

# NATIONAL COMMISSION FOR WOMEN

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(A Competition to create awareness on legal rights of women)

## **FUNDAMENTAL RIGHTS, DIRECTIVE PRINCIPLES AND FUNDAMENTAL DUTIES OF INDIA:**

The Preamble of the Constitution of India - India declaring itself as a country.

The Fundamental Rights, Directive Principles of State Policy and Fundamental Duties are sections of the Constitution of India that prescribe the fundamental obligations of the State to its citizens and the duties of the citizens to the State. These sections comprise a constitutional bill of rights for government policy-making and the behaviour and conduct of citizens. These sections are considered vital elements of the constitution, which was developed between 1947 and 1949 by the Constituent Assembly of India.

The Fundamental Rights are defined as the basic human rights of all citizens. These rights, defined in Part III of the Constitution, apply irrespective of race, place of birth, religion, caste, creed, or gender. They are enforceable by the courts, subject to specific restrictions.

The Directive Principles of State Policy are guidelines for the framing of laws by the government. These provisions, set out in Part IV of the Constitution, are not enforceable by the courts, but the principles on which they are based are fundamental guidelines for governance that the State is expected to apply in framing and passing laws.

The Fundamental Duties are defined as the moral obligations of all citizens to help promote a spirit of patriotism and to uphold the unity of India. These duties, set out in Part IV-A of the Constitution, concern individuals and the nation. Like the Directive Principles, they are not enforceable by the law.

The Fundamental Rights and Directive Principles had their origins in the Indian independence movement, which strove to achieve the values of liberty and social welfare as the goals of an independent Indian state. The development of constitutional rights in India was inspired by historical documents such as England's Bill of Rights, the United States Bill of Rights and France's Declaration of the Rights of Man. The demand for civil liberties formed an important part of the Indian independence movement, with one of the objectives of the Indian National Congress (INC) being to end discrimination between the British rulers and their Indian subjects. This demand was explicitly mentioned in resolutions adopted by the INC between 1917 and 1919. The demands articulated in these resolutions included granting to Indians the rights to equality before law, free speech, trial by juries composed at least half of Indian members, political power, and equal terms for bearing arms as British citizens.

The experiences of the First World War, the unsatisfactory Montague-Chelmsford reforms of 1919, and the rise to prominence of M. K. Gandhi in the Indian independence movement marked a change in the attitude of its leaders towards articulating demands for civil rights. The focus shifted from demanding equality of status between Indians and the British to assuring liberty for all Indians. The Commonwealth of India Bill, drafted by Annie Beasant in 1925, specifically

included demands for seven fundamental rights - individual liberty, freedom of conscience, free expression of opinion, freedom of assembly, non-discrimination on the ground of sex, free elementary education and free use of public spaces. In 1927, the INC resolved to set up a committee to draft a "Swaraj Constitution" for India based on a declaration of rights that would provide safeguards against oppression. The 11-member committee, led by Motilal Nehru, was constituted in 1928. Its report made a number of recommendations, including proposing guaranteed fundamental rights to all Indians. These rights resembled those of the American Constitution and those adopted by post-war European countries, and several of them were adopted from the 1925 Bill. Several of these provisions were later replicated in various parts of the Indian Constitution, including the Fundamental Rights and Directive Principles.

## **Directive Principles of State Policy:**

### **Directive Principles in India:**

The Directive Principles of State Policy, embodied in Part IV of the Constitution, are directions given to the state to guide the establishment of an economic and social democracy, as proposed by the Preamble. They set forth the humanitarian and socialist instructions that were the aim of social revolution envisaged in India by the Constituent Assembly. The state is expected to keep these principles in mind while framing laws and policies, even though they are non-justifiable in nature. The Directive Principles may be classified under the following categories: ideals that the state ought to strive towards achieving; directions for the exercise of legislative and executive power; and rights of the citizens which the State must aim towards securing.

Despite being non-justifiable, the Directive Principles act as a check on the state; theorized as a yardstick in the hands of the electorate and the opposition to measure the performance of a government at the time of an election. Article 37, while stating that the Directive Principles are not enforceable in any court of law, declares them to be "fundamental to the governance of the country" and imposes an obligation on the State to apply them in matters of legislation.[84] Thus, they serve to emphasize the welfare state model of the Constitution and emphasize the positive duty of the state to promote the welfare of the people by affirming social, economic and political justice, as well as to fight income inequality and ensure individual dignity, as mandated by Article 38.

Article 39 lays down certain principles of policy to be followed by the State, including providing an adequate means of livelihood for all citizens, equal pay for equal work for men and women, proper working conditions, reduction of the concentration of wealth and means of production from the hands of a few, and distribution of community resources to "sub serve the common good". These clauses highlight the Constitutional objectives of building an egalitarian social order and establishing a welfare state, by bringing about a social revolution assisted by the State, and have been used to support the nationalization of mineral resources as well as public utilities. Further, several legislation pertaining to agrarian reform and land tenure have been enacted by the federal and state governments, in order to ensure equitable distribution of land resources.

Articles 41-43 mandate the State to endeavour to secure to all citizens the right to work, a living wage, social security, maternity relief, and a decent standard of living. These provisions aim at establishing a socialist state as envisaged in the Preamble.[91] Article 43 also places upon the State the responsibility of promoting cottage industries, and the federal government has, in furtherance of this, established several Boards for the promotion of khadi, handlooms etc., in

coordination with the state governments. Article 39A requires the State to provide free legal aid to ensure that opportunities for securing justice are available to all citizens irrespective of economic or other disabilities. Article 43A mandates the State to work towards securing the participation of workers in the management of industries. The State, under Article 46, is also mandated to promote the interests of and work for the economic uplift of the scheduled castes and scheduled tribes and protect them from discrimination and exploitation. Several enactments, including two Constitutional amendments, have been passed to give effect to this provision.

### **Fundamental Duties:**

Any act of disrespect towards the Indian National Flag is illegal.

The Fundamental Duties of citizens were added to the Constitution by the 42nd Amendment in 1976, upon the recommendations of the Swaran Singh Committee that was constituted by the government earlier that year. Originally ten in number, the Fundamental Duties were increased to eleven by the 86th Amendment in 2002, which added a duty on every parent or guardian to ensure that their child or ward was provided opportunities for education between the ages of six and fourteen years. The other Fundamental Duties obligate all citizens to respect the national symbols of India, including the Constitution, to cherish its heritage, preserve its composite culture and assist in its defense. They also obligate all Indians to promote the spirit of common brotherhood, protect the environment and public property, develop scientific temper, abjure violence, and strive towards excellence in all spheres of life. However, many of these are non-justifiable, without any legal sanction in case of their violation or non-compliance. There is reference to such duties in international instruments such as the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights, and Article 51A brings the Indian Constitution into conformity with these treaties.

The Fundamental Duties noted in the constitution are as follows:

It shall be the duty of every citizen of India -

- " To abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem;
- " To cherish and follow the noble ideals which inspired our national struggle for freedom;
- " To uphold and protect the sovereignty, unity and integrity of India;
- " To defend the country and render national service when called upon to do so;
- " To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women;
- " To value and preserve the rich heritage of our composite culture;
- " To protect and improve the natural environment including forests, lakes, rivers, wildlife and to have compassion for living creatures;
- " To develop the scientific temper, humanism and the spirit of inquiry and reform;
- " To safeguard public property and to abjure violence;

" To strive towards excellence in all spheres of individual and collective activity, so that the nation constantly rises to higher levels of endeavour and achievement;

" Who is a parent or guardian, to provide opportunities for education to his child, or as the case may be, ward between the age of six to fourteen years.

(This fundamental duty has been added to the Constitution of India by the 86th constitutional amendment in 2002)

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## **THE NATIONAL COMMISSION FOR WOMEN ACT, 1990:**

The National Commission for Women Act was passed in the year 1990 by the notification of Central Government in the Official Gazette. As there was lack of constitutional, economical and social interest to protect the women in India they faced many problems and injustices caused to them. Government considered as handicapped as they lacked policies to face the problem of women, need for certain Commission to look in to the grievances of women. The National Commission for Women established in January 1992 under the Indian Constitution as defined in National Commission for Women Act, 1990. Central Government laid the structure for formation of Commission by passing the bill in Lok Sabha in May 1990, the bill was passed and received the president assent on 30th August 1990. The first Commission was constituted on January 31 1992 as Jayanti patnaik as the chairperson to assist the women in redressal of their grievances

## **THE DOWRY PROHIBITION ACT, 1961, (Act No. 28 of 1961)(20th May, 1961)**

### **An Act to prohibit the giving or taking of dowry**

Be it enacted by Parliament in the Twelfth Year of the Republic of India as follows:

#### **1. Short title, extent and commencement.**

(1) This Act may be called the Dowry Prohibition Act, 1961. It extends to the whole of India except the State of Jammu and Kashmir. It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

#### **2. Definition of `dowry`.**

In this act, `dowry` means any property or valuable security given or agreed to be given either directly or indirectly:

- a. by one party to a marriage to the other party to the marriage; or
- b. by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person;at or before or any time after the marriage in connection with the marriage of said parties but does not include dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies.

Explanation II.-The expression `valuable security` has the same meaning as in Sec. 30 of the Indian Penal Code (45 of 1860).

#### **3. Penalty for giving or taking dowry.-**

(1) If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment for a term which shall not be less than five years, and with the fine which shall not be less than fifteen thousand rupees or the amount of the value of such dowry, whichever is more:

Provided that the Court may, for adequate and special reasons to be recorded in the judgment, impose a sentence of imprisonment for a term of less than five years.

\* \* \* Explanation I omitted by Sec.2 w.e.f 2nd October, 1985

(2) Nothing in sub-section (1) shall apply to or, in relation to,-

presents which are given at the time of a marriage to the bride (without nay demand having been made in that behalf):

Provided that such presents are entered in list maintained in accordance with rule made under this Act;

presents which are given at the time of marriage to the bridegroom (without any demand having been made in that behalf):

Provided that such presents are entered in a list maintained in accordance with rules made under this Act;

Provided further that where such presents are made by or on behalf of the bride or any person related to the bride, such presents are of a customary nature and the value thereof is not excessive having regard to the financial status of the person by whom, or on whose behalf, such presents are given.

4. **Penalty for demanding dowry.-**

(1) If any person demands directly or indirectly, from the parents or other relatives or guardian of a bride or bridegroom as the case may be, any dowry, he shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to two years and with fine which may extend to ten thousand rupees:

Provided that the Court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months.

**Agreement for giving or taking dowry to be void:** Any agreement for the giving or taking of dowry shall be void.

5. **Dowry to be for the benefit of the wife or heirs.**

(1) Where any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman –

- a. if the dowry was received before marriage, within three months after the date of marriage; or
- b. if the dowry was received at the time of or after the marriage within three months after the date of its receipt; or
- c. if the dowry was received when the woman was a minor, within three months after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman.

(2) If any person fails to transfer any property as required by sub-section (1) within the time limit specified therefor or as required by sub-section(3), he shall be punishable with imprisonment for a term which shall not be less than six months, but which may extend two years or with fine which shall not be less than five thousand rupees, but which may extend to ten thousand rupees or with both.

(3)Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being:

if she has no children, be transferred to her parents, or

if she has children, be transferred to such children and pending such transfer, be held in trust for such children.

(4)Nothing contained in this section shall affect provisions of Sec. 3 or Sec. 4.

#### 6. Cognisance of offences.-

(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2of 1974),- no Court inferior to that of a Metropolitan magistrate or a Judicial Magistrate of the first class shall try any offence under this Act; no Court shall take cognizance of an offence under this Act except upon –

- i. its own knowledge or a police report of the facts which constitute such offence, or
- ii. a complaint by the person aggrieved by offence or a parent or other relative of such person, or by any recognized welfare institution or organization:

Explanation.- For the purposes of this sub-section, "recognised welfare institution or organization" means a social welfare institution or organization recognized in this behalf by the Central or State Government.

#### **Offences to be cognizable for certain purposes and to be bailable and non-compoundable.**

(1) The Code of Criminal Procedure, 1973 (2 of 1974) shall apply to offences under this Act as of they were cognizable offences-

- c. for the purpose of investigation of such offences; and
- d. for the purpose of matters other than-
  - i. matters referred to in Sec. 42 of that Code, and
  - ii. the arrest of person without a warrant or without an order of a Magistrate.

(2) Every offence under this Act shall be non-bailable and non-compoundable.

#### **Power to make rules:**

(1) The Central Government may, by notification in the official Gazettee, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- . the form and manner in which, and the persons by whom, any list of presents referred to in sub-section (2) of Sec. 3 shall be maintained and all other matters connected therewith; and
- a. the better co-ordination of policy and action with respect to the administration of this Act.

(3)Every rules made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of

the session immediately following the session or the successive sessions aforesaid both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be, of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**Power of the State Government to make rules.-**

The State Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

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

- . the additional functions to be performed by the Dowry Prohibition Officers under sub-section(2) of Sec. 8-B;
- a. limitations and conditions subject to which a Dowry Prohibition Officer may exercise his functions under sub-section (3) of Sec. 8-B.

(3) Every rule made by the State Government under this section shall be laid as soon as may be after it is made before the State Legislature.

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**THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT 2005:**

It is an Act of the Parliament of India enacted to protect women from domestic violence. It was brought into force by the Indian government from 26 October 2006. The Act provides for the first time in Indian law a definition of "domestic violence", with this definition being broad and including not only physical violence, but also other forms of violence such as emotional/verbal, sexual, and economic abuse. It is a civil law meant primarily for protection orders and not meant to penalize criminally.<sup>[1]</sup> The act does not extend to Jammu and Kashmir, which has its own laws, and which enacted in 2010 the Jammu and Kashmir Protection of Women from Domestic Violence Act, 2010.<sup>[2]</sup>

The salient features of the Protection from Domestic Violence Act, 2005 are as follows:

- The Act seeks to cover those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or a relationship in the nature of marriage, or adoption; in addition relationship with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with them are entitled to get legal protection under the proposed Act.
- "Domestic violence" includes actual abuse or the threat of abuse that is physical, sexual, verbal, emotional and economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.
- One of the most important features of the Act is the woman's right to secure housing. The Act provides for the woman's right to reside in the matrimonial or shared household, whether or not she has any title or rights in the household. This right is secured by a

residence order, which is passed by a court. These residence orders cannot be passed against anyone who is a woman.

- The other relief envisaged under the Act is that of the power of the court to pass protection orders that prevent the abuser from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequented by the abused, attempting to communicate with the abused, isolating any assets used by both the parties and causing violence to the abused, her relatives and others who provide her assistance from the domestic violence.
- The draft Act provides for appointment of Protection Officers and NGOs to provide assistance to the woman w.r.t medical examination, legal aid, safe shelter, etc.
- The Act provides for breach of protection order or interim protection order by the respondent as a cognizable and non-bailable offence punishable with imprisonment for a term which may extend to one year or with fine which may extend to twenty thousand rupees or with both. Similarly, non-compliance or discharge of duties by the Protection Officer is also sought to be made an offence under the Act with similar punishment.

While "economic abuse" includes deprivation of all or any economic or financial resources to which the victim is entitled under any law or custom whether payable under an order of a Court or otherwise or which the victim requires out of necessity including, but not limited to, household necessities for the aggrieved person and her children, if any, stridhan, property, jointly or separately owned by her, payment of rental related to the shared household and maintenance and disposal of household effects, any alienation of assets whether movable or immovable, valuables, shares, securities, bonds and the like or other property in which the victim has an interest or is entitled to use by virtue of the domestic relationship or which may be reasonably required by the victim or her children or her stridhan or any other property jointly or separately held by the victim and prohibition or restriction to continued access to resources or facilities which the victim is entitled to use or enjoy by virtue of the domestic relationship including access to the shared household, "physical abuse" means any act or conduct which is of such a nature as to cause bodily pain, harm or danger to life, limb, or health or impair the health or development of the victim and includes assault, criminal intimidation and criminal force.

#### Duties of Authorities

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The law imposes certain duties on the main authorities responsible for enforcing this law. When a police officer, Protection Officer, Service Provider or Magistrate comes to know that someone is suffering from domestic violence, they must inform the victim of the following rights:

- The victim can apply for any of the reliefs recognized under this law i.e. a protection order, monetary relief, custody order, residence order or a compensation order.
- The victim can use the services of certain official Service Providers.
- The victim can approach a Protection Officer and ask them for help.
- The victim can ask for free legal aid.
- The victim can also file a criminal complaint under the general law on crimes (the Indian Penal Code, 1860). Please note that filing a criminal complaint can put the offenders in jail for up to three years. The victim must have suffered a graver degree of abuse (i.e. cruelty) to be able to file a complaint.

An application regarding domestic violence can be presented to the magistrate seeking one or more reliefs mentioned in sections by:

- The aggrieved person,
- Protection officer on behalf of aggrieved person
- Any other person on behalf of aggrieved person

#### **Jurisdiction of court**[edit]

The first class magistrate court or metropolitan court shall be the competent court within the local limits of which

- The aggrieved person permanently or temporary resides or carries on business or is employed
- The respondent permanently or temporally resides or carries on business or is employed or
- The cause of action arises.

#### ***Monetary relief:***

The magistrate may direct the respondent to pay monetary relief to meet the expenses of the aggrieved person and any child as a result of domestic violence and such relief include

- Loss of earnings
- Medical expenses
- Loss caused due to destruction or removal or damage of any property
- Pass order as to maintenance for the aggrieved person as well as her children if any

Including the order under or in addition to an order of maintenance under section 125 criminal procedure code or any other law.

The quantum of relief shall be fair reasonable and consistent with the standard of living to which the aggrieved person is accustomed to. Magistrate can order a lump sum amount also . On failure of the respondent to make payment of this order, magistrate shall order employer or debtor of the respondent to directly pay to the aggrieved person or to deposit in the court a portion of the salary or wage due to the respondent. Magistrate can order a lump sum amount also . On failure of the respondent to make payment of this order, magistrate shall order employer or debtor of the respondent to directly pay to the aggrieved person or to deposit in the court a portion of the salary or wage due to the respondent.

#### ***Custody orders:***

Magistrate can grant temporary custody of any child or children to the aggrieved person or to the person making application on her behalf and specify the arrangements for visit of such child by the respondent. Magistrate can refuse the visit of such respondent in such case if it may harmful to the interest of the child.

### ***Compensation orders:***

Magistrate may pass order directing the respondent to pay compensation to the petitioner for injuries including mental torture and emotional distress caused by the acts of domestic violence committed by the respondent.

Copies of orders passed by the magistrate shall be supplied free of cost to the parties concerned and police officer and service provider

Any relief available under this Act may also be sought in any other legal proceedings before a civil court, family court or criminal court and such relief may be sought in addition to and along with relief sought for in suit, or legal proceeding before civil or criminal court.

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## **THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013:**

It is a legislative act in India that seeks to protect women from sexual harassment at their place of work. It was passed by the Lok Sabha (the lower house of the Indian Parliament) on 3 September 2012. It was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. The Bill got the assent of the President on 23 April 2013. The Act came into force from 9 December 2013. This statute superseded the Vishakha Guidelines for prevention of sexual harassment introduced by the Supreme Court of India. It was reported by the International Labour Organization that very few Indian employers were compliant to this statute. Most Indian employers have not implemented the law despite the legal requirement that any workplace with more than 10 employees need to implement it. According to a FICCI-EY November 2015 report, 36% of Indian companies and 25% among MNCs are not compliant with the Sexual Harassment Act, 2013. The government has threatened to take stern action against employers who fail to comply with this law.

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### **What is this Act about?**

The Sexual Harassment of Women at Workplace (Prevention, Prohibition And Redressal) Act, 2013 makes it illegal to sexually harass women in the workplace. It talks about the different ways in which someone can be sexually harassed and how they can complain against this kind of behaviour.

### **Is this Act only for women?**

Yes, this Act is only for women who are sexually harassed in workplaces.

### **Is this Act only for working women?**

No, this Act is for any woman who is harassed in any workplace. It is not necessary for the woman to be working at the workplace in which she is harassed. A workplace can be any office, whether government or private.

### **There is no sexual harassment at my office. Do I still have to follow the instructions regarding setting up an Internal Complaints Committee?**

Yes, even if there are no cases of sexual harassment at the moment, it is still necessary for the committee to be set up (if you employ more than 10 workers) and for all rules to be followed.

### **Am I not allowed to approach the police and courts because of this Act?**

No, the Act gives you a choice between dealing with the offender within the office or approaching a court. If you wish, you can file a criminal complaint instead of approaching your Internal/Local Complaints Committee.

The Act uses a definition of sexual harassment which was laid down by the Supreme Court of India in Vishaka v. State of Rajasthan (1997). Article 19 (1) g of the Indian Constitution affirms the right of all citizens to be employed in any profession of their choosing or to practice their own trade or business. Vishaka v. State of Rajasthan established that actions resulting in a violation of one's rights to 'Gender Equality' and 'Life and Liberty' are in fact a violation of the victim's fundamental right under Article 19 (1) g. The case ruling establishes that sexual harassment violates a woman's rights in the workplace and is thus not just a matter of personal injury.

Under the Act, which also covers students in schools and colleges as well as patients in hospitals, employers and local authorities will have to set up grievance committees to investigate all complaints. Employers who fail to comply will be punished with a fine of up to 50,000 rupees.

The legislative progress of the Act has been a lengthy one. The Bill was first introduced by women and child development minister Krishna Tirath in 2007 and approved by the Union Cabinet in January 2010. It was tabled in the Lok Sabha in December 2010 and referred to the Parliamentary Standing Committee on Human Resources Development. The committee's report was published on 30 November 2011. In May 2012, the Union Cabinet approved an amendment to include domestic workers. The amended Bill was finally passed by the Lok Sabha on 3 September 2012. The Bill was passed by the Rajya Sabha (the upper house of the Indian Parliament) on 26 February 2013. It received the assent of the President of India and was published in the Gazette of India, Extraordinary, Part-II, Section-1, dated 23 April 2013 as Act No. 14 of 2013.

### **Major Features:**

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- The Act defines sexual harassment at the work place and creates a mechanism for redressal of complaints. It also provides safeguards against false or malicious charges.
- The Act also covers concepts of 'quid pro quo harassment' and 'hostile work environment' as forms of sexual harassment if it occurs in connection with an act or behaviour of sexual harassment.
- The definition of "aggrieved woman", who will get protection under the Act is extremely wide to cover all women, irrespective of her age or employment status, whether in the organised or unorganised sectors, public or private and covers clients, customers and domestic workers as well.
- While the "workplace" in the Vishaka Guidelines is confined to the traditional office set-up where there is a clear employer-employee relationship, the Act goes much further to include organisations, department, office, branch unit etc. in the public and private sector, organized and unorganized, hospitals, nursing homes, educational institutions, sports institutes, stadiums, sports complex and any place visited by the employee during the course of employment including the transportation. Even non-traditional workplaces which involve tele-commuting will get covered under this law.
- The Committee is required to complete the inquiry within a time period of 90 days. On completion of the inquiry, the report will be sent to the employer or the District Officer, as the case may be, they are mandated to take action on the report within 60 days.
- Every employer is required to constitute an Internal Complaints Committee at each office or branch with 10 or more employees. The District Officer is required to constitute a Local Complaints Committee at each district, and if required at the block level.
- The Complaints Committees have the powers of civil courts for gathering evidence.
- The Complaints Committees are required to provide for conciliation before initiating an inquiry, if requested by the complainant.
- The inquiry process under the Act should be confidential and the Act lays down a penalty of Rs 5000 on the person who has breached confidentiality.
- The Act requires employers to conduct education and sensitization programmes and develop policies against sexual harassment, among other obligations.

- Penalties have been prescribed for employers. Non-compliance with the provisions of the Act shall be punishable with a fine of up to ₹ 50,000. Repeated violations may lead to higher penalties and cancellation of license or registration to conduct business.
- Government can order an officer to inspect workplace and records related to sexual harassment in any organization.

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## **THE CRIMINAL LAW (AMENDMENT) ORDINANCE, 2013:**

### **New offences:**

This new Act has expressly recognized certain acts as offences which were dealt under related laws. These new offences like, acid attack, sexual harassment, voyeurism, stalking have been incorporated into the Indian Penal Code:

<b>Section</b>	<b>Offence</b>	<b>Punishment</b>	<b>Notes</b>
326A	<u>Acid attack</u>	Imprisonment not less than ten years but which may extend to imprisonment for life and with fine which shall be just and reasonable to meet the medical expenses and it shall be paid to the victim	Gender neutral
326B	Attempt to Acid attack	Imprisonment not less than five years but which may extend to seven years, and shall also be liable to fine	Gender neutral
354A	<u>Sexual harassment</u>	Rigorous imprisonment up to three years, or with fine, or with both in case of offence described in clauses (i), (ii) or (iii)  Imprisonment up to one year, or with fine, or with both in other cases	Only protects women. Provisions are:  i. physical contact and advances involving unwelcome and explicit sexual overtures; or ii. a demand or request for sexual favours; or iii. making sexually coloured remarks; or iv. forcibly showing pornography; or v. any other unwelcome physical, verbal or non-verbal conduct of sexual nature.
354B	Act with intent to disrobe a woman	Imprisonment not less than three years but which may extend to seven years and with fine.	Only protects women against anyone who "Assaults or uses criminal force to any woman or abets such act with the intention of disrobing or

			compelling her to be naked."
354C	<u>Voyeurism</u>	In case of first conviction, imprisonment not less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.	Only protects women. By implication, women may prey voyeuristically upon men with impunity. The prohibited action is defines thus: "Watching or capturing a woman in "private act", which includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy, and where the victim's genitals, buttocks or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the person is doing a sexual act that is not of a kind ordinarily done in public."
354D	<u>Stalking</u>	Imprisonment not less than one year but which may extend to three years, and shall also be liable to fine	Only protects women from being stalked by men. By implication, women may stalk men with impunity. The prohibited action is defined thus: "To follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication. There are exceptions to this section which include such act being in course of preventing or detecting a crime authorised by State or in compliance of certain law or was reasonable and justified."

### Changes in law:

Section 370 of Indian Penal Code (IPC) has been substituted with new sections, 370 and 370A which deals with trafficking of person for exploitation. If a person (a) recruits, (b) transports, (c) harbours, (d) transfers, or (e) receives, a person, by using threats, or force, or coercion, or abduction, or fraud, or deception, or by abuse of power, or inducement for exploitation including prostitution, slavery, forced organ removal, etc. will be punished with imprisonment ranging from at least 7 years to imprisonment for the remainder of that person's natural life depending on the number or category of persons trafficked. Employment of a trafficked person will attract penal provision as well.

Certain changes has been introduced in the CrPC and Evidence Act, like the process of recording the statement of the victim has been made more victim friendly and easy but the two critical changes are: 1. the 'character of the victim' is now rendered totally irrelevant, and 2. there is now a presumption of 'no consent' in a case where sexual intercourse is proved and the victim states in the court that she did not consent.

The Criminal Law (Amendment) Act, 2013:

The Bill was passed by the Lok Sabha on 19 March 2013, and by the Rajya Sabha on 21 March 2013, making certain changes from the provisions in the Ordinance. The Bill received Presidential assent on 2 April 2013 and came into force from 3 April 2013. The changes made in the Act in comparison with the Ordinance are listed as follows:

Offence	Changes
Acid attack	Fine shall be just and reasonable to meet medical expenses for treatment of victim, while in the Ordinance it was fine up to Rupees 10 lakhs.
Sexual harassment	"Clause (v) any other unwelcome physical, verbal or non-verbal conduct of sexual nature" has been removed. Punishment for offence under clause (i) and (ii) has been reduced from five years of imprisonment to three years. The offence is no longer gender-neutral, only a man can commit the offence on a woman.
Voyeurism	The offence is no longer gender-neutral, only a man can commit the offence on a woman.
Stalking	The offence is no longer gender-neutral, only a man can commit the offence on a woman. The definition has been reworded and broken down into clauses, The exclusion clause and the following sentence has been removed "or watches or spies on a person in a manner that results in a fear of violence or serious alarm or distress in the mind of such person, or interferes with the mental peace of such person, commits the offence of stalking". Punishment for the offence has been changed; A man committing the offence of stalking would be liable for imprisonment up to three years for the first offence, and shall also be liable to fine and for any subsequent conviction would be liable for imprisonment up to five years and with fine.
Trafficking of person	"Prostitution" has been removed from the explanation clause

**MATERNITY BENEFITS ACT 1961, ACT UNDER THE MATERNITY BENEFITS ACT,1961:**

The Maternity Benefit Act aims to regulate of employment of women employees in certain establishments for certain periods before and after child birth and provides for maternity and certain other benefits.

The Act extends to the whole of India and is applicable to:

1. Every factory, mine or plantation (including those belonging to Government) and
2. An establishment engaged in the exhibition of equestrian, acrobatic and other performances, irrespective of the number of employees, and
3. To every shop or establishment wherein 10 or more persons are employed or were employed on any day of the preceding 12 months.

The State Government may extend the Act to any other establishment or class or establishments; industrial, commercial, agricultural or otherwise.

However, the Act **does not apply** to any such **factory/other establishment** to which the provisions of the **Employees' State Insurance Act are applicable** for the time being.

But, where the factory/establishment is governed under the Employees' State Insurance Act, and the woman employee is not qualified to claim maternity benefit under section 50 of that Act, because her wages exceed Rs. 3,000 p.m. (or the amount so specified u/s 2(9) of the ESI Act), or for any other reason, then such woman employee is entitled to claim maternity benefit under this Act till she becomes qualified to claim maternity benefit under the E.S.I. Act.

### **WHAT IS MATERNITY BENEFIT?**

Every woman shall be entitled to, and her employer shall be liable for, the payment of maternity benefit, which is the amount payable to her at the rate of the average daily wage for the period of her actual absence.

#### ***Period For Which Benefit Allowed***

The maximum period for which any woman shall be entitled to maternity benefit shall be 12 weeks in all whether taken before or after childbirth. However she cannot take more than six weeks before her expected delivery.

Prior to the amendment of 1989, a woman employee could not avail of the six weeks' leave preceding the date of her delivery; she was entitled to only six weeks leave following the day of her delivery. However, by the above amendment, the position has changed. Now, in case a woman employee does not avail of six weeks' leave preceding the date of her delivery, she can avail of that leave following her delivery, provided the total leave period, i.e. preceding and following the day of her delivery does not exceed 12 weeks.

#### ***Who is Entitled to Maternity Benefit***

1. Every woman employee, whether employed directly or through a contractor, who has actually worked in the establishment for a period of at least 80 days during the 12 months immediately preceding the date of her expected delivery, is entitled to receive maternity benefit.
2. The qualifying period of 80 days shall not apply to a woman who has immigrated into the State of Assam and was pregnant at the time of immigration.

3. For calculating the number of days on which a woman has actually worked during the preceding 12 months, the days on which she has been laid off or was on holidays with wages shall also be counted.
4. There is neither a wage ceiling for coverage under the Act nor there is any restriction as regards the type of work a woman is engaged in.

#### ***Notice For Maternity Benefit***

A woman employee entitled to maternity benefit may give a notice in writing (in the prescribed form) to her employer, stating as follows:

1. that her maternity benefit may be paid to her or to her nominee (to be specified in the notice);
2. that she will not work in any establishment during the period for which she receives maternity benefit; and
3. that she will be absent from work from such date (to be specified by her), which shall not be earlier than 6 weeks before the date of her expected delivery.

The notice may be given during the pregnancy or as soon as possible, after the delivery. On receipt of the notice, the employer shall permit such woman to absent herself from work after the day of her delivery. The failure to give notice, however, does not disentitle the woman to the benefit of the Act.

#### ***Restriction on Employment of Pregnant Women***

1. No employer should knowingly employ a woman during the period of 6 weeks immediately following the day of her delivery or miscarriage or medical termination of pregnancy. Besides, no woman should work in any establishment during the said period of 6 weeks.
2. Further, the employer should not require a pregnant woman employee to do an arduous work involving long hours of standing or any work which is likely to interfere with her pregnancy or cause miscarriage or adversely affect her health, during the period of 1 month preceding the period of 6 weeks before the date of her expected delivery, and any period during the said period of 6 weeks for which she does not avail of the leave.

#### ***Discharge or Dismissal to be Void***

When a pregnant woman absents herself from work in accordance with the provisions of this Act, it shall be unlawful for her employer to discharge or dismiss her during, or on account of, such absence, or give notice of discharge or dismissal in such a day that the notice will expire during such absence or to vary to her disadvantage any of the conditions of her services.

Dismissal or discharge of a pregnant woman shall not disentitle her to the maternity benefit or medical bonus allowable under the Act except if it was on some other ground.

#### ***Other Benefits***

#### **LEAVE FOR MISCARRIAGE AND ILLNESS**

In case of miscarriage or medical termination of pregnancy, a woman shall, on production of the prescribed proof, be entitled to leave with wages at the rate of maternity benefit, for a period of 6 weeks immediately following the day of her miscarriage or medical termination of pregnancy.

#### **LEAVE FOR TUBECTOMY OPERATION**

In case of tubectomy operation, a woman shall, on production of prescribed proof, be entitled to leave with wages at the rate of maternity benefit for a period of two weeks immediately following the day of operation.

### **LEAVE FOR ILLNESS**

Leave for a maximum period of one month with wages at the rate of maternity benefit are allowable in case of illness arising out of pregnancy, delivery, premature birth of child, miscarriage or medical termination of pregnancy or tubectomy operation.

### **MEDICAL BONUS**

Every woman entitled to maternity benefit shall also be allowed a medical bonus of Rs. 250, if no pre-natal confinement and post-natal care is provided for by the employer free of charge.

### ***Duties of Employers***

Important obligations of employers under the Act are:

1. To pay maternity benefit and/or medical bonus and allow maternity leave and nursing breaks to the woman employees, in accordance with the provisions of the Act.
2. Not to engage pregnant women in contravention of section 4 and not to dismiss or discharge a pregnant woman employee during the period of maternity leave.

### ***Right of Employees***

Important rights of an employee are:

1. To make a complaint to the Inspector and claim the amount of maternity benefit improperly withheld by the employer.
2. To appeal against an order of the employer depriving her of the maternity benefit or medical bonus or dismissing or discharging her from service, to the competent authority, within 60 days of the service of such order.

### ***Penalties For Contravention of Act by Employer***

For failure to pay maternity benefit as provided for under the Act, the penalty is imprisonment upto one year and fine upto Rs. 5000. The minimum being 3 months and Rs. 2000 respectively.

For dismissal or discharge of a woman as provided for under the Act, the penalty is imprisonment upto one year and fine upto Rs. 5000. The minimum being 3 months and Rs.2000 respectively.

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## **THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956:**

Introduction Bill No. 58 of 1954 With a view to implement International Convention signed at New York on the 9th May, 1950, " THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMAN AND GIRLS BILL, 1950" was introduced in the Lok Sabha on the 20th December, 1954, by the then Minister K.N. Katj

### **STATEMENT OF OBJECTS AND REASONS:**

- (1) In 1950 the Government of India ratified an International Convention for the Suppression of Immoral Traffic in Persons and the Exploitation of the Prostitution of others. Under Article 23 of the Convention, traffic in human beings is prohibited and any contravention of the prohibition is an offence punishable by law. Under Article 35 such a law has to be passed by Parliament as soon as may be after the commencement of the Constitution.
- (2) Legislation on the subject of suppression of immoral traffic does exist in a few States but the laws are neither uniform nor do they go far enough. In the remaining States there is no bar on the subject at all
- (3) In the circumstances it is necessary and desirable that a Central law should be passed which will not only secure uniformity but also would be sufficiently deterrent for the purpose. But a special feature of the Bill is that it provides that no person or authority other than the State Government shall establish or maintain any protective home except under a license issued by the State Government. This will check the establishment of homes which are really dens for prostitution."

#### **PRINCIPAL ACT:**

The Suppression of Immoral Traffic in Women and Girls Bill, 1954 as amended by the Select Committee vide its Bill No.58 of 1956 and as passed by Parliament received the assent of the President and soon thereafter became an Act of Parliament under the Short title and Number "THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT, 1956 (104 of 1956)" on the 31st December, 1956.

Sections 2 to 25 of the Act came into force in the whole of India on the 1st May, 1958, vide the Central Government's Notification No.GSR 269 dated 14/4/1958 (PREVENTION) ACT, 1956 [104 of 1956] [30th. December, 1956.]

An Act to provide in pursuance of the International Convention signed at New York on the 9th day of May, 1950, for the Prevention of immoral traffic. Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:-

Short title, extent and commencement

- (1) This Act may be called the Immoral Traffic (Prevention) Act, 1956
- (2) It extends to the whole of India.
- (3) This section shall come into force at once; and the remaining provisions of this Act shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

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**Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994:** It is an Act of the Parliament of India enacted to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination.

This process began in the early 1990s when ultrasound techniques gained widespread use in India. There was a tendency for families to continuously produce children until a male child was born. Foetal sex determination and sex selective abortion by medical professionals has today grown into a Rs. 1,000 crore industry (US\$ 244 million). Social discrimination against women and a preference for sons have promoted female foeticide in various forms skewing the sex ratio of the country towards men. According to the decennial Indian census, the sex ratio in the 0-6 age group in India went from 104.0 males per 100 females in 1981, to 105.8 in 1991, to 107.8 in 2001, to 109.4 in 2011. The ratio is significantly higher in certain states such as Punjab and Haryana (126.1 and 122.0, as of 2001).

**OBJECTIVES:** The main purpose of enacting the act is to ban the use of sex selection techniques after conception and prevent the misuse of prenatal diagnostic technique for sex selective abortion.

1. The Act provides for the prohibition of sex selection, before or after conception.
2. It regulates the use of pre-natal diagnostic techniques, like ultrasound and amniocentesis by allowing them their use only to detect :
  - genetic abnormalities
  - metabolic disorders
  - chromosomal abnormalities
  - certain congenital malformations
  - haemoglobinopathies
  - sex linked disorders.
3. No laboratory or centre or clinic will conduct any test including ultrasonography for the purpose of determining the sex of the foetus.
4. No person, including the one who is conducting the procedure as per the law, will communicate the sex of the foetus to the pregnant woman or her relatives by words, signs or any other method.
5. Any person who puts an advertisement for pre-natal and pre-conception sex determination facilities in the form of a notice, circular, label, wrapper or any document, or advertises through interior or other media in electronic or print form or engages in any visible representation made by means of hoarding, wall painting, signal, light, sound, smoke or gas, can be imprisoned for up to three years and fined Rs. 10,000.

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**THE MINIMUM WAGES ACT, 1948** is an important Act under Industrial Law.

- Constitutional validity of the Act: The Act was enacted so as to provide 'social justice' and 'living wages' as pointed out in Article 43 of the Constitution (Directive Principles of State Policy)
- Living Wages and fair wages are possible after getting awareness and collective bargaining by trade unionism.
- Preamble says: To provide for fixing minimum rates of wages in certain employments.
- Minimum Wages Act, 1948 is Act XI of 1948. It has 31 Sections and 1 Schedule. The Sections are not arranged in Chapters.
- The Minimum Wages (Central) Rules, 1950 and Minimum Wages (Central Advisory Board) Rules, 1949 are enacted by following the Act. Individual states brought their own rules, such as the Andhra Pradesh Minimum Wages Rules, 1960.

#### Sections in the Act

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- Section 1: Short title and extent
- Section 2: Defines Minimum Wages and the concept of Living Wage, Fair Wage and Minimum Wage.
- Section 3: Fixing of minimum rates of wages
- Section 4: Minimum rates of wages
- Section 5: Procedure for fixing and revising minimum rates of wages
- Section 6: Repealed. Advisory committees and sub-committees.

- Section 7 to 9: Machinery for fixing or revising the minimum wages.  
Section 7: Setting up of an advisory board  
Section 8: Central Government's power to set up Central Advisory Board  
Section 9: Composition of the Central Advisory Board
- Section 10: Correction of errors
- Section 11: Minimum wages shall be paid in cash. Under certain circumstances, the appropriate Government can allow paying minimum wages in kind (Ex: supplying essential commodities at concessional prices)
- Section 12: Payment of minimum rates of wages
- Section 13: Fixing hours for a normal working day, etc.
- Section 14: Overtime
- Section 15: Wages of worker who works for less than normal working day
- Section 16: Wages for two or more classes of work
- Section 17: Minimum time rate wages for piece work
- Section 18: Maintenance of registers and records
- Section 19: Inspectors
- Section 20: Claims
- Section 21: Single application in respect of a number of employees
- Section 22 deals with application of the Act
- Section 23: Exemption of employer from liability in certain cases
- Section 24: Bar of suits
- Section 25: Contracting Out (working for wages below minimum wages by signing a contract) is void. It is however valid if it is for the benefit of the employee.
- Section 26: Exemptions and exceptions
- Section 27: Power of State Government to add to Schedule
- Section 28: Power of Central Government to give directions
- Section 29: Power of the Central Government to make rules
- Section 30: Power of appropriate Government to make rules
- Section 31: Validation of fixation of certain minimum rates of wages

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## **THE SCHEDULED CASTES AND THE SCHEDULED TRIBES (PREVENTION OF ATROCITIES) AMENDMENT BILL, 2014:**

- The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Bill, 2014 was introduced in the Lok Sabha by the Minister of Social Justice and Empowerment, Mr. Thaawar Chand Gehlot on July 16, 2014.
- The Bill replaces the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Amendment Ordinance, 2014.
- The Bill seeks to amend the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The Act prohibits the commission of offences against members of the Scheduled Castes and Scheduled Tribes (SCs and STs) and establishes special courts for the trial of such offences and the rehabilitation of victims.
- Actions to be treated as offences: The Act outlines actions (by non SCs and STs)

against SCs or STs to be treated as offences. The Bill amends certain existing categories and adds new categories of actions to be treated as offences.

- Forcing an SC or ST individual to vote or not vote for a particular candidate in a manner that is against the law is an offence under the Act. The Bill adds that impeding certain activities related to voting will also be considered an offence. Wrongfully occupying land belonging to SCs or STs is an offence under the Act. The Bill defines ‘wrongful’ in this context, which was not done under the Act.
- Assaulting or sexual exploiting an SC or ST woman is an offence under the Act. The Bill adds that: (a) intentionally touching an SC or ST woman in a sexual manner without her consent, or (b) using words, acts or gestures of a sexual nature, or (c) dedicating an SC or ST women as a devadasi to a temple, or any similar practice will also be considered an offence. Consent is defined as a voluntary agreement through verbal or non-verbal communication.
- New offences added under the Bill include: (a) garlanding with footwear, (b) compelling to dispose or carry human or animal carcasses, or do manual scavenging, (c) abusing SCs or STs by caste name in public, (d) attempting to promote feelings of ill-will against SCs or STs or disrespecting any deceased person held in high esteem, and (e) imposing or threatening a social or economic boycott.
- Preventing SCs or STs from undertaking the following activities will be considered an offence: (a) using common property resources, (c) entering any place of worship that is open to the public, and (d) entering an education or health institution.
- The court shall presume that the accused was aware of the caste or tribal identity of the victim if the accused had personal knowledge of the victim or his family, unless the contrary is proved.
- Role of public servants: The Act specifies that a non SC or ST public servant who neglects his duties relating to SCs or STs shall be punishable with imprisonment for a term of six months to one year. The Bill specifies these duties, including: (a) registering a complaint or FIR, (b) reading out information given orally, before taking the signature of the informant and giving a copy of this information to the informant, etc.
- Role of courts: Under the Act, a court of Session at the district level is deemed a Special Court to provide speedy trials for offences. A Special Public Prosecutor is appointed to conduct cases in this court.
- The Bill substitutes this provision and specifies that an Exclusive Special Court must be established at the district level to try offences under the Bill. In districts with fewer cases, a Special Court may be established to try offences. An adequate number of

courts must be established to ensure that cases are disposed of within two months. Appeals of these courts shall lie with the high court, and must be disposed of within three months. A Public Prosecutor and Exclusive Public Prosecutor shall be appointed for every Special Court and Exclusive Special Court respectively.

- Rights of victims and witnesses: The Bill adds a chapter on the rights of victims and witness. It shall be the duty of the state to make arrangements for the protection of victims, their dependents and witnesses. The state government shall specify a scheme to ensure the implementation of rights of victims and witnesses.
- The courts established under the Bill may take measures such as: (a) concealing the names of witnesses, (b) taking immediate action in respect of any complaint relating to harassment of a victim, informant or witness, etc. Any such complaint shall be tried separately from the main case and be concluded within two months.

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## **SCHEDULED TRIBES AND OTHER TRADITIONAL FOREST DWELLERS (RECOGNITION OF FOREST RIGHTS) ACT, 2006 :**

### **Rights of Tribals and Forest Dwellers**

To address the adverse living conditions of many tribal families living in forests was on account of non-recognition and vesting of pre-existing rights, a landmark legislation viz. Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, has been enacted to recognize and vest the forest rights and occupation of forest land in forest dwelling Scheduled Tribes and other traditional forest dwellers, who have been residing in such forests for generations, but whose rights could not be recorded.

This Act not only recognizes the rights to hold and live in the forest land under the individual or common occupation for habitation or for self-cultivation for livelihood, but also grants several other rights to ensure their control over forest resources which, inter-alia, include right of ownership, access to collect, use and dispose of minor forest produce, community rights such as nistar; habitat rights for primitive tribal groups and pre-agricultural communities; right to protect, regenerate or conserve or manage any community forest resource which they have been traditionally protecting and conserving for sustainable use.

The Act also provides for diversion of forest land for public utility facilities managed by the Government, such as schools, dispensaries, fair price shops, electricity and telecommunication lines, water tanks, etc. with the recommendation of Gram Sabhas. In addition, several schemes have been implemented by the Ministry of Tribal Affairs for the benefit of tribal people, including those in the forest areas such as "Mechanism for marketing of Minor Forest Produce (MFP) through Minimum Support Price (MSP) and development of Value Chain for MFP". Funds are released out of Special Central Assistance to Tribal Sub Plan for infrastructure work relating to basic services and facilities viz. approach roads, healthcare, primary education, minor irrigation, rainwater harvesting, drinking water, sanitation, community halls, etc. for development of forest villages.

Under Section 3(1)(h) of the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006, the rights of settlement and conversion of all forest

villages, old habitations, un-surveyed villages and other villages in forest, whether recorded, notified, or not, into revenue villages have been recognized as one of the forest rights of forest dwelling Scheduled Tribes and other traditional forest dwellers on all forest lands.

As per the provisions of the Act and the rules framed there under, the forest right related to conversion of forest villages into revenue villages is to be adjudicated by the Gram Sabha, Sub-Divisional Level Committee and the District Level Committee as per the laid down procedure, like any other forest right specified in the Act. The Ministry of Tribal Affairs has issued guidelines on 8.11.2013, inter-alia, impressing upon all the State/ UT Governments to convert all such erstwhile forest villages, un-recorded settlements and old habitations into revenue villages with a sense of urgency in a time bound manner. The conversion would include the actual land use of the village in its entirety, including land required for current or future community uses, like, schools, health facilities, public spaces etc.

**ALL THE BEST**