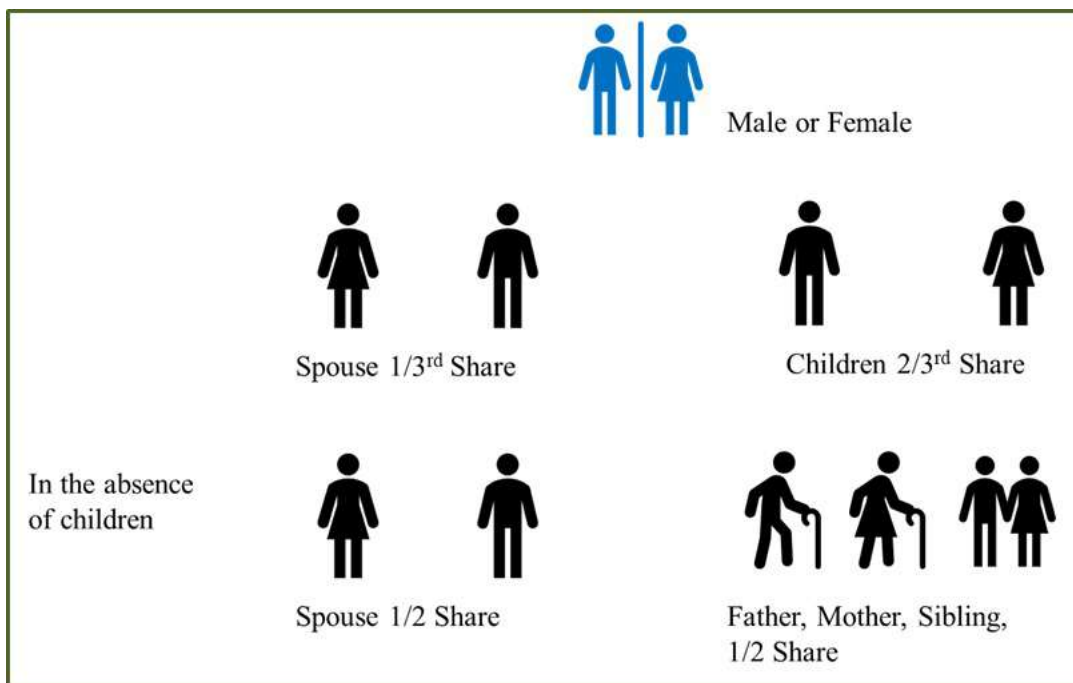


Figure 7: Devolution of Property as per Indian Succession Act

5. PREPARATION OF A WILL

The tapestry of our lives is interwoven with cherished memories, valuable possessions, and most importantly, the love and affection we have for our family and friends. It becomes imperative to consider the future and safeguard both our assets and the well-being of those we hold dear. A well-crafted will serves as a powerful tool to ensure that our assets are transferred as per our desires. However, preparation of the will is often seen as a daunting and complex task. This segment seeks to clarify some of the common questions that arise in this topic.

What is a will?

‘Will’ is a document prepared by any person who owns the property. It allows the person preparing the will (called the testator) to declare what should be done with their property after their death. Will comes into effect only after the testator dies. Until then, the person the ownership and possession remain unchanged.

Is it mandatory to prepare a will?

The preparation of a will is not mandatory. In the absence of a valid will, the assets of the person are distributed as per the law of inheritance (discussed in the previous section). However, the law of inheritance might not always align with your wishes.

Scenario: Gowri has two children, Sonu and Monu. As per the law of inheritance, Sonu and Monu get equal shares. However, Gowri wants Sonu to have all her jewelry, and Monu to have all her shares and bonds. In such a situation, it is best to prepare a will.

Of course, one can let their heirs know what should be done with the property orally, through a letter, or even a WhatsApp message. If all the heirs or contenders to the property agree to do as per the instructions of the deceased person, the law will not have any issues. But if any heirs dispute the oral instruction or letter, the instructions/letter will not be accepted by law. It is always advisable to prepare and register a will.

Is it mandatory to register a will?

Again, registration of wills is not necessary. But it is highly recommended. A registered will cannot be destroyed or tampered with. In case of any allegations of alteration/tampering, a copy of the will is available with the registrar and can be used to verify the authenticity. A registered

will also provide an almost irrefutable proof that the will was prepared by the testator freely (without any duress) and in sound mind.

What is the format for a will?

It is a myth that a valid will must be in a particular format, on stamp paper, and drafted in some legal language. This is not necessary. Will can be handwritten or printed in one's colloquial language. Neither is it necessary to list the property in any formal manner. For example, "all my vessels", "my house in Delhi", "my antique jewellery", "the gold chain that Rani Aunty gave me", etc. are all valid ways of describing one's property, as long as there is no confusion in anyone's mind as to which property is being indicated. For example, if a person has two houses in Delhi, "my house in Delhi" would not be a proper description.

The most crucial element of a valid will is that it must be signed by two witnesses who do not have any interest in being an heir of such a person.

A sample will is herein provided for reference:

The format of a Will is as follows:

I, _____ (name of the testator), son/daughter of _____, aged about _____, of _____, religion, a citizen of _____, residing at _____, do hereby declare this to be my last will and testament which I make on this _____ day of _____ 2023 at _____ ("Will") as under:

DECLARATION

1. I hereby revoke all my previous wills and codicils thereto, if any
2. I am of good health and of sound mind and capacity, and I am making this Will out of my free will

APPOINTMENT OF EXECUTORS

3. I hereby appoint _____, residing at _____ as the sole executor and administrator of my Estate ("Executor") in so far as this Will is concerned.⁶³

PAYMENT OF FUNERAL EXPENSES, TAXES AND DUTIES

4. The Executor shall, from my Estate, expend such amounts towards my funeral and obsequious ceremonies as may be required. My Executor shall not be obligated to give accounts thereof to anybody.
5. I hereby direct my Executor to pay all such debts, liabilities, taxes, duties, fees, etc., which concern the Estate and which I may leave after my demise from my Estate itself. The balance of such Estate shall be collected and dealt with in the manner specified herein below.

DEVOLUTION OF ESTATE

⁶³ The testator has to choose someone whom they trust and believe will act as per the 'will' as an executor, whose job is to give the assets and liabilities to every heir mentioned in the 'will' exactly as it is written in the same after the death of the testator

6. I own and possess certain properties and assets on the date of this Will which have been listed in Schedule A which form part of the Estate. The assets listed in Schedule A are not an exhaustive list of all assets owned by me, and that the mention of the aforesaid assets is merely to give the Executor an indication and a direction to proceed further.

7. I GIVE, DEVISE and BEQUEATH, absolutely and forever, to _____, all my right, title and interest in the following assets:

(Do mention the names of the persons to receive the assets, and also mention an alternative name in case the person to receive the bequest passes away before you.)

Authority to executor

8. I hereby further declare that my Executor shall have full powers and the authority to sell, call in and convert into money any / all of my financial investments which I may be possessed of at the time of my demise and distribute the proceeds thereof.

9. The Executor may reimburse himself from my Estate reasonable expenses incurred towards the completion of the execution and probate formalities.

10. The Executor shall be empowered to appoint and consult with any professional services for better undertaking their responsibilities in accordance with my wishes.

11. I hereby specifically make it clear that my Executor shall not be personally responsible or be held responsible for any act or omission that may occur in administering my Estate.

IN WITNESS WHEREOF, I do hereby set and subscribe my hand to this my last will and testament on this _____ DAY of _____, 202__.

Sign of the testator

SIGNED and ACKNOWLEDGED by the above named testator, _____, as his last will and testament, in the presence of us, who at his request and in his presence and in the presence of each other have hereunto set and subscribed our respective hands as witnesses.

Witness 1:

Sign of Witness 1

Name:

Address:

Witness 2:

Sign of Witness 2

Name:

Address:

Can I change my will?

One can change their will as many times as one wants. The latest will (even if unregistered) will override all the previous wills (even registered ones).

6. ABORTION AND SEX DETECTION

6.1 MEDICAL TERMINATION OF PREGNANCY ACT, 1971

Reproductive rights have been recognised as fundamental rights of all persons under the Constitution of India. This has also been recognised as a statutory right under the Medical Termination of Pregnancy Act, 1971. However, pregnant women are still denied their reproductive rights, particularly to terminate their pregnancy, due to misinterpretations and apprehensions. Therefore, this work seeks to clarify the legal position with respect to abortion and make women aware of their rights and obligations under the Medical Termination of Pregnancy Act 1971. Pregnant Women have the legal right to abortion if they meet the conditions specified in the Medical Termination of Pregnancy Act 1971 (MTP Act). The MTP Act was enacted to ensure safe and accessible abortion services. It sets guidelines for the permissible gestational age and conditions under which women can access abortion services. The conditions are as follows:

- a) The abortion must be performed by a registered and authorised medical practitioner
- b) Women can medically terminate their pregnancies before the completion of 20 weeks of gestation if the pregnancy poses a “risk to the life of the pregnant woman or of grave injury to her physical or mental health”.⁶⁴ The risk of injury to the health is determined by taking into account the actual or foreseeable circumstances of the pregnant woman.⁶⁵ For example, failure of contraceptive methods constitutes a grave injury to the mental health of pregnant women.⁶⁶
- c) For certain categories of women, this period is extended up to 24 weeks. These categories of women are:⁶⁷
 - i. Survivors of sexual assault, rape, incest,
 - ii . Minors,
 - iii . Women who undergo a change in marital status during the pregnancy, i.e., widows and divorcees, or whose partner has abandoned them during the pregnancy,
 - iv . Women with physical disabilities or mental illnesses
 - v . Women carrying fetuses with malformation or physical or mental abnormalities,

⁶⁴ Section 3(2), Medical Termination of Pregnancy Act, 1971

⁶⁵ Section 3(3), Medical Termination of Pregnancy Act, 1971

⁶⁶ Explanation 1 to Section 3, Medical Termination of Pregnancy Act, 1971

⁶⁷ Rule 3B of the Medical Termination of Pregnancy Rules, 2003

- vi . Women in humanitarian settings or disasters or emergencies,
 - vii . Women who have undergone material alteration in the circumstances of their lives.⁶⁸
- d) Where there is a substantial risk that the child if born, would “suffer from any serious physical or mental abnormality”, medical termination is permitted irrespective of the length of the pregnancy, as long as the same is deemed necessary by a **medical board**⁶⁹
 - e) Medical termination of pregnancy is permitted at any time, irrespective of the length of the pregnancy, if there is a likelihood of danger to the life of the pregnant person.⁷⁰
 - f) Medical termination may be carried out by either using self-administered abortion pills under the prescription of a registered medical practitioner or in a legally recognised medical facility.

Registered medical practitioner

A doctor who is registered (in State Medical Register) and has experience or training in gynaecology and obstetrics can provide abortion services. However, the number of doctors required to make the decision varies based on the length of the pregnancy (Table 4).

Table 4: Number of Doctors required to recommend the termination of a pregnancy based on the length of the pregnancy

Length of Pregnancy	Number of doctors required
0 -20 Weeks	Registered Medical Practitioner
20-24 Weeks	Two Registered Medical Practitioners
Beyond 24 Weeks	Medical Board will decide.

If the gestational period is within twenty weeks, then only the opinion of one medical practitioner is required. The one registered medical practitioner will be the abortion service provider themselves. On the other hand, if the gestational period has exceeded twenty weeks but is less than twenty-four weeks, then the opinion of two practitioners is necessary. In the case of a gestational period exceeding twenty-four weeks, the pregnant person must approach a medical board.

Consent for termination of a pregnancy?

Unless the pregnant woman is a minor or mentally ill person, the only person whose consent is required for the termination of pregnancy is that of the pregnant person. Husbands, parents etc. have no say in the matter. Doctor cannot deny or delay service for lack of consent of another person.

⁶⁸ X v. The Principal Secretary, Health and Family Welfare Department and Anr., Appeal No 5802 of 2022 (Arising out of SLP (C) No 12612 of 2022) Decided on Sept. 29, 2022

⁶⁹ Explanation 2B to Section 3, Medical Termination of Pregnancy Act, 1971

⁷⁰ Section 5, Medical Termination of Pregnancy Act, 1971

6.2 PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES ACT, 1994

The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PCPNDT Act) was enacted to prevent sex determination and selection and female foeticide. The Act bans the use of sex selection techniques before or after conception and prohibits the use of prenatal diagnostic techniques for sex-selective abortion.

Pre-natal diagnostic techniques such as ultrasound machines must be used only to detect genetic abnormalities, metabolic disorders, chromosomal abnormalities, congenital malformations, haemoglobinopathies etc. Using it to determine the sex of the foetus is a crime. Similarly, communicating the sex of the foetus to the pregnant woman or her relatives is also a crime. Moreover, advertising that a clinic/lab provides sex determination facility has also been criminalised.

Anyone who violates these provisions can be imprisoned for up to three years.

MTP and PCPNDT: Unpacking the Misconception

Sex Selection is often linked with abortion, thus creating a misconception that abortion is illegal. However, the aim behind both legislation is different.

- PCPNDT - To prevent sex selection
- MTP - To prevent unsafe abortion



Figure 8: Clarifying the difference between MTP Act and PCPNDT Act

There is no conflict between the MTP Act and the PCPNDT Act, because sex selection is an issue of sex determination and not abortion. The PCPNDT Act only regulates the framework for the use of pre-conception and pre-natal diagnostic techniques; it does not regulate abortion.

Abortion rights go beyond just healthcare for women. They are also about promoting gender equality and justice. This work is a concrete step towards reducing the stigma surrounding abortion and aims to provide women in India with reliable information and safe access to abortion services.

7. OFFENCES AGAINST WOMEN

The Constitution of India provides several guarantees to women to ensure their dignity and equality. However, women in India have been victims of several gender-based crimes. The Indian Penal Code, 1860 is the primary legislation that deals with crimes in general. It defines different offences and also prescribes punishments for the same. In addition to generic crimes such as murder, abduction, theft, housebreak etc., the Indian Penal Code deals with offences against women as well. Furthermore, India has enacted specific laws to deal with certain offences, such as dowry, sexual abuse of children etc., that shock the conscience of society and require special attention.

7.1 ACID ATTACKS

Acid attacks are amongst the most gruesome offences. Also known as acid throwing or vitriolage, acid attacks involve the pre-meditated throwing of acid (such as sulfuric acid, nitric acid etc.) on the victim. It results in severe pain, permanent disfigurement, infections, psychological trauma, and even blindness or loss of limb. Acid attacks are always pre-planned, and the impact on the victim lasts a lifetime, making acid attacks one of the worst and most heinous offences. Unfortunately, acid attacks on women are prevalent in today's day and age.

As per law, acid refers to any substance with an acidic or corrosive character or burning nature and is capable of causing bodily injury leading to scars or disfigurement or temporary or permanent disability.⁷¹

Acid attacks involve the following elements:

- Throwing or using acids in any form
- Intending or knowing that such an act would
- Cause bodily injuries, burns, disfigurement, disablement or bodily damage (permanent or partial)

Punishment:

Minimum: Ten years Imprisonment

Maximum: Life imprisonment

Additionally, the offender must also bear all the medical expenses of the victim.

Attempting to throw acid is punishment with a minimum sentence of five years, which may extend to seven years.⁷²

These offences are Cognisable and non-bailable.

⁷¹ Explanation to Section 326B, Indian Penal Code, 1860

⁷² Section 326B, Indian Penal Code, 1860.

Regulation of acid sale:

⁷³ In 2013, the Supreme Court of India⁷⁴ banned the over-the-counter sale of acid across India (including acids used as cleaning agents at home). The Supreme Court also instructed the state governments to issue acid-sale licences to select retailers who were directed to keep a record of those buying acid after checking their ID proof.

If you find acids being sold in shops in your area, please report it to the police.

7.2 OBSCENITY

Obscenity is sexual behaviour, art, or language that offends or shocks people. It involves the following elements:⁷⁵

- Any obscene act or
- sings, recites or utters any obscene song, ballad or words
- in any public place
- to the annoyance of others

Punishment: Imprisonment of three months, or with a fine, or with both.
Cognisable, bailable.

7.3 OUTRAGING THE MODESTY OF WOMEN

Any man assaults or uses criminal force on a woman with intent to outrage her modesty or, knowing that his act is likely to outrage her modesty, has committed an offence under Section 354 of the IPC.

Punishment: Minimum imprisonment of one year but may extend to five years.
Cognisable and non-bailable.

Uttering any word or making any gesture intended to insult the modesty of a woman is also an offence.⁷⁶

Punishment: Imprisonment, which may extend to three years.
Cognisable and bailable.

7.4 SEXUAL HARASSMENT

Sexual harassment is a broad term. It refers to any form of unwelcome sexual behaviour that's offensive, humiliating or intimidating. It may be in any of the following forms:

- Unwanted touching, hugging or kissing.

⁷³ Section 2 and 6, The Poisons Act, 1919; The Model Poisons Possession and Sale Rules, 2013.

⁷⁴ Laxmi v Union of India and Others, (2014) 4 SCC 427

⁷⁵ Section 294, Indian Penal Code, 1860

⁷⁶ Section 509, Indian Penal Code, 1860

- Staring, leering, whistling, winking.
- Sexually offensive gestures such as deliberate brushing or stroking private parts, smacking lips, elevator eyes, and pinching.
- Sexually suggestive, intrusive, explicit and lewd comments, questions, words, songs or sexual remarks on a woman's body, clothes, anatomy, sexuality etc....
- Indecent exposure/flushing of private parts, masturbating in public causing annoyance or harassment to women.
- Invading personal space and privacy through cornering, peeping, and breathing down one's neck.
- Exposing deliberately/forcibly to sexually explicit internet sites, pornographic films, photographs, text, graffiti, jokes or/ and cartoons.
- Sexually explicit telephone calls, emails, SMS, MMS, letters, cards, posters, gifts etc.
- Unwanted invites for 'dates', inducing or seducing women to have sex or soliciting for sexual favours.
- Stalking (spying, attempting to contact physically or electronically in spite of disinterest).
- Disrobing or compelling a woman to be naked.
- Voyeurism (watching, capturing, circulating pictures, filming a woman engaged in a private act)
- Insulting women's dignity through actions, utterances, comments, songs, etc.⁷⁷

In India, some acts of sexual harassment are gender-neutral i.e., it is punishable irrespective of the gender of the offender or the victim (e.g., obscenity). However, most offences are punishable only when the act is committed by a man against a woman.

A man committing any of the following acts:

- a) physical contact and advances involving unwelcome and explicit sexual overtures
- b) demand or request for sexual favours
- c) showing pornography against the will of a woman
- d) making sexually coloured remarks is guilty of sexual harassment⁷⁸

Punishment: Acts in (a) to (c) are punished with imprisonment, which may extend to three years or with a fine or both. Acts under (d) are punished with imprisonment up to one year, or fine, or both.

Cognisable and bailable.

⁷⁷ Sexual Harassment: Tips for Teenagers and Young Adults, Jagori, 2013, <https://wcd.nic.in/sites/default/files/Sexual%20Harassment%2C%20English-Jagori.pdf>

⁷⁸ Section 354, Indian Penal Code, 1860.

7.5 DISROBING

Any man who assaults or uses criminal force to disrobe a woman or compels a woman to be naked has committed an offence under Section 354B of the IPC.

Punishment:

Minimum imprisonment of 3 years

Maximum imprisonment up to 7 years

Cognisable and non-bailable.

7.6 VOYEURISM

Any man watching or capturing the image of a woman engaging in a private act under circumstances where she would usually not expect to be observed.⁷⁹ For example, when the woman is in a restroom or a trial room of a clothes shop or the victim is engaged in a sexual act.

If a woman approves of taking photos of an act but not its distribution to third parties, that distribution is seen as a crime.

Punishment:

First Offence:

Minimum imprisonment of 1 year

Maximum imprisonment up to 3 years

Repeat Offence:

Minimum imprisonment of 3 years

Maximum imprisonment up to 7 years

The first offence is Cognisable and bailable. The repeat offence is Cognisable and non-bailable.

7.7 STALKING

Any man:

- following a woman and attempting to contact or foster personal interaction despite a clear indication of disinterest by her or
- monitors the use by a woman of the internet, email or any other form of electronic communication is guilty of stalking.⁸⁰

Punishment:

First Offence: Maximum imprisonment of up to 3 years and fine

Repeat Offence: Maximum sentence up to 5 years and fine

The first offence is Cognisable and bailable. The repeat offence is Cognisable and non-bailable.

⁷⁹ Section 354C, Indian Penal Code, 1860

⁸⁰ Section 354D, Indian Penal Code, 1860

7.8 RAPE

Rape is generally understood as a sexual act that is forced upon one by another. Legally, rape is said to be committed when a man does any of the following:

penetrates his penis, no matter how slight	into the vagina, mouth, urethra or anus of a woman or makes her do so with him or any other person
inserts, no matter how slight, any object or a part of the body (for example, finger); or	into the vagina, the urethra or the anus of a woman or makes her do so with him or any other person
manipulates any part of the body of a woman	to cause penetration into the vagina, urethra, anus or any part of the body of such woman or makes her to do so with him or any other person
applies mouth	to the vagina, anus, urethra of a woman or makes her to do so with him or any other person

under the following circumstances:

- i. Against her will
- ii. Without her consent
- iii. Consent obtained under threat of death or hurt
- iv. With her consent but where the man knows he is not her husband but where she believes she lawfully married him
- v. Where the woman is of unsound mind or is intoxicated or where he (directly or indirectly administers her any unwholesome substance, as a result of which she is unable to understand the nature and consequences of that to which she gives consent
- vi. Where she is under eighteen years of age.
- vii. When she is unable to communicate consent.

The absence of consent alone is sufficient to qualify as a rape crime.

Consent has to be unambiguously defined, i.e., the woman must give an explicit, voluntary declaration that she consents to the specific sexual act. When deciding a case of rape, factors like a girl's personality, occupation, social background, sexual history etc., are irrelevant.

Any sexual interaction, regardless of whether consent is given, with a boy or a girl under the age of eighteen is considered statutory rape.

In India, a husband cannot be charged with committing rape against his wife. However, if the wife is under eighteen, even a husband could be charged with raping her.

Gang rape occurs when more than one person rapes a woman without her knowledge or permission. It is a form of rape that has multiple perpetrators. In the perspective of the law, any action taken by a member of that organisation or gang to commit the crime of rape is punishable and is regarded as rape.

Table 5: Different types of rape offences and the corresponding punishments

Offence	Punishment
Rape	Minimum imprisonment: ten years. Maximum sentence: life imprisonment ⁸¹
Rape by a person in a position of authority, such as a police officer or a public servant, or member of the armed forces or a person being on the management or the staff of a jail, remand home or another place of custody or women's or children's institution or by a person on the management or the staff of a hospital	Minimum imprisonment: ten years. Maximum sentence: life imprisonment, i.e. the remainder of the person's natural life ⁸²
Rape is committed by a person in a position of trust or authority (teacher, guardian etc.) towards the person raped or by a near relative of the person raped.	Minimum imprisonment: ten years. Maximum sentence: life imprisonment, i.e., the remainder of the person's natural life ⁸³
Rape on a pregnant woman, a woman with a disability, rape causing grievous bodily injuries, or endangering her life, repeated rape on the same woman	Minimum imprisonment: ten years. Maximum sentence: life imprisonment, i.e., the remainder of the person's natural life ⁸⁴
Rape of a woman under sixteen years of age	Minimum imprisonment: twenty years. Maximum sentence: life imprisonment ⁸⁵
Rape causing death or causes the woman to be in a persistent vegetative state	Minimum imprisonment: twenty years. Maximum sentence: life imprisonment, i.e., the remainder of the person's natural life or death ⁸⁶
Rape of a woman under twelve years of age	Minimum imprisonment: twenty years. Maximum sentence: life imprisonment, i.e., the remainder of the person's natural life or death ⁸⁷
Gang Rape	Minimum imprisonment: twenty years. Maximum sentence: life imprisonment, i.e., the remainder of the person's natural life or death ⁸⁸
Gang rape on a woman under sixteen years of age	Imprisonment for the remainder of the person's natural life ⁸⁹
Gang rape on a woman under twelve years of age	Imprisonment for the remainder of the person's natural life or death ⁹⁰
Repeat Offenders	Imprisonment for the remainder of the person's natural life or death ⁹¹

Punishment: Rape is punished with a minimum imprisonment of ten years, and the sentence may extend to life imprisonment. Enhanced punishments are awarded where the offence is committed under certain aggravating circumstances such as gang rape, repeated rape on the same woman, rape by persons in authority (such as police officers, jailor etc.) on a person in their custody, rape on women with disabilities etc. For more specific details about punishments for the offence of rape, refer Table 5. These offences are Cognisable and non-bailable.

Recording of all statements by a victim pertaining to any sexual offence including sexual harassment, shall only be done in the presence of a woman police officer. For further details, refer to [10.1 As a Complainant / Victim](#)

COMPENSATION FOR VICTIMS OF GENDER-BASED VIOLENCE

In addition to punishing the offenders, the State envisages compensating victims of gender-based offences through a compensation scheme:⁹²

7.9 MARITAL VIOLENCE

No doubt, women face violence in society. But the major source of violence for women is within their marital homes. Law is not a mute spectator to this reality. It is important to empower victims with the right resources to counter the violence they are subjected to. One such resource is the knowledge of the law.

DOWRY RELATED VIOLENCE

One of the social maladies that has prevailed for centuries that India has not succeeded in getting rid of is dowry. Dowry refers to anything of monetary value (such as cash, gold, automobiles, movable or immovable property etc.) given generally by the bride's family to the groom (or his family) as a condition of marriage. To forbid the practice of dowry, India passed the Dowry Prohibition Act 1961. This Act is supplemented by the suitable amendments to the Indian Penal Code, 1860, which provides stringent punishments for dowry-related violence (Table 6).

⁸² Section 376(1), Indian Penal Code, 1960

⁸³ Section 376(2), Indian Penal Code, 1960

⁸⁴ Section 376(2), Indian Penal Code, 1960

⁸⁵ Section 376(3), Indian Penal Code, 1960

⁸⁶ Section 376A, Indian Penal Code, 1960

⁸⁷ Section 376AB, Indian Penal Code, 1960

⁸⁸ Section 376D, Indian Penal Code, 1960

⁸⁹ Section 376DA, Indian Penal Code, 1960

⁹⁰ Section 376DB, Indian Penal Code, 1960

⁹¹ Section 376E, Indian Penal Code, 1860

⁹² National Legal Service Authority, Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, (2018) <https://nalsa.gov.in/services/victim-compensation/nalsa-s-compensation-scheme-for-women-victims-survivors-of-sexual-assault-other-crimes—2018>.

Table 6: Compensation for various Gender based crimes

S.no.	Particulars of loss or injury	Minimum Compensation	Maximum Limit of Compensation
1.	Loss of Life	Rs. 5,00,000	Rs. 10,00,000
2.	Gang Rape	Rs. 5,00,000	Rs. 10,00,000
3.	Rape	Rs. 4,00,000	Rs. 7,00,000
4.	Unnatural Sexual Assault	Rs. 4,00,000	Rs. 7,00,000
5.	Loss of any Limb or part of the body resulting in 80% permanent disability or above	Rs.2,00,000	Rs.5,00,000
6.	Loss of any Limb or part of the body resulting in 40% and below 80% permanent disability	Rs. 2,00,000	Rs. 4,00,000
7.	Loss of any limb or part of the body resulting in above 20% and below 40% permanent disability	Rs. 1,00,000	Rs. 3,00,000
8.	Loss of any limb or part of the body resulting in below 20% permanent disability	Rs. 1,00,000	Rs. 2,00,000
9.	Grievous physical injury or any mental injury requiring rehabilitation	Rs. 1,00,000	Rs. 2,00,000
10.	Loss of Foetus, i.e., Miscarriage as a result of Assault or loss of fertility.	Rs. 2,00,000	Rs. 3,00,000
11.	In the case of pregnancy on account of rape.	Rs. 3,00,000	Rs. 4,00,000
12.	Victims of Burning:		
a)	In case of disfigurement of the face	Rs. 7,00,000	Rs. 8,00,000
b)	In case of more than 50% disfigurement	Rs. 5,00,000	Rs. 8,00,000
c)	In case of injury less than 50% but more than 20% disfigurement of the face	Rs. 3,00,000	Rs.7,00,000
d)	In case of less than 20% disfigurement of the face	Rs. 2,00,000	Rs. 3,00,000
13	Victims of Acid Attack		
a)	In case of disfigurement of the face	Rs. 7,00,000	Rs. 8,00,000
b)	In case of injury, more than 50% disfigurement of the face	Rs. 5,00,000	Rs. 8,00,000
c)	In case of injury less than 50% but more than 20% disfigurement of the face	Rs. 3,00,000	Rs. 5,00,000
d)	In case of injury, less than 20% disfigurement of the face	Rs. 3,00,000	Rs. 4,00,000

What is dowry?

The legal definition of dowry⁹³ is broad and all-encompassing (Figure 9):

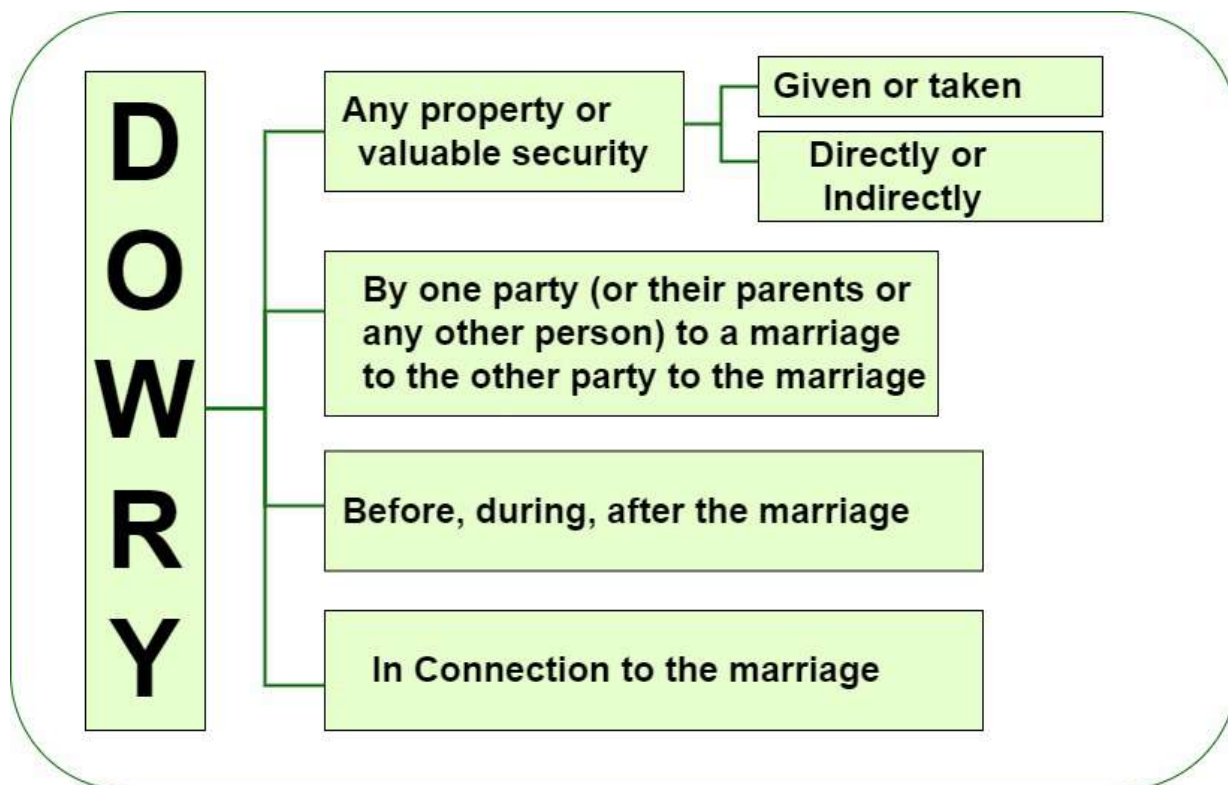


Figure 9: Defining Dowry

What is the punishment for giving or taking dowry?

The person who takes or gives dowry will be sentenced to a minimum imprisonment of five years and a fine of Rs. 15000/- or the amount of the value of such dowry, whichever is more.⁹⁴

The offence is Cognisable and non-bailable.

Is it a crime if one party demands dowry and the other party refuses?

Yes. The mere demand of dowry itself is a crime. Demand for dowry is punishable with a sentence of minimum six months and may extend to two years.

Scenario: Prasad and Gowri are considering marrying each other. Prasad's family demands a dowry of Rs. 10000. Gowri's family refuses. Prasad's family has committed a crime.

⁹³ Section 2, The Dowry Prohibition Act, 1961

⁹⁴ Section 3, Dowry Prohibition Act, 1961

What is not dowry?

Gifts given out of love and affection are not dowry.⁹⁵ Thus, gifts given during a marriage to the bride or the groom by friends and relatives are not dowry.

A list of all the gifts received at the time of marriage, along with their approximate value, the name and relationship of the person gifting it, must be prepared and signed by the bride and groom. This list must be maintained by the couple. (Refer: Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules, 1985)

Streedhan

Similarly, **streedhan**, i.e., any asset or property, however valuable, given to the bride by the bride's family or the groom's family, is not dowry. Common examples of streedhan are mangalsutra, wedding jewels etc. but may include anything else gifted to the bride. The most important criteria for Streedhan are twofold:

- a) It is voluntarily given
- b) It remains in the bride's name and is in her possession. She has full right over its disposal or alteration.

Streedhan does not reduce or in any way affect a woman's right to inheritance from her maternal or marital homes.

For details on who you can inherit from, or who inherits from you, refer to [4.6 Inheritance](#).

Do marriage expenses count as dowry?

Marriages in India are often lavish and involve huge expenses that are borne by the family. Ideally, marriage expenses must be divided equally between the parties to the marriage. Even where this is not the case, any marriage expense undertaken voluntarily by a party (or their family) to a marriage would not amount to dowry. However, if one party demands that the other party bear the wedding expenses or requires that the wedding be conducted in a specific hall/location etc., it would amount to a demand for dowry.

Scenario: Prasad and Gowri are set to get married. Prasad's father tells Gowri's family, "we do not want any dowry from you. Just take care of the entire marriage expenses. That would do." This is a demand for dowry.

How to file a complaint against the demand for dowry?

- Anybody aware of the demand or giving of dowry can file a complaint. It can be the affected party, their parents, relatives or friends, or even a welfare institution/organisation.

⁹⁵ Netai Ghosh v. State of West Bengal

- One must report the matter at the local police station by filing an FIR.
- Also, complain to the Dowry Prohibition Officer appointed in every district.

DOWRY HARASSMENT

In addition to making the practice of taking or giving dowry a crime, the law also imposes added penalties for harassing or abusing a married woman for dowry a crime.

a) Cruelty Cruelty means

- any wilful conduct
 - of the husband or his relatives
 - which is likely to drive the married woman/wife to commit suicide, or
 - cause grave injury or danger to life, limb or health (mental or physical)
- OR
- harasses her
 - to force her or her relatives to give more dowry, or
 - to punish her for not giving enough dowry⁹⁶

Punishment:

Imprisonment up to three years

Non-Cognisable and non-bailable

b) Dowry Deaths Dowry deaths or bride burning is dealt with very seriously by law. If,

- A woman
- Married for less than seven years
- Is found dead
- She has suffered burns, bodily injury, or died under unnatural circumstances.
- It was found that soon before her marriage, she was subjected to cruelty or harassment by her husband or any other relative.
- In connection with a demand for dowry, then, a case of dowry death is made out, and the husband/his relatives are considered to have caused the death.

Punishment:

Minimum: Seven years imprisonment

Maximum sentence: Life imprisonment

Cognisable and non-bailable

Presumption: Generally, every person is presumed to be innocent unless it is proved beyond reasonable doubt that the person committed the offence. In dowry death cases, law assumes that the accused person(s) has caused the death unless the person(s) is able to prove their innocence.

⁹⁶ Section 498A, Indian Penal Code, 1860

DOMESTIC VIOLENCE AGAINST WOMEN AND LEGAL SAFEGUARDS

Domestic violence is a widespread problem in Indian households. India's strong patriarchal traditions have allowed domestic violence to prevail as an open secret. At houses across our nation, individuals are being killed, tortured, and beaten behind closed doors. Women from everywhere - rural areas, small villages, big cities, and metropolitan areas face it. It occurs across all social and economic classes. This has resulted in a protracted and continuous fight for justice for women against the heinous practice. The Protection of Women from Domestic Violence Act, 2005 (DV Act) was enacted by the Parliament of India to tackle this menace.

For the law against domestic violence to be applicable, it is not necessary that the victim and the offender are married. The Act covers all women who are in any form of domestic relationship (by way of consanguinity, marriage, members of a joint family, or adoption) and living in a shared household. Examples for such relationships are live-in partners, brother-sister, son-mother etc.

The DV Act defines domestic violence in the broadest terms.⁹⁷ Any of the following acts or commissions or omissions or conduct could constitute domestic violence if it:

- a) harms or injures or threatens to harm or injure or endangers the health, safety, life, limb or well-being (mental or physical) of the woman or
- b) causes physical abuse, sexual abuse, verbal and emotional abuse and economic abuse
- c) if this harm or injury is caused to coerce her or her relatives to meet any unlawful demand for dowry

Physical abuse means bodily pain, harm, or danger to life, limb, or health, or impairment to the health or development of the woman and includes assault, criminal intimidation and criminal force. For example, refusing a woman to see a doctor when sick can also constitute physical abuse.

Sexual abuse includes any conduct of a sexual nature that abuses, humiliates, degrades or otherwise violates the dignity of a woman. Verbal and emotional abuse includes insults, ridicule, humiliation, name calling and insults or ridicule, especially about not having a child or a male child. Verbal and emotional abuse also includes repeated threats to cause physical pain to any person the woman cares for, such as her child, family, or friends. Common examples of such abuse are shouting at the victim in private or public, controlling what the victim can and cannot do, isolating the victim and keeping the victim from contacting friends or family etc.

Economic abuse includes deprivation of all or any economic or financial resources to which the woman is entitled. Examples of such entitlement are wide and varied. It includes her income, jewels, and streedhan. It also includes refusing to pay for household necessities for her or her children, such as refusing to pay house rent or entry into the house. Further, throwing away or selling household appliances (such as a washing machine or fridge), destroying or selling off of shares or deposits owned by the woman, or destroying her degree certificates all constitute economic abuse.

⁹⁷ Section 3, The Protection of Women from Domestic Violence Act 2005

For a better understanding of streedhan, refer to [streedhan](#)

Domestic violence is determined on a case-on-case basis, depending on the facts and circumstances.

Against whom a case of domestic violence can be made

A complaint for domestic violence generally lies against an adult male member only. However, in case the abuser is a female relative of the husband or male partner, a case can also be made out against such female relatives.

While it is true that women can also beat up their male relatives, the DV Act only applies where the victim is a woman. However, the general provisions of the Indian Penal Code, 1860 dealing with assault continue to apply.⁹⁸ Further, cruelty by the wife against the husband is a valid ground for divorce. For details on the grounds of divorce, please refer to [4.4 Divorce](#)

Protection Officers

The Act mandates the appointment of Protection Officers to provide medical, housing, legal, and other support services to abused women.⁹⁹ The Protection Officers are responsible for assisting women in abusive relationships and must help them avail of such services to obtain the correct order under the Act.¹⁰⁰

Procedure to File a Complaint against Domestic Violence

- The victim can file a complaint at the police station, and the police will register an FIR or direct the victim to Protection Officer in charge of the area
- The protection officer files the Domestic Incident Report and files a case in Court
- Within three days of the Court's receipt of the application, the Magistrate will set the first hearing date
- According to the Act, all complaints must be addressed and resolved within 60 days

Reliefs under the DV Act

The Act provides a number of reliefs to the victims of domestic violence and empowers the Magistrate to pass reliefs in favour of the victims of domestic violence. These are in the form of protection orders (Figure 10), residence orders (Figure 11), custody orders, and also monetary relief and compensation. These reliefs are ordered by the court.

Monetary and Compensatory Orders: The Court may direct the respondent to pay adequate, fair, reasonable, and consistent amounts of money to meet the expenses incurred and losses suffered by the woman as a result of the domestic violence. While calculating the amount, the

⁹⁸ Refer, Section 351, Indian Penal Code, 1860

⁹⁹ Section 8, The Protection of Women from Domestic Violence Act, 2005

¹⁰⁰ Section 9, The Protection of Women from Domestic Violence Act, 2005

court will, amongst other things, consider the loss of earnings, the medical expenses, and the loss caused to damage to any property of the woman.¹⁰¹ The court may also direct for payment of compensation for injuries suffered by the victim, including mental torture and emotional distress.¹⁰²

Custody Orders: The Court may also grant temporary custody of any child or children of the victim.¹⁰³

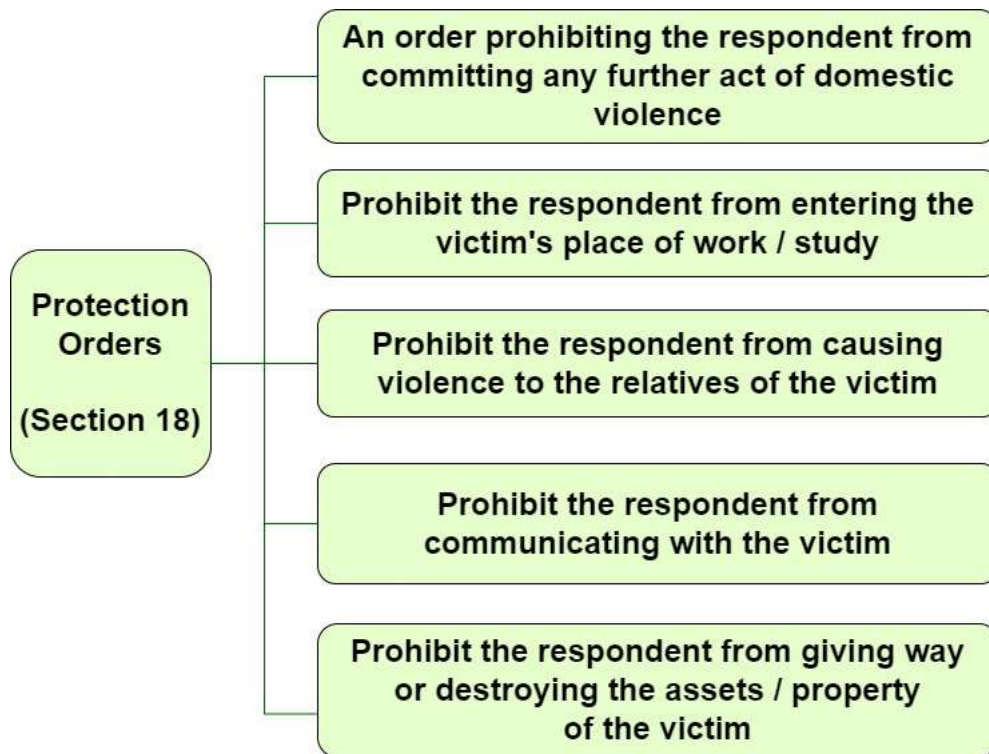


Figure 10: Protection Order for Domestic Violence

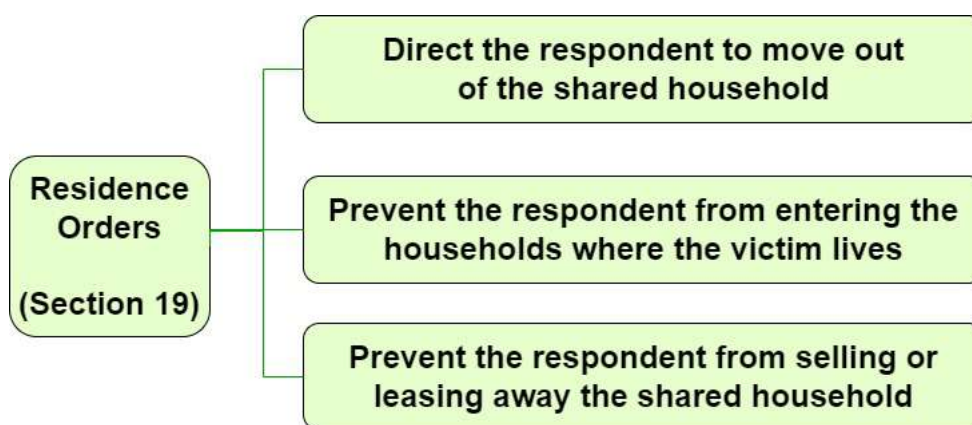


Figure 11: Residence Order for Domestic Violence

¹⁰¹ Section 20, The Protection of Women from Domestic Violence Act, 2005

¹⁰² Section 21, The Protection of Women from Domestic Violence Act, 2005

¹⁰³ Section 22, The Protection of Women from Domestic Violence Act, 2005

8. CHILD SEXUAL ABUSE

Child sexual abuse is a heinous crime that can affect the life and development of the child. Law intends to deal with this social plague very swiftly and strictly. The Protection of Children from Sexual Offences Act, 2012 (POCSO) has been enacted for this purpose.

8.1 FEATURES OF POCSO

1. POCSO is a **gender-neutral** legislation. It covers all children **below eighteen years, irrespective of sex or gender**¹⁰⁴
2. The gender and age of the offender is also immaterial. The law punishes anyone irrespective of their gender or age (even those below the age of eighteen)
3. POCSO criminalises all forms of sexual abuse. It is not restricted only to rape, i.e., penile-vaginal penetration. It seeks to protect children from other offences, such as sexual assault (not involving penetration), sexual harassment, and child pornography
4. Anyone who apprehends or is aware of any incident of child sexual abuse must report it to the police
5. POCSO aims to make the process of investigation and trial effective and child-friendly
6. Normally, under criminal law, everyone is presumed innocent unless proven guilty. POCSO, however, insists that we trust children. Therefore, once a person is accused of child sexual abuse, it is up to them to prove that they did not commit the offence. I.e., the burden of proof is on the accused
7. POCSO carries severe punishments. Courts do not have the right to waive or reduce the sentence below the minimum punishment prescribed by POCSO
8. Law admits that dealing with a sexual offence is not easy for the child or their family. POCSO provides support from professionals such as lawyers, social workers, psychologists, child development specialists etc., during the pre-trial and trial stages¹⁰⁵

¹⁰⁴ Section 2(1)(d), POCSO

¹⁰⁵ Section 39 and 40, POCSO

8.2 PENETRATIVE AND NON-PENETRATIVE SEXUAL OFFENCES

Offences under POCSO may be classified as penetrative sexual offences and non-penetrative sexual offences. Penetrative sexual assault¹⁰⁶ may be understood as follows:

Table 7: Defining Penetrative Sexual Assault

Penetration of the penis	Into any orifice of the child, be it the vagina, anus, urethra or mouth
Inserting any object	Into the vagina, urethra or anus of the child
Manipulating the body of the child to cause penetration	Into the vagina, urethra or anus of the child
Applying the mouth	to the vagina, penis, anus or urethra of the child

Making a child do any of the aforesaid acts to themselves or another person is also an offence.

Non-Penetrative Sexual Offences

Non-penetrative sexual offences include sexual assault, sexual harassment, child pornography, and exhibitionism.

Sexual Assault: Any form of physical touch or contact (without penetration) of the sexual/private parts of the child (vagina, penis, anus or breast) with a sexual intent constitutes sexual assault. Also, making a child touch the vagina, penis, anus or breast of another person amounts to sexual assault.¹⁰⁷

Sexual Harassment: A person is said to commit sexual harassment if they, with sexual intent, utter any word or sound or through a gesture or exhibition of any object. Making the child exhibit their body, showing the child pornographic materials, stalking a child etc., also constitute sexual harassment.¹⁰⁸

Child Pornography: Using a child for pornographic purposes and storing pornographic materials involving a child are also serious offences under POCSO.¹⁰⁹

8.3 AGGRAVATED FORMS OF OFFENCES

In certain instances, the law recognises that the act of penetrative sexual assault and sexual assault is aggravated by certain prevailing circumstances. For example, if the assault is committed by a person in authority or trust, or if the offender has exploited particular vulnerabilities of the child, the act is said to be an aggravated form of the offence. Aggravated offences are dealt with more severe punishments.

Aggravating circumstances recognised by POSCO¹¹⁰

¹⁰⁶ Section 3, POCSO

¹⁰⁷ Section 7, POCSO

¹⁰⁸ Section 11, POCSO

¹⁰⁹ Section 13 and 15, POCSO

¹¹⁰ Section 5 and 9, POCSO

A) Aggravation due to the nature of the offender. Where the offender is a:

1. Police Officer
2. Armed Force Personnel
3. Public Servant
4. Manager or staff of a child care institution or jail etc.
5. Manager or staff of hospitals, educational institutions
6. Relative of the child/family

B) Aggravation due to the manner in which the act is committed:

7. Gang penetrative sexual assault/sexual assault, i.e., more than one perpetrator is involved
8. Using deadly weapons, fire, heated substances, corrosive substances such as acids
9. Causes serious injuries to the body or injuries to the sexual organs of the child
10. Penetrative sexual assault or sexual assault is committed more than once or repeatedly
11. Attempts to murder the child
12. Strips or parades the child naked in public

C) Aggravation due to the additional vulnerabilities of the child:

13. The child is below 12 years
14. The child is already pregnant

D) Aggravation due to the consequences of the act:

15. Makes the child pregnant
16. Inflicts the child with HIV or other diseases or infections
17. Causes physical or mental impairment, whether permanent or temporary
18. Drugging a child with hormones with the intent that the child attains early sexual maturity is a form of aggravated sexual assault

PUNISHMENTS

The punishments for various offences under the Act are given in Table 8. POCSO also prescribes that fines be imposed on the offender to cover the medical and rehabilitation expenses of the victim.

¹¹¹ Section 4, POCSO

¹¹² Section 4, POCSO

¹¹³ Section 6, POCSO

¹¹⁴ Section 8, POCSO

¹¹⁵ Section 10, POCSO

¹¹⁶ Section 12, POCSO

¹¹⁷ Section 14, POCSO

¹¹⁸ Section 15, POCSO

Table 8: Punishment of various offences under POCSO

S. No.	Offence	Punishment prescribed
1	Penetrative Sexual Assault	Minimum imprisonment: ten years Maximum sentence: life imprisonment ¹¹¹
2	Penetrative Sexual Assault of a child below 16 years	Minimum imprisonment: twenty years Maximum sentence: life imprisonment, i.e., for the remainder of natural life ¹¹²
3	Aggravated Penetrative Sexual Assault	Minimum imprisonment: twenty years Maximum sentence: life imprisonment, i.e., for the remainder of natural life or death ¹¹³
4	Sexual Assault	Minimum imprisonment: three years Maximum imprisonment: five years ¹¹⁴
5	Aggravated Sexual Assault	Minimum imprisonment: five years Maximum imprisonment: seven years ¹¹⁵
6	Sexual Harassment	Maximum imprisonment: three years ¹¹⁶
7	Using a child for pornographic purposes	Minimum imprisonment: First offence: five years Second and subsequent offences: seven years ¹¹⁷
8	Storing or possessing pornographic materials	Minimum imprisonment: Rs.5000/- Maximum sentence: seven years (if storage is for commercial purposes) ¹¹⁸

8.4 REPORTING OF CHILD SEXUAL ABUSE

Any person who knows or apprehends the commission of the offences listed above must report the same to the local police or the Special Juvenile Police Unit.¹¹⁹ Further, the obligation has been cast upon media personnel, staff of hotels, lodges, hospitals, clubs, studios, photographic facilities etc., to report to the police if they come across any material or object that is sexually exploitative of children.¹²⁰ Non-reporting by an adult who is aware of an act of child sexual abuse (is also an offence under POCSO and may be punished with imprisonment for up to six months.¹²¹

PROTECTING THE IDENTITY OF THE CHILD POCSO seeks to ensure that the identity of the child victim is protected at all costs. Media is prohibited from disclosing the name or any other detail that may lead to the disclosure of the identity of the child or their family.¹²²

CHILD-FRIENDLY PROCEDURE POCSO takes utmost care to ensure that the victim and their family are not further traumatised by the investigation and judicial process. To this end, POCSO has put in place several child-friendly measures (Figure 12):¹²³

¹¹⁹ Section 19, POCSO

¹²⁰ Section 20, POCSO

¹²¹ Section 21, POCSO

¹²² Section 23, POCSO

¹²³ Sections 24, 25, 27, 33, and 36, POCSO

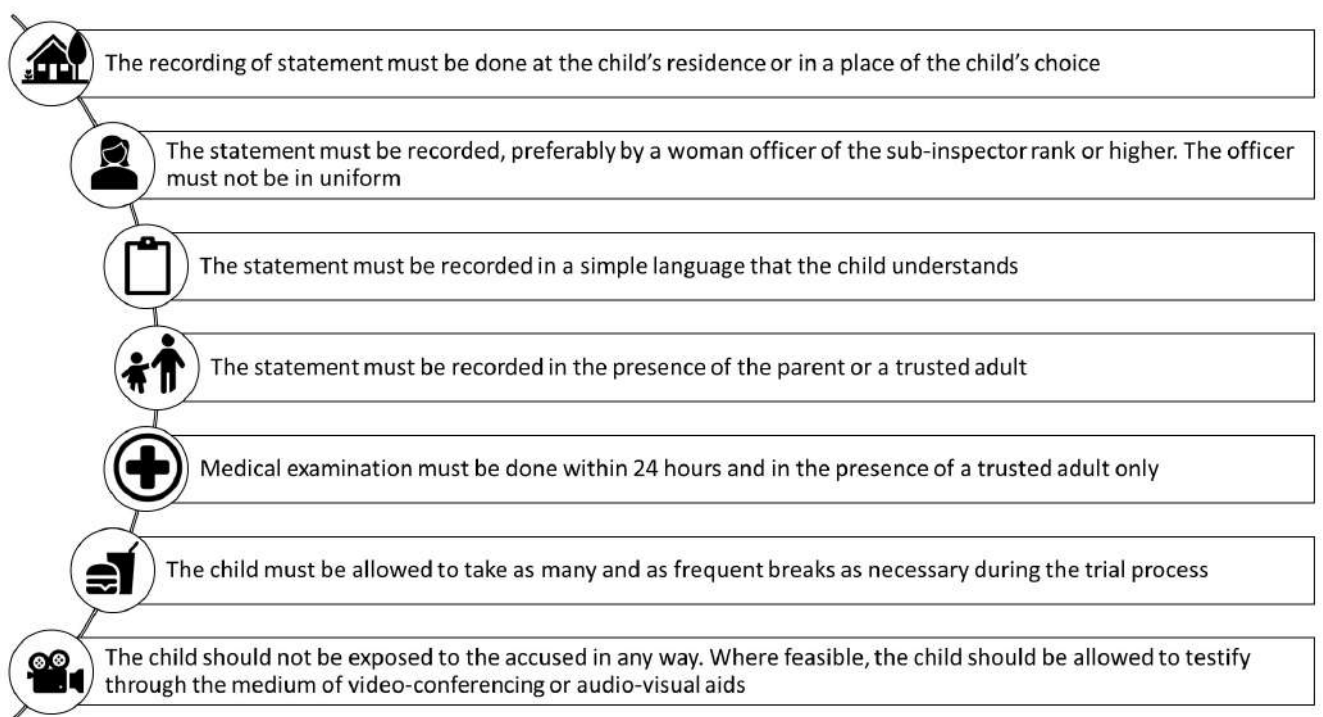


Figure 12: Child-Friendly Measures under POCSO

9. CYBER OFFENCES

This chapter deals with various cyber offences that particularly target/affect women. The term cyber offence means Any unlawful act where a computer or communication device, or computer network is used to commit or facilitate the commission of a crime. The law governing cyber offences is the Information Technology Act, 2000. Listed in Table 9 are some of the offences particularly affecting women.

Finding of complaints against cybercrime:

Complaints against cybercrime may be filed using one or all three mechanisms specified in Figure 13.

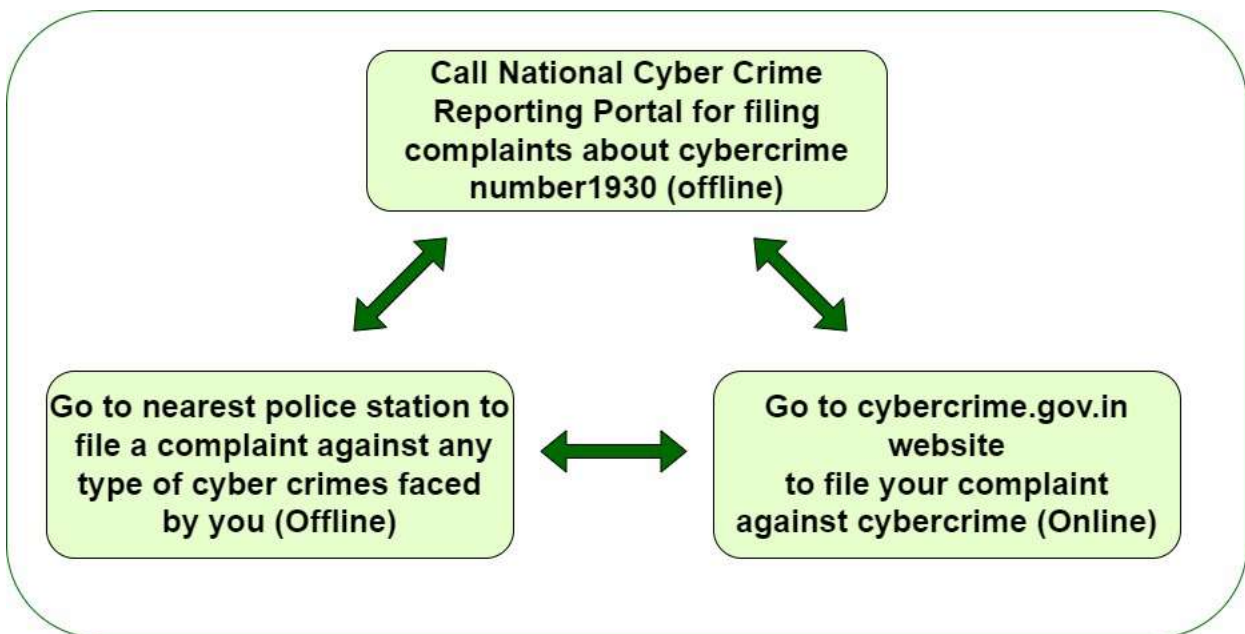


Figure 13: Complaint Options for Cybercrimes

The Cyber Crime Portal (<https://cybercrime.gov.in/>) classifies crime reporting into three categories:

1. Reporting of offences against women and children (Allows you to report them anonymously as well)
2. Financial Frauds
3. Other Financial Frauds.

The Portal is user-friendly and accessible. Detailed instruction on how to file complaints under each of these categories is provided in the portal itself. These manuals are linked herein:

Table 9: various cyber offences and punishments

S.no.	Offences	Section	Punishment
1	Identity theft (When anyone tries to portray themselves online as another person without the latter's approval E.g., someone creating an Instagram account with our photo and name without our knowledge.)	Section 66C	Imprisonment of three years or a fine of Rs. One lakh or both
2	Cheating by personation (Pretending to be some other person, or knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.)	Section 66D	Either imprisonment for three years or a fine of Rs. One lakh or both.
3	Violation of privacy (Whoever, intentionally or knowingly captures, publishes or transmits the image of a private area of any person without their consent, under the circumstances violating the privacy of that person)	Section 66E	Either imprisonment for up to three years or a fine of Rs. Two lakhs or both
4	Cyber terrorism (E.g., Spreading viruses in millions of computers)	Section 66F	Life imprisonment
5	Transmitting obscene material in electronic form. (Sending someone pornography without them asking for the same.	Section 67	Imprisonment of 5 years and a fine of Rs. 10 lakhs.
6	Transmission of any material containing sexually explicit acts through an electronic mode. (Sending someone sexually intimate videos or photos or in any other way, through any electronic device)	Section 67A	Imprisonment of 7 years and a fine of Rs. 10 lakhs.
7	Depicting children in sexually explicit form and transmitting such material through electronic mode (E.g., Making a child act in the pornographic video or sharing child pornography videos with others)	Section 67B	Imprisonment of 7 years and a fine of Rs. 10 lakhs.

- Crimes against Women and Children: User Manual for Reporting Cyber Crime Against Women and Children (CP/RGR) - <https://cybercrime.gov.in/UploadMedia/MHA-CitizenManualReportCPRGRcomplaints-v10.pdf>
- Financial Frauds: Citizen Financial Cyber Frauds Reporting and Management System - https://cybercrime.gov.in/UploadMedia/instructions_citizenreportingcyberfrauds.pdf
- Other Cyber Crimes: User Manual for Reporting Cyber Crimes (except Child Pornography, Rape/Gang Rape and Obscene Content related Cybercrimes): <https://cybercrime.gov.in/UploadMedia/MHA-CitizenManualReportOtherCyberCrime-v10.pdf>

10. WOMEN AND CRIMINAL LEGAL SYSTEM

Interacting with the police is daunting, whether as a victim who wants to file a complaint or as an accused. But it need not be. Law has provided some additional provisions specifically for women and transgender persons.

10.1 AS A COMPLAINANT / VICTIM

The following protections have been extended to victims of sexual harassment, sexual assault or rape:

1. The victim can register a complaint from any police station. No police station can refuse to file a FIR. This is known as a Zero FIR.
2. Medical examination of sexual assault victims should be carried out only by or under the supervision of a female, registered medical practitioner.¹²⁴
3. The statement of the victim must be recorded by a judicial magistrate in-camera only. This means that while the victim is recording her statement, only the judicial magistrate, a police officer, and a woman police constable can be present. The woman can request the presence of a friend/family member of her choice. It must be ensured that no third person can overhear the statement.¹²⁵
4. The identity of the victim cannot be disclosed except with the written permission of the victim.¹²⁶ It is illegal to print or publish the name, photograph or any other detail that would make it possible for people to identify (such as profession, place of work, or religious identity) of the victim.
5. In cases involving charges of rape, once sexual intercourse has been established, the Court must presume that the woman did not consent to the intercourse.¹²⁷
6. The character or previous sexual history of the victim (even with the accused) is not relevant.¹²⁸

¹²⁴ Section 53(2), Code of Criminal Procedure, 1973

¹²⁵ Section 164, Code of Criminal Procedure, 1973

¹²⁶ Section 228A of the Indian Penal Code, 1973

¹²⁷ Section 114A, Indian Evidence Act, 1872

¹²⁸ Section 53A, the Indian Evidence Act 1872

10.2 AS AN ACCUSED

1. Investigation and interrogation of a woman can only be done made at the residence of the woman in the presence of a woman police constable and her family members and friends. Police cannot compel a woman to come to any other place for interrogation¹²⁹
2. Personal search of an accused woman can only be done by a woman police officer with strict regard for decency
3. No woman can be arrested except in exceptional circumstances after sunset or before sunrise. In exceptional circumstances, the arrest can only be carried out by a woman police officer after making a written report and obtaining prior permission from the concerned Judicial Magistrate of First Class

10.3 REMAND PROCEDURE FOR TRANSGENDER PERSON

Law also provides specifically for the remand procedure of transgender persons. Upon the arrest of a transgender person, a competent medical officer shall perform their medical test, not below the rank of District Medical Officer. The predominant sex orientation shall be determined and produced before the magistrate in the form of a medical report. Based on the medical report, the Magistrate shall pass an order to detain them in the Men's or Women's Prisons, depending on the predominant sex. The jail authorities are also obligated to provide necessary safeguards to ensure that no inconvenience is caused to the transgender person by the other inmates.¹³⁰

It might be possible to register a complaint online for certain complaints. This service is provided by the police of different states. For example, in Tamil Nadu, online complaints can be filed to report missing persons, jewel snatching, cyber offences, rape, eve teasing, marital offences etc. The Portal for filing online complaints in Tamil Nadu is: <https://eservices.tnpolice.gov.in/CCTNSNICSDC/ComplaintRegistrationPage?0>

¹²⁹ Section 160, Code of Criminal Penal, 1973

¹³⁰ Section 6(11), Criminal Rules of Practice, 2019

11. SPECIAL BODIES DEALING WITH GRIEVANCES PERTAINING TO WOMEN

The problems faced by women are numerous and multi-faceted. Given the history of socioeconomic discrimination against women, India felt the need to set up specialised bodies that focus on improving the status of women. These specialised bodies are empowered to receive complaints from women on various issues and provide appropriate assistance. Three such bodies are discussed in this section.

11.1 NATIONAL COMMISSION FOR WOMEN

The National Commission for Women was set up under the National Commission for Women Act, 1990. It aims to achieve the constitutional mandate of equality and dignity for all women by reviewing the status of women, suggesting remedial legislative measures, conducting promotional and educational research activities, promoting legal awareness etc. The National Commission for Women receives complaints on various issues and responds through appropriate interventions. These complaints are handled by the **Complaint and Investigation Cell**.

- ❖ Anyone can file complaints to the NCW
- ❖ Complaints may pertain to any deprivation of women's rights or non-compliance with any guidelines issued for the welfare of women. NCW mainly focuses on 23 broad areas:
 1. Rape/ Attempt to rape
 2. Acid Attack
 3. Sexual Assault
 4. Sexual harassment
 5. Stalking/Voyeurism
 6. Trafficking/prostitution of women
 7. Outraging modesty of women/molestation
 8. Cybercrimes against women

9. Police Apathy against Women
10. Harassment of married women/Dowry Harassment
11. Dowry Death
12. Bigamy/Polygamy
13. Protection of women against Domestic Violence
14. Women's right of custody of children/Divorce
15. Right to exercise choice in marriage / Honour Crimes
16. Right to live with dignity
17. Sexual Harassment of Women at the Workplace
18. Denial of maternity benefits to women
19. Gender discrimination, including equal rights to education and work
20. Indecent representation of women
21. Sex-Selective Abortions; Female Foeticide/Amniocentesis
22. Traditional practices derogatory to women's rights like Sati Pratha, Devadasi Pratha and Witch-Hunting
23. Free legal aid for women.

- ❖ Complaints may be filed using the portal: <https://ncwapps.nic.in/onlinecomplaintsv2/> or by writing to "The Complaint and Investigation Cell, National Commission for Women, Plot no. 21 Jasola Institutional Area, New Delhi – 110025".

In case of an emergency, contact 112 or 1091 (women's helpline) or 181 (domestic abuse helpline).

In case of violence against women, the National Commission for Women helpline may be contacted at 7827170170

- ❖ The Commission can also take up *suo moto* cognisance¹³¹ of matters that involve violation/deprivation of the rights of women, non-implementation of laws enacted to protect women, or non-compliance of policy decisions, guidelines or instructions aimed at mitigating hardships and ensuring welfare and empowerment of women. NCW can take *suo moto* cognisance based on information received from print, electronic, social media or any other source.
- ❖ The complaint must contain the following information:
 - Contact details of the complainant (mandatory) and the respondent (if available)
 - Complete details of the matter reported

¹³¹ Section 10(1)(f) of the National Commission for Women Act, 1990

- Details of remedies already exhausted, such as approaching the police, filing complaints with other authorities etc.
 - Supporting documents (if any)
 - Specific relief/intervention sought from the National Commission for Women
- ❖ Complainants can track the status of their complaints on the portal. NCW also provides information on the status of complaints over the phone or through personal visits to the Commission.

The National Commission for Women cannot provide remedy or relief by themselves. However, the involvement of the Commission can make a significant difference in expediting matters. NCW can also provide the victims with the required resources to deal with the issue.

- ❖ The National Commission for Women has a number of options to deal with the complaints:
- For serious crimes, the Commission may constitute an Inquiry Committee.¹³² The Inquiry Commission can make spot enquiries, examines various witnesses, collects evidence and submits the report with recommendations. Such investigations help in providing immediate relief and justice to the victims of violence and atrocities.
 - The NCW may intervene in police investigations and ensure that these investigations are expedited.
 - Family disputes may be resolved or compromised through counselling or hearing before the Commission.
 - Where relevant, complaints may be forwarded to the respective State Commissions for Women or other forums, such as the National Human Rights Commission, National Commission for Scheduled Caste/Scheduled Tribe, etc., and request for the disposal of the complaints at their end.
 - With respect to complaints related to sexual harassment of women at their workplaces, the Commission regularly monitors and takes up these complaints with the concerned organisations/departments to expedite their disposal in accordance with the law.

Every organisation/institution is required to constitute an Internal Complaints Committee (ICC) as per the mandatory provisions Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 in order to look into complaints of sexual harassment. For further details on the Act, please refer to [Section 3.4](#)

- ❖ NCW will not entertain complaints if:
- The complaint is illegible, unclear; anonymous, or pseudonymous
 - The issue involves a civil dispute, such as matters dealing with contracts, property disputes

¹³² Section 8(1), National Commission for Women

- The issue raised relates to service matters not involving any deprivation of women’s rights
- The issue raised relates to labour/industrial disputes not involving any deprivation of women’s rights
- Matter is pending before a Court/Tribunal, a State Commission or has already been decided by the NCW
- Matter is outside the purview of the National Commission for Women on any other ground.

11.2 NATIONAL LEGAL SERVICES AUTHORITY

The National Legal Services Authority of India (NALSA), constituted under the Legal Services Authorities Act, 1987, is an organisation that provides competent legal services to the weaker sections of society who cannot afford lawyers for the conduct of a case or a legal proceeding in any court, tribunal or before an authority. These services are provided at no cost. At the state level, the State Legal Services Authorities have been constituted. Similar authorities exist at the District and Taluk level as well.

The Legal Services Authorities provide services to the following categories of persons:

1. Persons with disabilities
2. Women
3. Children
4. Persons belonging to the Scheduled Castes and Scheduled Tribes
5. Victims of poverty and those with annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a court other than the Supreme Court, and less than rupees twelve thousand or such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.
6. Victims of Human Trafficking
7. Persons in custody
8. Industrial workers
9. Victims of natural disasters, ethnic or communal violence, or industrial disasters.¹³³

A person in need of free legal services can approach the concerned authority or committee through an application which could either be made by sending in a written form or by filling up the forms prepared by the said authorities stating, in brief, the reason for seeking legal aid or can be made orally in which case an officer of the concerned legal services authority or a paralegal volunteer can assist the person. Alternatively, requests for legal aid may also be filed online:

¹³³ Section 12, Legal Services Authorities Act, 1987

<https://nalsa.gov.in/lisams/nologin/applicationFiling.action;jsessionid=7424F7DBD549A8EBEF691B8C72D09D60?requestLocale=null>.

Applications may be filed in ten different Indian languages.

Free legal services may be availed in civil and criminal matters. Legal aid includes:

- a) Advising on any legal matter
- b) Drafting of legal documents, petitions etc.
- c) Preparation of pleadings, including printing and translating documents in legal proceedings
- d) Representation by an Advocate in legal proceedings
- e) Rendering of any service in the conduct of any case or other legal proceeding before any court or other Authority or tribunal
- f) Aid and advice to the beneficiaries to access the benefits under the welfare statutes and schemes framed by the Central Government or the State Government and to ensure access to justice in any other manner

REFERENCES

Acts:

1. Code of Criminal Penal, 1973
2. Dissolution of Muslim Marriage Act, 1939
3. Divorce Act, 1869
4. Dowry Prohibition Act, 1961
5. Equal Remuneration Act, 1976
6. Factories Act, 1948
7. Guardians and Wards Act, 1890
8. Hindu Succession Act, 1956
9. Indian Evidence Act, 1872
10. Indian Penal Code, 1860
11. Legal Services Authorities Act, 1987
12. Majority Act, 1875
13. Maternity Benefit Act, 1961
14. Medical Termination of Pregnancy Act, 1971
15. National Commission for Women Act, 1990
16. Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994
17. Protection of Children from Sexual Offences Act, 2012
18. Protection of Women from Domestic Violence Act 2005
19. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
20. Transgender Persons (Protection of Rights) Act, 2019

Cases:

1. Laxmi v Union of India and Others, (2014) 4 SCC 427

2. Githa Hariharan v. Reserve Bank of India, (1992) 2 SCC 228
3. X v. The Principal Secretary, Health and Family Welfare Department and Anr., Appeal No 5802 of 2022 (Arising out of SLP (C) No 12612 of 2022) Decided on Sept. 29, 2022
4. Netai Ghosh v. State of West Bengal, MANU/WB/0413/2021

Misc:

1. Ministry of Women and Child Development, Handbook on Sexual Harassment of Women at Workplace for Employers / Institutions / Organisations/Internal Complaints Committee / Local Complaints Committee (Prevention, Prohibition and Redressal) Act, 2013 (Nov. 2015)
2. National Legal Service Authority, Compensation Scheme for Women Victims/Survivors of Sexual Assault/other Crimes, (2018) <https://nalsa.gov.in/services/victim-compensation/nalsa-compensation-scheme-for-women-victims-survivors-of-sexual-assault-other-crimes—2018>.
3. Sexual Harassment: Tips for Teenagers and Young Adults, Jagori, 2013, <https://wcd.nic.in/sites/default/files/Sexual%20Harassment%2C%20English-Jagori.pdf>
4. UGC (Prevention, Prohibition and Redressal of Sexual Harassment of women employees and students in Higher Education Institutions) Regulation, 2015
5. The Saksham guidelines: Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses, UGC, 2013 https://www.ugc.ac.in/pdfnews/5873997_saksham-book.pdf
6. User Manual for Reporting Cyber Crime Against Women and Children (CP/RGR), Ministry of Home Affairs, 2019 - <https://cybercrime.gov.in/UploadMedia/MHA-CitizenManualReportCPRGRcomplaints-v10.pdf>
7. Citizen Financial Cyber Frauds Reporting and Management System - https://cybercrime.gov.in/UploadMedia/instructions_citizenreportingcyberfrauds.pdf
8. User Manual for Reporting Cyber Crimes (except Child Pornography, Rape/Gang Rape and Obscene Content related Cybercrimes), Ministry of Home Affairs, 2019, <https://cybercrime.gov.in/UploadMedia/MHA-CitizenManualReportOtherCyberCrime-v10.pdf>

ONLINE PORTALS

1. Cyber Crime Portal: <https://cybercrime.gov.in/>
2. CARA Portal (CARINGS) for adoption: <https://cara.nic.in/parents/parents.html>
3. Complaint and Investigation Cell of National Commission for Women: <https://ncwapps.nic.in/onlinecomplaintsv2/>
4. Request for Legal Aid from the National Legal Services Authority: <https://nalsa.gov.in/lsams/nologin/applicationFiling.action?requestLocale=en>
5. Tamil Nadu online complaints (FIR) portal: <https://eservices.tnpolice.gov.in/CCTNSNICSDC/ComplaintRegistrationPage?0>

HELPLINE NUMBERS

S.No.	Agency	Number
1	National Emergency Helpline	112
2	Police	100
3	Women helpline	1091
4	Women helpline (domestic abuse)	181
5	Child Helpline	1098
6	Senior Citizen Helpline	14567
7	National Human Trafficking	1-888-373-7888
8	Cyber Crimes	1930
9	CARA	1800-11-1311
10	National Commission for Women Helpline	7827170170

About The Book

India has a rich, long and varied history. An unfortunate element of this history has been discrimination and exclusionary practices. For centuries, several classes of persons have been oppressed and denied opportunities on innumerable grounds such as caste, economic status, place of birth, religion, gender etc. Among these classes, women and transgender persons are significant as they constitute about 50% of the nation's population.

The constitution of India strives to achieve equality for all persons. To ensure the same, various laws have been enacted, throughout the history of independent India, to protect women, fight bias, counter discrimination, and further women's rights. In recent times, laws to protect the rights of transgender persons have also been brought in.

An important factor in achieving equality and promoting rights is the awareness of the laws governing them. Unfortunately, this has been a challenge in India. Laws are multifarious and complex; laypersons often need help accessing and understanding.

To take laws regarding women and transgender persons to all, the students of the Department of Law, along with me, have come forward to present a collection of laws relating to gender in a simplified manner. The book focuses on the basic rights of women and laws relating to offences against women, such as dowry, domestic violence., acid attacks etc., cybercrimes, and sexual offences. It has been observed that women are often unaware of their property rights, particularly whom they inherit from and who inherit from them. Thus, inheritance laws pertaining to women, along with laws relating to marriage, divorce, adoption etc., form a central crux of this publication. The book also strives to shed light on the rights and obligations of women when they interact with the criminal legal system (police or courts) in any capacity, be it as a victim, witness or accused.

Editor's Biography



Dr Sangeetha Sriraam is an Assistant Professor at the Department of Law, Central University of Tamil Nadu, Thiruvavur. She is one of the founding faculties of the Legal Department of the University. She was the university gold medalist at the under-graduation level and possessed a Master's in Human Rights Law.

She is among the youngest scholars to gain her doctorate from the National Law School of India University in 2018 for her research on the Right to Self-Determination and its relationship with the Prohibition on the Use of Force. She has several publications to her credit as well. She specialises in Public International Law, Constitutional Law, and Human Rights Law, and her research interests include Gender Justice, Reproductive Rights, Personal Autonomy, and Organ and Tissue Donation, amongst others.

THE PUBLICATION CELL
Central University of Tamil Nadu
Thiruvavur - 610 005

ISBN: 978-81-961610-1-9

September 2023