

LAWS ADDRESSING GENDER BASED VIOLENCE AND HARMFUL PRACTICES

A Primer for Panchayat Representatives



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LAWS ADDRESSING GENDER BASED VIOLENCE AND HARMFUL PRACTICES

A Primer for Panchayat Representatives

राजीव रंजन सिंह उर्फ ललन सिंह
RAJIV RANJAN SINGH ALIAS LALAN SINGH



पंचायती राज मंत्री
और मत्स्यपालन, पशुपालन एवं डेयरी मंत्री
भारत सरकार
Minister of Panchayati Raj and
Minister of Fisheries, Animal Husbandry and Dairying
Government of India

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Message

Gender-Based Violence (GBV) and harmful practices such as child marriage and gender biased sex selection are not just violations of the law—they erode the fundamental human rights of individuals. These practices have a long-lasting impact, not only on the individual but on the community and society as a whole. Elected Representatives are critical in preventing and addressing these practices and ensuring a conducive environment for all women and girls to lead a life free from violence and harmful practices.

It gives me immense pleasure to announce the release of this 'Primer for Panchayat Representatives on Laws addressing Gender-Based Violence and Harmful Practices'. This resource has immense significance for locally elected representatives, who are at the forefront of ensuring equality and safety in their communities, particularly for Women and Girls, who often face an increased burden of discrimination and violence. I extend my compliments to the team at the Ministry of Panchayati Raj and UNFPA for bringing out this publication.

Panchayat representatives hold a unique position of trust and influence. They can raise awareness, mobilize communities, change mindsets, and create a culture where there is zero tolerance for violence and discrimination. It is hoped that this primer will strengthen the ability of elected representatives to take decisive action towards combating deep-rooted social norms that perpetuate gender inequality and violence. With collective action, we can ensure every woman and girl has the opportunity to live a life free from violence and discrimination and pursue different pathways of her choice.

I encourage all elected representatives to engage deeply with this material, use it as a guide, and act with courage and conviction to protect the rights of those most vulnerable. Let us reaffirm our commitment to make every village a model village for women and girls, guaranteeing complete enjoyment of their fundamental rights and freedoms.

(Rajiv Ranjan Singh)

प्रो. एस.पी. सिंह बघेल
राज्य मंत्री
मत्स्यपालन, पशुपालन एवं डेयरी
एवं
पंचायती राज मंत्रालय
भारत सरकार



Prof. S.P. SINGH BAGHEL
Minister of State for
Fisheries, Animal Husbandry & Dairying
and
Panchayati Raj
Government of India



MESSAGE

Gender-based violence (GBV) and harmful practices pose significant challenges to achieving gender equality and safeguarding the rights of women and girls across India. These practices are driven by discriminatory social norms that accord low value to women and girls. Therefore, to address these practices and the underlying norms that sustain and reinforce them, it is important to ensure the effective implementation of laws, as well as promote shifts in discriminatory behaviors and attitudes at the individual and community levels.

Panchayats can play a critical role in enabling the implementation of the law while promoting gender-sensitive behaviors and attitudes at the community level to uphold the rights and well-being of women and girls.

The 'Primer for Panchayat Representatives on Laws Addressing Gender-Based Violence and Harmful Practices' is a timely and important resource. It serves as a readily accessible guide for Panchayat Representatives to improve their knowledge of relevant laws and to build an understanding of their role in preventing and addressing GBV within their communities. In doing so, this resource can contribute to strengthening the safety and well-being of women and girls at the community level.

I commend the efforts of all stakeholders involved in the creation of this resource. It is our collective responsibility to ensure that our Panchayats have the tools, knowledge, and resources they need to build safe, equitable, and inclusive communities for all.

I sincerely hope that this primer will inspire Panchayat members across the country to take proactive measures in combating GBV and harmful practices, fostering a future where every individual can thrive without fear or discrimination.

Together, we can create a stronger, safer, and more inclusive society for all.

एस.पी. सिंह बघेल

(Prof. S. P. Singh Baghel)

विवेक भारद्वाज, भा.प्र.से.
सचिव
Vivek Bharadwaj, IAS
Secretary



भारत सरकार
पंचायती राज मंत्रालय
डॉ. राजेन्द्र प्रसाद रोड,
कृषि भवन, नई दिल्ली-110001

Government of India
Ministry of Panchayati Raj
Dr. Rajendra Prasad Road,
Krishi Bhawan, New Delhi-110001



MESSAGE

As the cornerstone of local governance, Panchayati Raj Institutions (PRIs) have a critical role in addressing the challenges of Gender-Based Violence (GBV) and harmful practices against women and girls. The effectiveness of these institutions in safeguarding the rights and dignity of women is determined by the awareness and understanding of locally elected representatives about gender-responsive laws and policies.

This 'Primer for Panchayat Representatives on Laws Addressing Gender-Based Violence and Harmful Practices' is a crucial resource aimed at equipping PRIs with the necessary legal knowledge to act decisively in upholding the rights of survivors of GBV and harmful practices. It is crafted to enhance the capacity of local leaders, stakeholders and citizens alike by providing a clear understanding of key laws, policies, and mechanisms that exist to protect women and girls. By demystifying legal provisions, this primer encourages informed decision-making and stronger enforcement at the community level.

The Ministry of Panchayati Raj firmly believes that empowered communities are the bedrock of national progress. With the guidance offered in this primer, PRIs can foster safer, more inclusive environments where every woman and girl is treated with respect and enjoys equal opportunities. This primer is an initial step towards building the capacities of Panchayat representatives in combating GBV and harmful practices. The Ministry aims to strengthen this initiative further through multi-stakeholder partnerships, including law schools and civil society organizations, to expand its focus on strengthening the effective implementation of laws relevant to women and girls. Together, let us pledge to uphold the rule of law and advance the cause of gender equality across our villages and towns.

I commend the efforts of those who contributed to this valuable resource within UNFPA and the Ministry, and urge all stakeholders to utilize this primer in our collective pursuit of a society free from GBV, harmful practices and gender discrimination.

Vivek Bharadwaj
(Vivek Bharadwaj)



Message from UNFPA India Representative

I am pleased to share with you the *Primer for Panchayat Representatives on Laws Addressing Gender-based Violence and Harmful Practices such as child marriage, and gender biased sex sselection*. This instrumental Primer has been developed as a result of collaboration between the Ministry of Panchayati Raj and the United Nations Population Fund (UNFPA). As the UNFPA Country Representative for India, I fully recognise and appreciate the pivotal role that local governance plays in shaping, implementing, and sustaining policies that safeguard and empower women and girls, and marginalized communities.

Gender-based violence and harmful practices are profound human rights violations that undermine the dignity, health, and well-being of individuals, particularly women and girls. These issues are not confined to any one region or community - they are pervasive challenges requiring concerted efforts from all levels of society.

The Panchayat system represents the very foundation of democratic governance in rural India. Elected representatives in these local bodies are uniquely positioned to lead transformative change in their communities. By understanding and applying laws designed to combat gender-based violence and harmful practices, they can become powerful advocates for justice and equality.

This primer aims to provide a clear, accessible overview of the relevant legal frameworks, their applications, and the resources available to strengthen the response to gender based violence and harmful practices. It is designed to inform as well as empower elected representatives to take decisive action against violence and discrimination. The effectiveness of laws and policies depends largely on the dedication of local leaders who can translate legal mandates into tangible change.

Panchayat Representatives are on the front lines of this critical work. They have the ability to foster an environment of respect, support survivors, and drive community-led initiatives that challenge discriminatory social norms and practices. Their leadership can inspire collective action and usher meaningful progress towards a more equitable society.

We at UNFPA remain steadfast in our support to the Ministry and are committed to jointly building a future where every individual, regardless of gender, enjoys the full protection of their rights and the opportunity to thrive.

Andrea M. Wajnar

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1. INTRODUCTION

India's commitments to its Constitution and international human rights obligations have accorded a central position to gender equality and the empowerment of women and girls within national and State laws, policies and programmes. Though significant progress has been made in the last few decades on improving the overall status of women and girls, gender-based violence (GBV) and harmful practices (HP) continue to impede India's efforts in ensuring inclusive development and social justice for all.

GBV and HP, such as child marriage and gender-biased sex selection (GBSS), are driven by deeply rooted discriminatory social norms and structures, and perpetuate intergenerational cycles of inequality and injustice.

As local governing bodies, Panchayati Raj Institutions (PRIs) play a crucial role in ensuring that the constitutional mandates of equality, freedom and social justice are realized for all. They are uniquely

positioned to understand and respond to the specific needs and challenges faced by individuals and communities, and, therefore, have immense potential in creating an enabling environment free from GBV and HP.

To fulfil their mandate of promoting inclusive and equitable development, Panchayat leaders and PRI functionaries must possess a keen awareness of legal provisions for women and girls.

This understanding enables them to ensure:

- (a) compliance with the law
- (b) informed decision-making, and
- (c) enhanced accountability towards women and girls, and other vulnerable persons.

This primer aims to enhance the awareness and knowledge of Panchayat leaders and PRI functionaries on key legal provisions designed to uphold and advance the rights of women and girls. It may be used to train and sensitize PRI representatives and functionaries.

Following sensitization based on the primer, Panchayat leaders and PRI functionaries will be able to:

- » Demonstrate improved knowledge about laws pertinent to addressing GBV and harmful practices
- » Raise awareness about the different forms of gender discrimination and GBV, including but not limited to domestic violence, child sexual abuse, trafficking, and harmful practices
- » Share information with community members about avenues for seeking justice, including the role of police, health, legal aid, and support services
- » Initiate community-led actions to address systemic barriers to gender equality and human rights over time



2. LAWS FOR ADDRESSING GBV AND HARMFUL PRACTICES: SESSION OUTLINE

Laws criminalizing GBV and HP are critical to codifying the rights and redressal mechanisms available to individuals to lead lives free from violence. Laws also outline sanctions and punishments associated with such acts, which can act as a deterrent. They are often survivor-centred, ensuring the availability of rights-based support services. Moreover, they play a key social role, indicating the lack of acceptance of the proscribed acts.





This primer covers the legal framework addressing the following forms of GBV and harmful practices through nine sessions:



SESSION 01
DOMESTIC VIOLENCE



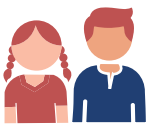
SESSION 02
DOWRY



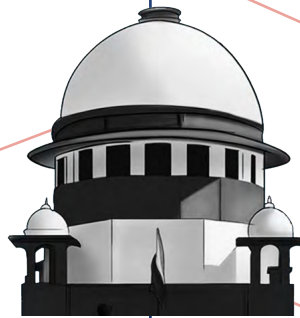
SESSION 03
SEXUAL HARASSMENT AT THE WORKPLACE



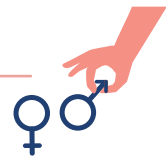
SESSION 04
CHILD SEXUAL ABUSE



SESSION 05
HARMFUL PRACTICE: CHILD MARRIAGE



SESSION 06
HARMFUL PRACTICE: GENDER-BIASED SEX SELECTION



SESSION 07
TRAFFICKING IN PERSONS



SESSION 09
SELECT CRIMINAL OFFENCES UNDER THE BHARATIYA NYAYA SANHITA, 2023



SESSION 08
TECHNOLOGY-FACILITATED GBV



Each session follows the sequence given below:

Context:	Each session begins with a brief context for the specific form of GBV or HP under discussion, presented through a blurb.
Legal explainer:	The relevant law is unpacked through a series of questions and answers.
Case studies:	Case studies are included in each session to enable analysis of legal aspects relevant to the specific form of GBV or HP under discussion.
Notes for the facilitator:	These provide specific instructions to the facilitator/resource person conducting the training or sensitization workshop of Panchayat leaders and PRI functionaries, based on the primer. The facilitator must read the notes, and if possible rehearse the sessions before the workshop.
Role of PRIs:	This section discusses the role that PRIs can play in addressing GBV and HP.
Key takeaways:	This section presents key highlights from the discussion on relevant laws.
Resources:	At the end of each session, resources in the form of relevant Acts, Rules; reading materials; links to informative online platforms; and videos have been shared.



SESSION 01

DOMESTIC VIOLENCE



Domestic violence in India is a widespread issue, affecting millions of women across urban and rural areas. According to national surveys, nearly one in three women experiences physical, emotional, or sexual abuse at home, making it a pervasive yet often hidden crisis. Beyond the immediate harm to victims, domestic violence has deep social implications—it perpetuates gender inequality, hinders women’s economic and educational opportunities, and negatively impacts the mental and physical well-being of families. Addressing domestic violence is not just a legal necessity but also a societal responsibility to foster a safer, more equitable society.



This section discusses the different forms of domestic violence and the available complaint and redressal mechanisms laid out under the law. It primarily deals with:

- (i) The Protection of Women from Domestic Violence Act, 2005
- (ii) Relevant sections under the Bharatiya Nyaya Sanhita, 2023

I. PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT (PWDVA), 2005

What is domestic violence?

Domestic violence is any abusive or violent behaviour in a domestic relationship that harms or puts in danger the health, safety, life or well-being of a woman or any child in her custody (Section 3).

It does not have to be physical in nature. The law also recognizes other forms of violence – emotional/verbal, sexual or economic (Section 3).



Physical Abuse

Act or conduct that causes bodily pain, harm, or danger to the health or life of the woman.

This includes:

- » Physical acts such as slapping, hitting etc., and gestures indicating the person will physically hurt the woman (e.g., a husband raising his hand knowing that the wife will believe that he will slap her)
- » Threats of harm (physical or verbal) to a woman's loved ones to scare her or force/prevent her from doing certain things



Sexual abuse

Sexual act/conduct that abuses, humiliates, degrades or otherwise violates the dignity of the woman.

This includes:

- » Any forced sexual act (including forced intercourse)
- » Forced viewing of pornography/obscene material

Emotional and verbal abuse



This includes:

- » Insults, ridicule, humiliation (e.g., abuse by in-laws for not bearing a male child or for not bringing enough dowry)
- » Threats to cause hurt to the woman's loved ones
- » Forced separation from one's child
- » Suicide threats by the harasser
- » Forced to start/leave a job, to remain confined to the house, to get married against one's wishes

Economic abuse



Any act that deprives a woman of economic/financial assets that she is entitled to.

This includes:

- » Restricting access to any part of the house that the woman cohabits in
- » Selling off the woman's/jointly owned assets without her consent
- » Removing the woman's belongings from the house
- » Dictating the use of the woman's salary
- » Depriving the woman and/or her children of money for sustenance

What is a domestic relationship?

To seek relief under the law, one needs to prove that they have a domestic relationship in a [shared household](#) with the perpetrator (Sections 2(f), 2(s)). This includes any of the following relations:

- » By blood/kinship (e.g., relatives like one's uncle, sister, father, brother etc.)
- » By marriage (e.g., husband, mother/father-in-law, brother/sister-in-law, etc.)
- » Through a relationship similar in its nature to marriage (e.g., live-in partner)
- » By adoption (e.g., step-mother/father, step-brother etc.)

- » As family members living together as a joint family (father/mother, brother/sister-in-law, uncle/aunt, grandmother/father etc.)

THUS, THE LAW PROHIBITS:

- Violence perpetrated by **any family member** (not limited to spouse)
- Violence perpetrated in **live-in relationships** (marriage not a prerequisite for the law to apply)



What is a shared household?

To seek relief and protection under the Act, one should:

- » Be living/have lived with the perpetrator at some point of time in the household (one doesn't need to be living with the perpetrator at the time the complaint is filed)
- » Have a [domestic relationship](#) with the perpetrator, in addition to sharing a household (e.g., if you live with your mother/father-in-law in the same household and are subjected to domestic violence, you can file a complaint against them)



Are live-in relationships covered under this law?

Live-in relationships are covered under this law if they are “*in the nature of marriage*” (Section 2(f)), i.e., they have some essential characteristics of a marriage, even if they are not legally recognized as a marriage. These include:

- » Voluntary cohabitation for a significant period of time – months or years (a few days or weeks do not constitute a live-in relationship)
- » Socialization with friends, relatives and others in the same manner as husband and wife
- » Both individuals otherwise qualify to enter into marriage, i.e., are above the minimum legal age of marriage and do not have a spouse at the time of entering into the relationship
- » Existence of a sexual relationship that includes emotional and intimate support
- » Shared finances/financial support arrangements, similar to that of a husband and wife
- » Division of domestic responsibilities, similar to a marriage
- » Intention and conduct of the individuals towards each other and vis-a-vis this person
- » Children born in such a relationship are strong evidence that it is in the nature of marriage

Where can domestic violence happen?

Domestic violence can happen anywhere - it need not be confined to the house one lives in. The perpetrator (whom one shares a domestic relationship and household with) can inflict violence anywhere – a place of one's employment or education, a child's school, markets, home of friends/relatives etc.

What can one do if one faces domestic violence? What are the rights and remedies available under the law?

Survivors of domestic violence have the right to:

- » Register a complaint and file an application to the court with the assistance of a Protection Officer, a service provider or a police officer
- » Receive medical aid, shelter, counselling and legal aid (One Stop Centres can provide necessary linkages to each of these services)
- » Obtain orders from the court for:
 - Immediate protection from the perpetrator (the court can order the perpetrator to stop (i) committing further violence, (ii) communicating with the woman, (iii) taking any of her assets, and (iv) intimidating her family) (Section 18)
 - Residing peacefully in the house, including with her children, where applicable (through a Residence Order) (Section 19)
 - Monetary relief through payment of regular maintenance as well as compensation for physical injuries, loss of earnings/property etc. (Sections 20, 22)
 - Temporary custody of the children (Section 21)

Who can seek protection against domestic violence?

Any woman can file a complaint and seek protection under this law. This includes:

- » Married women
- » Women in live-in relationships
- » Divorced women (where the violence was inflicted before the divorce, or where domestic violence was inflicted after the divorce where a domestic relationship continued to exist)
- » Women who have deserted their husbands because of domestic violence
- » Judicially separated women who faced domestic violence from their partner or in-laws either before or after the separation order
- » Widows who continue to live with their in-laws after the death of the husband (a domestic relationship continues to exist with the in-laws, and a case may be filed against them if they inflict violence)

A man cannot be an aggrieved person under this Act.



Who can you file a complaint against for domestic violence?

One can complain against both men and women for domestic violence, which includes:

- » Family members – related by blood, marriage, those living together in a joint family (e.g., father, brother)
- » Relationships established by marriage – husband, in-laws etc.
- » Live-in partner

Provided that the survivor has shared a domestic relationship with the perpetrator in a shared household.

Where can one report a case of domestic violence?

- » Protection Officer: A Protection Officer is often the first point of contact for women facing violence. They provide support in filing a complaint (Domestic Incident Report), giving the required information to the police, providing immediate protection and support (preparing a safety plan, ensuring the provision of medical aid, establishing necessary linkages to service providers), inform the survivor of her legal rights, provide support through court processes)
- » Police Officer
- » One Stop Centres
- » Judicial Magistrate
- » Service providers registered under the Act (Section 10)
- » Shelter homes notified under the Act (Section 2(t))

What is a Domestic Incident Report (DIR)?

A DIR is a report made on receiving a complaint of domestic violence from a woman (Section 2(e)). It can be made by either a Protection Officer or a service provider and contains details such as the survivor's name, age, details of the perpetrator, the incident of violence, etc.

What is the role of counselling under this law?

The court can pass an order requiring either the perpetrator, the survivor, or both (alone or together) to undergo counselling with a service provider or a counsellor appointed by the court. This process aims to create an environment for the survivor and perpetrator to address the issue at hand and ensure that the incident is not repeated (Section 14).

A counsellor cannot be someone connected to the case or be known to the survivor or perpetrator unless they specifically consent to such an individual.

The woman can request the court to change the counsellor if she is uncomfortable with the appointed individual for any reason.

II. RELEVANT SECTIONS UNDER THE BHARATIYA NYAYA SANHITA, 2023 AND OTHER LEGISLATIONS

Can one also file a criminal complaint for domestic violence?

In severe cases of violence, a woman may file a criminal case of cruelty under the Bharatiya Nyaya Sanhita, 2023 (BNS) (Section 85) against the husband and/or relatives of the husband. This can be filed for the following reasons:

- » If the perpetrator(s) drives the woman to commit suicide
- » If the perpetrator(s) causes or tries to cause any grave injury or danger to the life or (mental or physical) health of a woman
- » If the perpetrator(s) harasses the woman with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security
- » If the perpetrator(s) harasses the woman on account of failure to meet the demands outlined above

Are there additional reliefs under other legislations?

Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)

Section 144 entitles a woman to claim (monthly) financial maintenance due to neglect by her spouse or children.

Maintenance and Welfare of Parents and Senior Citizens Act, 2007

Elderly women (above the age of 60 years) may also file a case and claim maintenance from adult children and grandchildren (regardless of gender) for the provision of food, clothing, residence and medical attendance and treatment. A monthly allowance of up to Rs. 10,000 may be granted under this Act.

Case studies

The facilitator may use the following case studies to unpack domestic violence by engaging the training participants in discussing and analysing each case:

Case study 1

23-year-old Jamuna lives with her husband Ravi and two children in a village in Dhenkenal district, Odisha. One evening, the food she made was spicier than usual. After eating, her husband said that she was a careless woman who was only interested in watching television and not doing any work. He then slaps her and calls her worthless. Jamuna remains depressed but does not know what to do.

Contd....



Case study 2

Rekha lives with her husband and parents-in-law in a village in Jodhpur District, Rajasthan ever since her marriage. She is being called names and criticized by her husband and mother-in-law for bringing less dowry. Since she refused to ask her parents to give in to the recent demands of her husband and mother-in-law, she is not being given food and money to meet her basic needs.

Notes to the facilitator

Encourage a discussion using the following questions as prompts

1. Do the instances outlined above constitute domestic violence?
2. If yes, what are the recourse(s) available to the woman?
3. If these instances were brought to your knowledge, what can you (as elected representatives) do to respond?

Role of PRIs in addressing domestic violence

In your role as Elected Representatives:

- » Undertake community mobilization and regular interactions on rights, entitlements and laws for women and girls
- » Organize Mahila Sabhas to understand causes and develop strategies to prevent and respond to violence
- » Implement programmes to empower women economically
- » Foster collective response, including through community based networks, by:
 - Involving men and boys from their area to understand and address the issue of violence
 - Working with collectives like self-help groups to build collective opposition to any form of violence
- » Strengthen institutional linkages by:
 - Ensuring shelter homes in your district are functional and creating awareness about them (if you are district-level functionary)
 - Developing linkages with Protection Officers designated under PWDVA and creating awareness by displaying their contact details
 - Creating awareness about One Stop Centres (OSCs) and informing the community about the availability of services under one roof at OSCs
 - Creating awareness regarding helplines for women in distress
 - Creating awareness about connecting with and seeking help from frontline functionaries like ASHAs, ANMs, AWWs, etc.



Key takeaways



A **woman** who has faced **domestic violence** (physical, sexual, verbal/emotional, economic) can seek relief and protection under this Act against the **perpetrator (male or female)** - from the **marital or natal family** - provided they were in a **domestic relationship** (including live-in relationships) and had a **shared household**.



She can approach a **Protection Officer, Police, Magistrate, One Stop Centre, Shelter Home**, or other **service providers** notified under the Act for relief, which includes immediate **protection** from the perpetrator, a **residence order, maintenance, custody** of children, healthcare, temporary shelter, etc.

Resources



Short films:

[A Film on PWDVA by UNFPA India \(2021\)](#)



Links to informative online platforms:

[Nyaaya Legal Explainer on Domestic Violence](#)



Relevant Acts:

» [The Protection of Women from Domestic Violence Act, 2005](#)

» [Bharatiya Nyaya Sanhita, 2023](#)



SESSION 02

DOWRY



Dowry, a practice deeply rooted in traditional customs, has long been a source of significant social and legal concern in India. Despite being illegal, the dowry system persists, often resulting in severe repercussions for women, including financial exploitation and domestic violence that, in some cases, can result in fatal consequences. The Dowry Prohibition Act, 1961, was enacted to address these injustices by criminalizing the practice of dowry (both taking and giving) and imposing stringent penalties for violations.



This section discusses the law on Dowry Prohibition and the available complaint and redressal mechanisms. It primarily deals with:

- (i) The Dowry Prohibition Act, 1961
- (ii) Relevant sections under the Bharatiya Nyaya Sanhita, 2023

I. THE DOWRY PROHIBITION ACT, 1961

What is dowry?

Dowry means any valuable items such as cash, property, jewellery and movable goods that are given either by the bride's family to the groom's family or by the groom's family to the bride's family, before, during or after marriage, as a condition of marriage (Section 2).

What is *streedhan*?

Streedhan includes gifts given at the time of marriage by either the parents, parents-in-law, relatives, or friends of both the bride and the groom.

Streedhan is the woman's property, over which she has full ownership. She can keep the *streedhan* in her custody.

What is *mehr* or dower?

Mehr or dower is the bride's wealth, given in the form of money or possessions by the groom to the bride during Islamic marriages. It is not the same as dowry. The exchange of *mehr* is a legal, religious and customary practice (Section 2).

Who can file a complaint related to dowry?

As per Section 7 (b) (ii), complaints related to dowry can be filed by:

- » A woman being harassed for dowry
- » Parents/relatives of the woman being harassed
- » Representative of a non-government organization who has information about a woman being harassed for dowry

Who can be penalized under the Dowry Prohibition Act?

- » Any person (parents/relatives of the bride/groom) giving, taking or abetting the giving or taking of dowry can be penalized (Section 3)
- » Any person who directly or indirectly demands dowry (Section 4)
- » Any person advertising to offer a share in property or business in connection with marriage can also be penalized (Section 4A)



What are the offences and punishments under the Act?

S. No	Offence	Punishment	Section
1	Giving or taking dowry	Imprisonment for not less than 5 years and a fine of not less than Rs. 15,000 or amount of value of dowry, whichever is more	Section 3
2	Demanding dowry directly or indirectly	Imprisonment for between six months and two years and a fine of up to Rs. 10,000/-	Section 4
3	Printing, publishing or circulating an advertisement for a share in property or business as a consideration for marriage	Imprisonment for between six months and 5 years and a fine of Rs. 15,000/-	Section 4A

Who has the right over articles given as dowry?

The woman has the right over articles given as dowry. In case dowry is received by any person other than the woman in connection with marriage. The person who has received the dowry shall transfer it to the woman (Section 6 (1)):

- » Within three months after the date of marriage, if received before marriage
- » Within three months from the date of receipt, if received at the time of marriage
- » Within three months after a woman has attained the age of 18 years if received when the woman was a minor

If the woman dies before receiving the property, the heirs of the woman shall be entitled to claim it from the person who received the dowry (Section 6(3)).

Where can complaints for dowry harassment be filed?

Complaints for dowry harassment can be filed with any of the following authorities:

- » Dowry Prohibition Officer
- » Protection Officer designated under the Protection of Women from Domestic Violence Act
- » Police Station

Who is a Dowry Prohibition Officer?

The Act mandates State Governments to appoint Dowry Prohibition Officers and specify areas regarding their jurisdiction to ensure that provisions of the Act are complied with (Section 8B (1)).

What are the powers and functions of a Dowry Prohibition Officer?

A Dowry Prohibition Officer is required to undertake the following functions (Section 8B (2)):

- » To ensure that provisions of this Act are complied with
- » To prevent the taking or abetting the taking of, or the demanding of, dowry
- » To collect evidence as may be necessary for the prosecution of persons committing offences under the Act
- » To perform any additional functions as may be assigned to them by the State Government or as specified in the Rules made under this Act

States have assigned the following additional functions to the Dowry Prohibition Officers:

- » Create awareness against dowry
- » Settle disputes relating to dowry
- » Ensure expeditious investigation by police
- » Send evidence collected through investigation to the police
- » Advise Public Prosecutors on case during trial
- » Submit reports to DM – complaints received, action taken and settlement made
- » Maintain separate files with records for each case of complaint

- » Appoint a five-member Advisory Board and seek its advice on the performance of duties

Does the Act mandate the preparation of a list of presents given at the time of marriage?

Yes, the Rules to the Dowry Prohibition Act mandate the preparation of a list of presents given at the time of marriage to be maintained separately by the bride and the groom. The list should:

- » Be prepared at the time of marriage or as soon as possible after marriage
- » Be in writing
- » Contain a description of each present, its value, name of the person and a description of the relationship
- » Signed by both parties

There is no punishment for not maintaining this list. However, it is a good practice to maintain the list.

Can a complaint of dowry be filed after divorce?

A case of dowry cannot be filed after divorce.

Can a complaint of dowry be filed before marriage?

The law clearly states that dowry is something that can be given at, before, or any time after the marriage. Therefore, if a demand for dowry has been made before



marriage, it is a crime, and a complaint can be filed.

Courts have held that demands for gifts or property made before the marriage

or in the negotiation of marriage also constitute dowry (Gopal Reddy v. State of Andhra Pradesh, (1996) 4 SCC 596).

II. RELEVANT SECTIONS UNDER THE BHARATIYA NYAYA SANHITA, 2023 AND OTHER LEGISLATIONS

Dowry death (Section 80)

If a woman dies within seven years of her marriage in any of the following conditions:

- » Under unnatural circumstances like burns or injuries
- » Through suicide
- » Due to cruelty or harassment by her husband or relatives of her husband in connection with a demand for dowry

It will be considered a dowry death. **In such a case, the law presumes that the husband and/or his relatives caused the death.**

Remember, ordinarily, law presumes one to be innocent unless proven guilty. However, recognizing the gravity of the offence of dowry deaths, under DPA, the burden of proof (to prove their innocence) lies on the accused.

The punishment for dowry death is imprisonment for a term that may range from seven years to life.

Cruelty/harassment by husband and/or his relatives (Section 85)

If the husband and/or his relative subject a woman to any of the following acts:

- » Driving the woman to commit suicide or causing grave injury or danger to her life or health (whether mental or physical)
- » Harassment to coerce the woman or any person related to her to meet any unlawful demand(s)

It shall amount to cruelty.

Cruelty is punishable with imprisonment for up to three years and a fine.

Other laws that can be invoked for filing a case related to dowry harassment

A case for dowry harassment can be filed under the [Protection of Women from Domestic Violence Act](#).

The facilitator may use the following case studies to unpack domestic violence by engaging the training participants in discussing and analysing each case.

Case study 1

Uma lives with her parents in Agra district of Uttar Pradesh. Her father works in a leather factory and her mother is an ANM. Uma has recently been engaged to Sunder from the neighbouring district of Firozabad. A couple of months after the engagement ceremony, Sunder's parents demand Rs. 15 lakhs and a car from Uma's parents, mentioning that the amount will be used by Sunder to start his own business.

Does this constitute a case of dowry? Though the demand for dowry is made before the marriage ceremony has taken place, it will amount to the offence of dowry since it was made in connection with marriage.

Case study 2

Vimla lives with her husband and her infant daughter in a village of Hingoli District of Maharashtra. Ever since her marriage, she has been criticized by her husband and parents-in-law for bringing less dowry. Her husband has started beating her every night since she gave birth to a daughter. He wants her to bring money from her parents to raise the girl who he feels will be a burden on him. He is also demanding a scooter from Vimla's family, stating that this is the penalty they have to pay for her not being able to bear a boy.

Does this constitute a case of dowry? Yes, any demand (before, at the time, or after marriage) – even one in relation to the birth of a child – will constitute dowry.

Notes to the facilitator

You may encourage a discussion among the participants using the following questions as prompts:

1. Do the demands made in the above cases constitute dowry? (Since the demands were made before marriage in the first case and after the birth of a girl child in the second case.)
2. What can be the impact of such harassment on a woman and her family?
3. What actions can an elected representative take on hearing of such cases

Role of PRIs in discouraging giving and taking of dowry

An elected representative can undertake the following steps to discourage the giving and taking of dowry:

- » Ensure community mobilization and regular interactions on rights, entitlements and laws for women and girls
- » Conduct campaigns on illegality of giving and taking dowry as per the Dowry Prohibition Act
- » Undertake pledges on doing away with dowry in forums such as Mahila Sabha, Bal Sabha, Ward Sabha, Gram Sabha, etc.
- » Ensure access to the Dowry Prohibition Officer by displaying contact details of the designated officer at important public places
- » Recognize and appreciate families who enter into marriage without dowry
- » Don't attend marriages where dowry is exchanged
- » Create awareness about the One Stop Centres (OSCs) for women survivors of violence and inform the community about the availability of services under one roof at OSCs
- » Create awareness regarding helplines for women in distress
- » Promote women's economic empowerment by linking them to vocational skills, and ensure availability of support facilities, such as crèches for children and day-care centres for elderly, to ensure women's participation in gainful employment

Key takeaways



Dowry is any **valuable item** that is given **directly or indirectly** by the bride's family to the groom's family or by the groom's family to the bride's family **before, during or after marriage, in connection with marriage.**



Demanding of dowry, **giving** or **taking** of dowry and **giving advertisements** offering a **share in property, business or money** as a consideration for marriage are offences under the Dowry Prohibition Act.



If a woman **dies under unnatural circumstances** (burning, injury, suicide) and it is proved that she was **harassed or had suffered cruelty** by her **husband** or his **relatives**, it will be considered a **dowry death.**

Resources



Short film:

[*Meena Says No to Dowry: Dahej Na Dena Na Lena*](#)



Link to informative online platform:

[Nyaaya's Explainer on Dowry](#)



Relevant Act and Rules:

- » [Dowry Prohibition Act, 1961](#)
- » [Bharatiya Nyaya Sanhita, 2023](#)



SEXUAL HARASSMENT AT THE WORKPLACE



The Law on Sexual Harassment at the Workplace emerged from the experience of GBV in the unorganized sector. In 1992, Bhanwari Devi, a social worker engaged under the women’s development programme by the Rajasthan government, was physically assaulted and raped by five men when she tried to prevent child marriage in her village. This incident began a long struggle to access justice, which ultimately culminated in the Supreme Court. The Supreme Court called for a law “...to provide for effective enforcement of the basic human right of gender equality”. In the absence of a law then, the SC laid down a set of guidelines in 1997 called the Vishakha Guidelines for addressing Sexual Harassment at the Workplace. Finally, in 2013, the law ‘Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act’ was enacted.



This section discusses the different forms of harassment at the workplace and the available complaint mechanisms laid out under the law. It primarily deals with:

- (i) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013
- (ii) Relevant sections under the Bharatiya Nyaya Sanhita, 2023

I. THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION AND REDRESSAL) ACT, 2013

What is sexual harassment at the workplace?

When a person experiences an **unwelcome** act or behaviour of a sexual nature at a place of work, it is sexual harassment at the workplace.

Unwelcome actions or behaviours are those that are unwanted, one-sided, and cause discomfort or distress to the recipient. They may lead to the creation of a hostile or intimidating work environment for the affected person.

Per the law, sexual harassment at the workplace may include any one or more of the following **unwelcome acts or behaviour (Section 2(n))**:

STOP
GBV

- » Physical contact and advances
- » A demand or request for sexual favours
- » Making sexually colourful remarks
- » Showing pornography
- » Any other unwelcome physical, verbal or non-verbal conduct of a sexual nature



Further, certain circumstances connected with any act or behaviour of sexual harassment may amount to the sexual harassment of a woman. These include (Section 3(2)):



- » Implied or explicit promise of preferential treatment in her employment
- » Implied or explicit threat of detrimental treatment in her employment
- » Implied or explicit threat about her present or future employment status
- » Interference with her work or creating an intimidating, offensive or hostile work environment for her
- » Humiliating treatment likely to affect her health or safety

Case studies

The facilitator may use the following case studies to unpack sexual harassment at the workplace by engaging the training participants in discussing and analysing each case:

Case study 1

Sunita, a domestic worker, works in a household where her tasks include cleaning and attending to various household chores. On most days, the lady of the household leaves early for work. As a result, Sunita has to spend time in the house with a male household member. Sunita finds the male member often staring at her and following her around the house, which makes her uncomfortable. The behaviour and action have escalated when, on recent occasions, the male member also watches adult films (pornography) on speakers in his mobile phone in her presence. One day, he demanded outright to have a physical relationship with her. When Sunita mustered the courage to protest and complain to the lady of the house, he responded with a threat, stating that he would accuse her of stealing from the household. This threat further intimidated Sunita, making her feel fearful of losing her job and facing false allegations if she spoke out against the harassment.

Is this an example of sexual harassment? In this example, the male member threatening Sunita to keep quiet about the unwelcome physical contact if she wants to continue with her employment commits sexual harassment. His behaviour, occurring in a matrix of power, is unwelcome and sexual and has a negative impact on Renuka.

Contd....

Case study 2

Sukhi is a daily wage labourer working at a construction site. Every day at lunchtime, Sukhi sits under the shade of the tree to feed her 16-month-old baby. She finds Jaswinder, a worker, staring at her from a distance. Sukhi feels uncomfortable and asks Jaswinder to stay away from her while she's feeding the baby. However, Jaswinder persists and always finds a place near her. The group of fellow construction workers now constantly catcall and whistle at Sukhi every time she walks their way to refill the cement or mortar. When she questions them, they tell her they are only joking among themselves.

Is this an example of sexual harassment? Ogling, stalking and gossiping against Sukhi in the above example constitute a hostile work environment, a form of workplace sexual harassment.

Case study 3

Suman has been working in a garment factory for the last two years. Vipul, her supervisor, frequently comments on her appearance, making remarks about her clothing and physical attributes. Often, during work, when she is sewing at her workstation, Vipul stands too close to her and touches her on her shoulder and back. Suman feels uncomfortable and tries to distance herself from him, but Vipul persists. Vipul continues to try to engage Suman in personal conversations unrelated to work. He frequently invites her to after-work dinners under the guise of casual team bonding or unwinding after a long day. When Suman complained about his behaviour to the Manager, who called Vipul to explain his actions, Vipul defended himself. He said that his intention was not to cause distress but to create team building among staff members. Suman still feels increasingly distressed by Vipul's behaviour.

Is this an example of sexual harassment? In this example, the physical touching by Vipul is unwelcome to Suman and sexual in nature. The impact on Suman, in terms of the distress caused, is of paramount importance.

Notes to the facilitator

Prompt a critical examination of perceptions and responses to workplace misconduct:

- » Highlighting the key elements of the interaction between the woman and the perpetrator in each case study.
- » What is the impact on the woman? What are the potential emotional and professional implications for her?
- » How do power dynamics, such as the perpetrator's position as employer/manager/colleague, influence the situation?



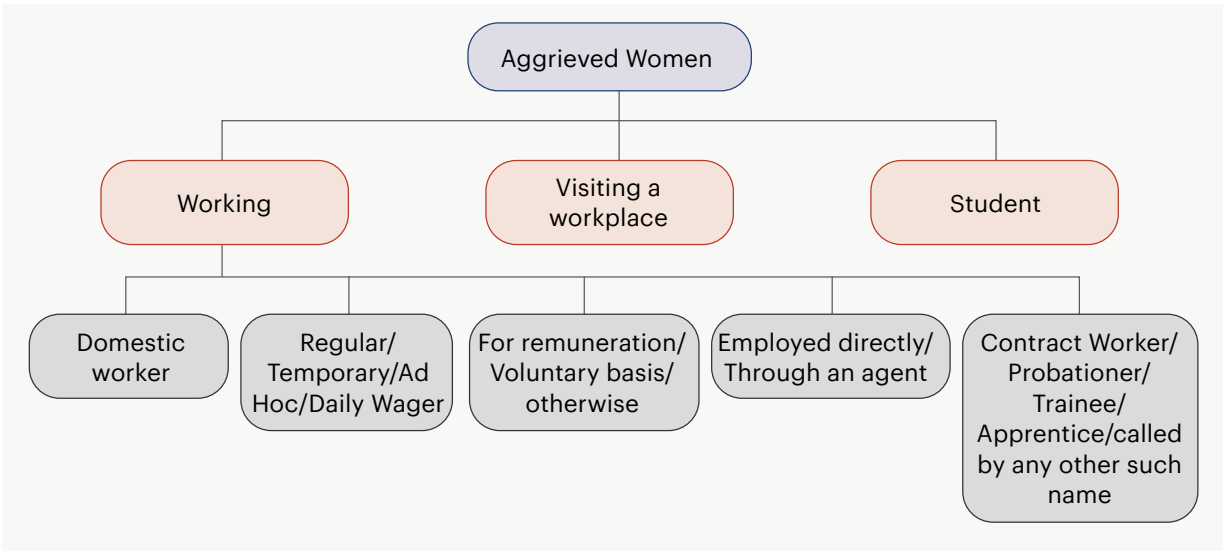


Remember, workplace sexual harassment is **sexual and unwelcome, and the experience is subjective.** It is the **impact and not the intent that matters. It is important to assess any instance of sexual harassment from the perspective of the affected woman¹.** In nearly all instances, **sexual harassment occurs in unequal power situations.** A woman may experience a single instance of sexual harassment or a series of incidents over a period of time. Each case is unique and needs to be examined in its own context with due consideration of the surrounding circumstances.

Who does the law protect?

The law (Section 2(a)) protects:

- » Women who are employed at a workplace, including those working on a voluntary basis, daily wage workers, and domestic workers working in a house or dwelling place
- » Women who enter the workplace as a client, customer, apprentice, interviewee, or on an ad hoc basis, or daily wage workers



Source: Handbook on Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, MWCD (2015)

The law, in its current form, offers protection from sexual harassment for women; however, it does not prevent organizations from constituting sexual harassment prevention policies that will enable them to prevent sexual harassment against all individuals (irrespective of gender identities).

1. In 2010, the High Court of Delhi endorsed the view that sexual harassment is a subjective experience and for that reason held “We therefore prefer to analyze harassment from the [complainant’s] perspective. A complete understanding of the [complainant’s] view requires... an analysis of the different perspectives of men and women. Conduct that many men consider unobjectionable may offend many women... Men tend to view some forms of sexual harassment as “harmless social interactions to which only overly-sensitive women would object. The characteristically male view depicts sexual harassment as comparatively harmless amusement. ... Men, who are rarely victims of sexual assault, may view sexual conduct in a vacuum without a full appreciation of the social setting or the underlying threat of violence that a woman may perceive.” Dr. Punita K. Sodhi v. Union of India & Ors. W.P. (C) 367/2009 & CMS 828, 11426/2009 On 9 September, 2010, in the High Court of Delhi



What is a workplace?

- » **Government or government-supported organizations:** Any department, organization, establishment, office, branch, unit, etc. that is established, owned, controlled, or financed wholly or substantially by the government, local authority, corporation or a cooperative society
- » **Private sector organizations:** Any private sector organization, venture, enterprise, undertaking, non-governmental organization (NGO), society, trust, unit, etc., carrying on professional, commercial, vocational, educational, entertainment-based, industrial, health services, or financial activities, including production, supply, sale, distribution or service
- » **Unorganized sector-related workplaces:** Any enterprise owned by individuals or self-employed workers and engaged in producing or selling goods or providing any kind of service; and if the enterprise employs workers, the number of such workers is less than 10
- » Any **hospitals** and **nursing** homes
- » Any **house** or **dwelling place**
- » Any **sports institute**, stadium, sports complex, etc., used for training, sports or related activities. This includes residential complexes used for training, sports or other related activities
- » Any **place visited by an employee due to the employment.** This includes employer-provided transportation for any such journey

How does the law enable action against sexual harassment in organized workplaces?

Workplaces with more than 10 employees are required to:

1. Create a **safe working environment for women**, and actively prevent, prohibit and redress any workplace-related sexual harassment. For this purpose, employers are required to:
 - a. Formulate and disseminate policy/charter/resolution on preventing, prohibiting and redressing sexual harassment at the workplace
 - b. Conduct regular orientation of staff on the provisions of the law related to addressing sexual harassment
 - c. Create a forum for dialogues on generating awareness about the Act; such forums may include PRIs, Gram Sabhas, women's groups, urban local bodies and other such groups
2. Set up an **Internal Committee** (IC) to respond to complaints of sexual harassment
3. Take **timely action** against those found to be guilty of committing sexual harassment

What are the terms guiding the composition and tenure of the Internal Committee?

As per the law (Section 4(2)), every employer must constitute an IC through a written order with the following members:



- » A **presiding officer** who shall be a woman employed at a senior level; if a senior level woman employee is not available, the presiding officer shall be nominated from other offices or administrative units of the workplace; and if the other offices do not have a senior level woman employee, the presiding officer shall be nominated from any other workplace of the same employer
- » At least **two employees** who preferably demonstrate commitment to the cause of women or who have had experience in social work or have legal knowledge
- » **One member** from a non-government organization or association committed to the cause of women or a person familiar with sexual harassment issues; this member will be paid
- » **Three students**, if the IC is to be constituted in an institution of higher education

The IC must have at least fifty per cent membership of women. The term of office for the IC members is three years.

If the presiding officer or any member of the IC acts in violation of their powers, they will be removed, and a new nomination will take place (Section 4(5)).

How does the law enable action against sexual harassment in the unorganized sector?

For the unorganized sector or organizations with less than 10 employees, the law mandates (Sections 5 and 6):

- » All State Governments are to notify the District Magistrate or Additional District Magistrate or the Collector or Deputy

Collector as a District Officer for every District

- » The District Officers, in turn, are responsible for constituting a Local Committee (LC) at the District level to receive and respond to complaints of sexual harassment from establishments that have less than 10 workers, from domestic workers, or if the complaint is against the employer
- » The **District Officer** is required to designate one **Nodal Officer** in every block, taluka and tehsil in rural or tribal area and ward or municipality in the urban area to receive complaints and forward the same to the concerned Local Committee (LC) **within a period of seven days**
- » The District Officer is also responsible for raising awareness on preventing and responding to sexual harassment and on the rights of women

What are the terms guiding the composition and tenure of the LC?

The District Officer is required to nominate the following members to the LC (Section 7):

- » A **chairperson** to be nominated from among eminent women in the field of social work and committed to the cause of women
- » **One member** to be nominated from among the women working in the block, taluka, tehsil, ward or municipality in the district
- » **Two members**, to be nominated from among non-governmental organizations or associations committed to the cause of women or familiar with the issues relating to sexual harassment:



- Of the two, at least one nominee must be a woman
- At least one of the nominees should preferably have a background in law or legal knowledge
- At least one of the nominees should be a woman belonging to the Scheduled Castes or the Scheduled Tribes or the Other Backward Classes or minority community notified by the Central Government
- » The concerned officer dealing with social welfare or women and child development in the district shall be an **ex officio member**

The term of office for the LC members is three years.

If the chairperson or any member of the LC acts in violation of their powers, they will be removed, and a new nomination will take place (Section 7(3)).

Who can complain and where?

The law (Section 9) outlines:

- » **Any woman experiencing sexual harassment** at the workplace may make a complaint, in writing, to the IC or the LC, as relevant, within a period of **three months** from the date of the incident or from the date of the last incident (in case of a series of incidents).
- » **If the woman cannot file her complaint in writing**, the Presiding Officer or any Member of the IC or the Chairperson or any Member of the LC, as the case may be, is required to provide all reasonable assistance to the woman in making the complaint in writing.

- » The IC or the LC may **extend the time limit not exceeding three months** if it is satisfied that there are adequate grounds showing that the woman was prevented from filing the complaint within the defined time limit. The reasons for the extension are to be recorded in writing.
- » As stated previously, **in the unorganized sector, or where there are less than 10 workers**, any woman experiencing sexual harassment can complain to the LC directly or with the support of the Nodal Officer. The law (Section 6(2)) states that the District Officer shall designate a person as the Nodal Officer in every block, taluka and tehsil in rural or tribal areas and wards or municipalities in the urban areas to receive the complaints of workplace sexual harassment from women. The Nodal Officer will forward all such complaints **within seven days of receipt** to the concerned LC for appropriate action.
- » **If the woman is unable to make a complaint** on account of her physical or mental incapacity or death or otherwise, the complaint may be filed by any person who has knowledge of the incident, with her written consent or the written consent of her legal heir.

What should the complaint contain?

- » Description of each incident(s) with dates and time/time period
- » Place of occurrence
- » Name of accused(s)/perpetrator(s)/respondent(s)
- » Working relationship between the woman and respondent



- » Names of witness(es)
- » Documentary/electronic evidence, if available

What is the process and timeline for initiating an inquiry and response by the IC or LC following a complaint of sexual harassment?

- » After receipt of a complaint of sexual harassment, the IC or LC (as the case may be) must, **within seven days** of receiving the complaint, **inform the respondent** in writing that a complaint has been received (Section 7 (2) of Rules)
- » The **respondent must file their reply** to the complaint **within 10 working days** from the date of receipt of the documents (Section 7 (3) of Rules)
- » The IC or the LC (as the case may be) shall make an **inquiry** into the complaint (Section 11(1) of the Act); the inquiry has **to be completed within a period of 90 days** (Section 11(3))
- » If no service rules exist, or in the case of domestic workers, the LC shall, if a case exists in the given facts and circumstances, forward the complaint to the police within a period of seven days for registering the case under section 75 of the BNS, and any other relevant provisions of the BNS where applicable (Section 11(1) of Act)
- » The IC or the LC shall provide a **report** of its findings to the employer, or as the case may be, the District Officer, and to

the concerned parties **within a period of 10 days** from the date of completion of the inquiry (Section 13(1))

Is there a process for seeking an informal resolution under the law?

As per the law (Section 10):

- » If the affected woman requests, the IC or the LC may take steps to settle the matter between her and the respondent through conciliation before initiating an inquiry
- » There can be no monetary settlement as part of the conciliation
- » The settlement has to be documented and shared with the employer or the District Officer so that action can be taken as specified in the recommendation; copies of the settlement also need to be shared with the affected woman and the accused/respondent
- » Once a settlement has been reached, no further inquiry is to be conducted by the IC or the LC

Remember, the choice of pursuing an informal or a formal process for complaint resolution lies entirely with the affected woman. The IC or the LC cannot itself advise the woman to directly settle the matter with the accused/respondent.

What actions may be taken in the interest of the affected woman while an inquiry is taking place?

Women experiencing sexual harassment at the workplace who have made a complaint before the IC or the LC can write to the concerned committee (IC or LC) requesting them to ensure interim measures to make the workplace safer and conducive. Based on the written request from the woman, the IC or the LC (as the case may be) can recommend to the employer (Section 12 of the Act and Section 8 of Rules):

- » Grant leave to the affected woman for up to a period of three months
- » Stop the accused person from reporting on the woman's work performance and writing confidential reports about her performance, and choose someone else to do it
- » Stop the person who has been accused from supervising the woman if the sexual harassment incident happened in an academic setting

What are the actions (including punishments and penalties) that may result as part of the redressal mechanism following the submission of the inquiry report?

- » If the IC or the LC concludes that the allegation against the respondent has not been proved, it shall recommend to the employer or the District Officer, as the case may be, that no action is required to be taken in the matter (Section 13(2))

- » If the IC or the LC concludes that the allegation against the respondent has been proved, it shall recommend to the employer or the District Officer, as the case may be (Section 13(3)):
 - o Take action for sexual harassment as a misconduct in accordance with the provisions of the service rules applicable to the respondent
 - o If no service rules have been made, the IC or the LC may recommend to the employer or the District Officer, as the case may be, to take any action, including **a written apology, warning, reprimand or censure, withholding of promotion, withholding of pay rise or increments, terminating the respondent from service or undergoing a counselling session or carrying out community service**
 - o The IC or the LC may also recommend financial damages to the complainant or her legal heir; if the amount is not paid, it can be recovered as an arrear of land revenue
- » The employer or the District Officer **must act on the recommendations** of the IC or the LC **within 60 days** of its receipt (Section 13(4))
- » If any person affected by the recommendations is **not satisfied with the findings or recommendations** of the IC or the LC or with the non-implementation of the recommendations, they **may appeal in an appropriate court or tribunal**, as prescribed under the Service Rules or where no such service rules exist, in such manner as may be prescribed (Section 18)

Notes to the facilitator

Have the participants revisit the case studies and ask, in each case, **what options were available to the affected woman?**



II. RELEVANT SECTIONS UNDER THE BHARATIYA NYAYA SANHITA, 2023

Any woman experiencing sexual harassment can opt for criminal proceedings by filing a Criminal Complaint. This may be in addition to approaching the IC or LC, which constitute part of the civil resolution mechanism. A Criminal Complaint, if proven, may lead to imprisonment of the accused. The relevant sections under the BNS, 2023 that may be applicable:

Sexual Harassment (Section 75)

Anyone who commits the offence of sexual harassment shall be punished with rigorous imprisonment for up to three years, or with a fine, or with both

Additionally, certain acts, when perpetrated in the context of workplace settings, may constitute distinct offences under the BNS (over and above sexual harassment at the workplace).

Outraging a woman's modesty (Section 74)

The punishment for this offence includes imprisonment for a term not less than one year but which may extend to five years, and the offender shall also be liable to a fine.

Insulting the modesty of a woman (Section 79)

The punishment for this offence includes imprisonment for a term which may extend to three years, and also with a fine.

Forcing a woman to disrobe (Section 76)

The punishment for this offence includes imprisonment for a term which shall not be less than three years but may extend to seven years, and shall also be liable to a fine.

Voyeurism (Section 77)²

The punishment for this offence includes imprisonment for a term not less than one year, but which may extend to three years, and shall also be liable to a fine on the first conviction; on a second or subsequent conviction, punishment includes imprisonment for a term not less than three years, but which may extend to seven years, and shall also be liable to fine.

Stalking (Section 78)³

The punishment for this offence includes, on the first conviction, imprisonment for a term which may extend to three years and shall also be liable to a fine; a second or subsequent conviction attracts imprisonment for a term which may extend to five years, and shall also be liable to fine.

-
2. Watching or capturing the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed, and/or disseminating such images
 3. Following a woman and contacting, or attempting to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitoring the use of the internet, e-mail or any other form of electronic communication by a woman



Role of PRIs in addressing sexual harassment of women at the workplace

Panchayat members should:

- » Ensure the constitution of an Internal Committee at all workplaces having more than 10 employees
- » Ensure that a Local Committee has been constituted in your District to address complaints of employees in the unorganized sector, where workplaces have less than 10 employees
- » Create awareness about the availability of the LC in your district and display their contact details
- » Raise awareness about the prevention of sexual harassment at workplaces and the workplace rights of women through public campaigns, educational initiatives, and community outreach programmes
- » Engage civil society organizations and media outlets to disseminate information on the issue and promote a workplace culture of respect and accountability

Key takeaways



Sexual harassment refers to any **unwelcome** act or behaviour of a sexual nature at a place of work; It includes physical, verbal or non-verbal conduct.



In assessing sexual harassment, it is the **impact and not the intent that matters**. Each case of sexual harassment is unique and needs to be examined in its own context with due consideration of the surrounding circumstances (including promise of preferential treatment; threat of detrimental treatment including threat of job loss; humiliation; hostile work environment).



The Act protects all women, whether employed or not, who experience sexual harassment in workplaces.



Workplace includes Government organizations and related entities, private sector organizations and related entities, and unorganized sector entities.



The IC and the LC are the formal mechanisms for receiving, conducting inquiry, and sharing findings and recommendations for action by the employer or for subsequent action by the criminal justice system.





The remedies available to affected women include administrative action against the accused/respondent, monetary compensation, and any other measures that ensure the woman's safety and well-being at the workplace.



Prevention of and protection from sexual harassment is guaranteed through both **civil action under the POSH Act and criminal action** under BNS.

Resources



Reading material:

[Handbook on Sexual Harassment of Women at Workplace \(Prevention, Prohibition and Redressal\) Act, 2013, MWCD \(2015\)](#)



Short films:

- » [The Sexual Harassment of Women at Workplace \(Prevention, Prohibition and Redressal\) Act, 2013 – UNFPA](#)
- » [Change for Positive, Addressing Workplace Harassment \(Work from Home\) – UNFPA](#)



Links to informative online platforms:

[Nyaaya Legal Explainer on Sexual Harassment at the Workplace](#)



Relevant Acts and Rules:

- » [The Sexual Harassment of Women at Workplace \(Prevention, Prohibition and Redressal\) Act, 2013](#)
- » [Sexual Harassment of Women at Workplace \(Prevention, Prohibition and Redressal\) Rules, 2013](#)
- » [Bharatiya Nyaya Sanhita, 2023](#)

CHILD SEXUAL ABUSE



India is a signatory to the United Nations Convention on the Rights of the Child, 1989. In a bid to uphold its obligations under the Convention, as well as strengthen the legal framework to prosecute cases of child sexual abuse, the Government of India enacted the Protection of Children from Sexual Offences Act in 2012. This was influenced by civil society efforts, existing government data on child sexual abuse, as well as an insistence on legislation by the Supreme Court of India.



This section discusses the different forms of sexual offences against children and the available complaint and redressal mechanisms laid out under the law. It discusses the special law enacted to protect children from abuse: The Protection of Children from Sexual Offences Act, 2012 (POCSO)

Who is a child?

Any person below the age of 18 years, regardless of their gender (Section 2(1) (d))

What are the types of child sexual offences?

The law classifies types of child sexual abuse into the following broad categories:

Sexual assault (Section 7)

This includes:

- » Touching a child with sexual intent (touching their vagina, penis, anus, breast, etc.)
- » Forcing a child to touch their own or anyone else's vagina, penis, anus, breast, etc.
- » Any other act with sexual intent which involves physical contact without penetration

It is punishable with imprisonment for 3 years, extendable to 5 years, and a fine (Section 8). In [certain circumstances](#) (including if the perpetrator is in a position of trust or authority), it may amount to aggravated sexual assault punishable

with imprisonment for 5 years extendable to 7 years and a fine (Section 10).

Sexual harassment (Section 11)

This refers to unwelcome non-physical sexual behaviour towards a child, including:

- » Sexual speech and gestures
 - Viz. speaking, gesturing, or showing sexual organs to the child; showing a sexual object/ sexual body parts to a child; forcing or asking a child to show their body parts
- » Stalking and/or threatening
 - Viz. Repeatedly or constantly following, watching, or contacting a child directly or indirectly by phone, SMS, the Internet, or any other form; threatening or lying to a child to involve them in a sexual act in any form of media
- » Acts involving pornography
 - Viz. showing pornography to a child; tempting or persuading a child to participate in pornographic acts

It is punishable with imprisonment for up to three years and a fine (Section 12).

Sexual penetration (Section 3)

This includes:

- » Penetrating the child's body (vagina, mouth, urethra, or anus) by a penis, any other body part, or any object
- » Manipulating any body part of the child to cause penetration into the vagina, urethra, anus or any other body part
- » Applying the mouth to the penis, vagina, anus, or urethra of the child, or making the child do so on another person

Penetrative sexual assault is punishable with a minimum imprisonment for 10 years, which may extend to life imprisonment, and a fine. If penetrative sexual assault is committed on a child below the age of 16 years, the punishment is minimum imprisonment for 20 years, which may extend to imprisonment for life (meaning the remainder of natural life) and a fine (Section 4).

In [certain circumstances](#) (including if the perpetrator is in a position of trust or authority), it may amount to aggravated sexual assault punishable with rigorous imprisonment for a minimum of 20 years, extendable to life imprisonment (meaning the remainder of natural life) and a fine (Section 6).

Child pornography (Section 13)

Refers to the use of any child in any form of media for sexual gratification, including:

- » representing the sexual organs of a child
- » using in real or simulated sexual acts (with or without penetration)

- » any indecent or obscene representation of a child

It is punishable with a minimum imprisonment for five years and a fine (Section 14).

Who are perpetrators of child sexual abuse under the Act?

Any person may be accused of child sexual offences under this Act, including:

Sexual abuse by another child

If any of the offences outlined [above](#) are committed by a child over the age of seven years against another child, the perpetrator can be punished under the Juvenile Justice (Care and Protection of Children) Act, 2015 (Section 34). Children aged between 16 and 18 years can also be tried as adults for heinous crimes.

According to Indian law, a child below the age of seven years does not have the mental capacity to commit any crime (Section 20, BNS).

Sexual abuse by a family member

Family members face more severe punishment for sexual offences against a child as they are in a position of authority and trust in the child.



A family member includes anyone related to the child by blood, adoption, marriage, guardianship, or foster care; or someone who has a domestic relationship with the parents or the child; or family members living in the same house as the child (Section 5(n), 9(n)).

Sexual abuse by an authority figure

People in a position of authority or trust with respect to the child receive stricter punishment under the Act for sexual offences against children. These include:

- » A government servant, e.g., a police officer while on duty
- » Persons in a position of trust or authority with respect to the child, e.g., a school teacher or a family member
- » Teachers, medical professionals, caregivers, staff, and management of any educational, religious, or medical institution

Offences committed by these individuals are treated as 'aggravated offences'. **Aggravated sexual assault** is punishable with imprisonment for 3 years extendable to 5 years and a fine (Section 8); and **aggravated penetrative sexual assault** is punishable with rigorous imprisonment for a minimum of 20 years, extendable to life imprisonment (meaning the remainder of natural life) and a fine (Section 6).

They are also considered aggravated offences if committed by more than one person (gang rape of a child), by a repeat offender, by a person taking advantage of a child's physical or mental disability, or if committed against a child below the age of 12 years.

What if the child consented to the sexual activity?

The law does not recognize a child's ability to consent to sex, i.e., the **consent of the child is immaterial**. Thus, even if a child consents to sexual activity (explicit or implied), it will amount to an offence under this Act.

Where can one report child sexual offences?

- » Village Child Protection Committee
- » Child Welfare Committee at the district level
- » Child Helpline (1098)
- » Judicial Magistrate
- » Police (including Child Welfare Police Officer and Special Juvenile Police Unit (Section 19))
- » District Child Protection Officer
- » POCOS e-box (*an initiative of the National Commission for Protection of Child Rights for direct online complaints of child sexual abuse*)

How is the child's statement recorded?

The police are required to (Section 24):

- » Ideally, record the child's statement by a woman police officer not in uniform
- » Record the statement at the child's home or any place they feel comfortable, in the presence of a trusted adult and/or an expert, interpreter, translator, or social worker, in a language of their choice

- » Ensure the child's medical examination is done within 24 hours in the presence of the parents or a trusted adult
- » Ensure that the child is provided ample time and frequent breaks while they are narrating the incident
- » Use audio or video recording devices, if available
- » Read out the recorded statement to the child and provide the child/parent with a copy of the same

The Magistrate is required to (Section 26):

- » Ensure the child's statement is recorded in the presence of the parents or any other person whom the child trusts
- » Take the help of a translator or an interpreter, as needed, while recording the child's statement
- » Take the assistance of a special educator/other expert if the child has a mental or physical disability
- » Ensure that the statement of the child is recorded on camera

SPECIAL COURTS

have been established to deal with cases of child sexual abuse, following child-friendly procedures. This includes protecting the child from the accused and the public, restricting media access, disallowing questions relating to the child's character, and prohibiting lawyers from questioning children directly without submitting the questions to the court.



What if one makes false reports/complaints of child sexual abuse?

Filing a false complaint about child sexual abuse is punishable with imprisonment for up to one year and/or a fine (Section 22(3)).

However, if a child makes a false complaint or provides false information, they cannot be punished (Section 22(2)).

Is there a mandatory duty to report child sexual offences?

Yes, **anybody** who has knowledge of the fact that an **offence** under the Act **has been committed or is likely to be committed** is required to provide that information to (a) the Special Juvenile Police Unit; or (b) the local police (Section 19).

Failure to report offences is punishable with imprisonment for up to six months or a fine or both (Section 21 (1)).

Any person in charge of any company or an institution who fails to report a child sexual offence committed by anyone under their supervision shall be punished with imprisonment for a term that may extend to one year and a fine (Section 21(2)).

What other reliefs are provided to children under the Act?

- » Compensation for any physical or mental trauma caused (Section 33(8))
- » Immediate rehabilitation (Section 33(8))

Case Study

The facilitator may use the following case study to unpack child sexual abuse by engaging the training participants in discussions:

Amita was a Class 5 student at the village school. Her teacher, Ms. Devika, noticed that Amita lacked interest in her studies and always remained sad. She did not share anything about being asked. Devika visited her house and consulted her parents to probe the matter. Amita's parents also expressed similar concerns. They shared that she always remains aloof and avoids talking to anyone. Her smile has vanished, and she has not even touched her books for some days. Then Amita's mother and teacher took her to a separate room, lovingly and assuringly asking her why she was sad. Amita was quiet initially, but then she started crying and said, "An uncle in the neighbourhood bothers me. He talks dirty to me and touches me inappropriately." Devika immediately understood the issue and took Amita's mother to Panchayat member Sharda Devi's house, where she narrated the incident.

Sharda Devi spoke to the village head and called for a Gram Sabha meeting. Sharda Devi shared the incident in the meeting. She asked the members – what should be done now? A member of the Gram Sabha said, "Leave it. Such incidents keep on happening. Why should we interfere? The matter concerns a girl. Her family will be humiliated." Another Gram Sabha member said, "This man should be publicly exposed and reprimanded. If the Panchayat permits, we can beat him up. He will not make any such attempt again." Another member said, "We should immediately inform the police. This matter is linked to sexual abuse. Such a person should be punished immediately."

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Notes to the facilitator

You may encourage a discussion using the following questions as prompts:

1. What is your opinion on the different courses of action suggested by the Gram Sabha members? What should the next steps be?
2. What would you have done if the matter was brought to your attention?

Please remember to:

- » Encourage the participants to share their views on possible courses of action
- » Encourage the participants to share any constructive steps they may have taken in their experience to combat child sexual abuse
- » Emphasize the importance of the Rule of Law and a human rights-based approach (principles of non-violence) to addressing child sexual abuse

(Adapted from Sexual Abuse in Children, a Training Module by UNICEF and NCPCR)

Role of PRIs in addressing child sexual abuse

Panchayat members should:

- » Be able to identify signs of sexual abuse of children, as well as build awareness on the issue in the village
- » Listen carefully and attentively to the information shared by the child survivors and explain all options available to them to enable them to make informed decisions
- » Motivate members of Bal Panchayat to maintain regular contact with children in the village and ensure incidents of sexual abuse are reported
- » Build awareness about the support systems available for survivors of child sexual abuse, as well as make necessary linkages with service providers
- » Ensure that the names and details of the survivor and their family are kept confidential and that they are not subject to any humiliation or insult because of the incident
- » Ensure availability of counselling and psychosocial support services for survivors of child sexual abuse

Remember, as PRI members, you bear an additional responsibility to ensure your (respective) Panchayats are safe spaces, free from any form of child sexual abuse.



Key takeaways



The Act punishes **sexual offences** (sexual harassment, sexual harassment, sexual penetration, child pornography) against children **below the age of 18 years, regardless of gender**. A child's **consent is immaterial** under the law. Stricter punishments are in place for **aggravated offences**, including those **committed by a person in a position of authority or trust** with respect to the child. The Act also outlines **child-friendly procedures** to be followed by the police, Magistrates and Courts. There is a requirement of **mandatory reporting** - for anybody who has knowledge of the fact that an offence has been committed or is likely to be committed.

Resources



Links to informative online platforms:

- » [POCSO E-Box - NCPCR](#)
- » [Nyaaya Legal Explainer on Child Sexual Abuse](#)



Relevant Act:

[The Protection of Children from Sexual Offences Act, 2012](#)



SESSION 05

HARMFUL PRACTICE: CHILD MARRIAGE



India has made significant progress in ending child marriage. While an increasingly lesser proportion of women are now married before age 18, a majority are married by age 21, signalling a transition in marriage trends from child marriage to early marriage.



This section discusses the law on child marriage and the available complaint and redressal mechanisms. It discusses the special law enacted to address the issue: **The Prohibition of Child Marriage Act, 2006**

What is child marriage?

Child marriage is a marriage between two children or a marriage between a child and an adult (Section 2).

A girl below the age of 18 years and a boy below the age of 21 years are considered children under this Act.

What does the law prohibit?

The law prohibits people from performing child marriages (Section 10) and lays down punishments for those involved in conducting the marriage (Section 11).

If a child marriage takes place, it will be presumed that the parent (or guardian responsible for the child) failed to prevent the child marriage from taking place and thus is/are liable under Section 11.

A woman responsible for the child's marriage (mother/ any other female guardian) cannot be imprisoned under the Act – she can only be fined.

What is the legal status of a child marriage?

A child marriage is not automatically considered illegal or void. It is a valid marriage – the child parties to the marriage can choose to [annul the marriage](#) or continue to be parties to it.



Are all child marriages recognized under the law?

Yes, child marriages are valid marriages. However, in certain circumstances, they are considered *null and void*, i.e., deemed not to have occurred in the first place (Section 12):

- » When a child is kidnapped for the purpose of marriage
- » When a child is enticed and taken for the purpose of marriage
- » When a child is:
 - Sold for the purpose of marriage
 - Sold or trafficked after marriage
- » Involving the use of force/deceitful means
- » A child marriage that is solemnized despite a court order prohibiting it (Section 14)

Can a child party to a marriage exit the marriage?

Yes, child marriages are voidable, i.e., child parties to the marriage can annul the marriage (Section 3). Once a child marriage is annulled, the legal effect is the same as the marriage not having taken place at all.

The petition to annul a child marriage:

- » Can be filed by either party to the child marriage (in case the petition is filed when they are still a minor, it may be filed through the child's guardian or any other person who the child trusts)
- » Can be filed within two years after the child attains majority, i.e., 20 years

- » Can be filed in the District Court

When a child marriage is cancelled, the District Court orders both parties to return the money, valuables, ornaments and all other gifts received during the wedding to the other side. If they are unable to return the gifts, an amount equal to the value of the gifts must be returned.

What is the legal status of children born out of child marriages?

A child born out of a child marriage is a legitimate child, having full protection of their rights under the law, irrespective of the status of the marriage (Section 6).

Where can a child marriage be reported?

- » Village Child Protection Committee
- » Child Welfare Committee at the district level
- » Child Helpline (1098)
- » Judicial Magistrate
- » Police (including Child Welfare Police Officer and Special Juvenile Police Unit)
- » Child Marriage Prohibition Officer - to be appointed by every State Government
- » District Child Protection Officer

Does the law provide any support/protection for girls married below the age of 18 years?

If a girl chooses to annul her marriage, she is entitled to (Section 4):



- » Payment of maintenance (payable by the husband or his parents/guardians (in case the husband is a minor))
- » Arrangements for her residence until she chooses to remarry

Can courts stop a child marriage?

Yes, if the court has credible information that a child marriage has been arranged or is about to take place, it can issue an order prohibiting the persons involved from conducting and organizing such marriages (Section 13). If the marriage takes place after the court has passed such an order, it is not considered a valid marriage.

The Court can intervene on its own or based on a complaint filed by the Child Marriage Protection Officer or a civil society organization/non-governmental organization.

Who is a Child Marriage Prohibition Officer? What are their powers?

Child Marriage Prohibition Officers (CMPO) are appointed by State Governments to prevent and address child marriages in the State (Section 16). Their duties include:

- » Preventing the solemnization of child marriages through appropriate action
- » Collecting evidence for the effective prosecution of offenders under the Act
- » Advising/counselling community members against promoting, helping, aiding or allowing the solemnization of child marriages
- » Raising awareness and sensitizing the community about the harmful consequences of child marriage which results from child marriages
- » Furnish periodical returns and statistics as directed by the State Government

Case studies

The facilitator may use the following case studies to unpack domestic violence by engaging the training participants in discussing and analysing each case:

Case study 1

16-year-old Sujata studies in Class 10. She is good at studies and aspires to become a doctor. Her teachers and friends hope that she will score well in Class 10 and secure admission to the medical stream in Class 11 next year. Examinations were around the corner, and Sujata was engrossed in preparation. One day, her uncle from a neighbouring village visited with a wedding proposal for her. Sujata's parents were extremely happy – they thought it was the right time to get their daughter married as she had grown up and was about to pass Class 10. Sujata's uncle said, *"The boy is from my village. He has completed school and now helps his father at his shop. He is 20 years old; the family is*

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well off, and the girl will remain happy. I have found the boy with great difficulty, so do not reject the proposal." Sujata's father agreed to the proposal without informing Sujata. He also sent for the boy's parents to come and see Sujata – they came along with her uncle to see the girl.

Sujata was now aware of what was likely to happen. She was distraught when she learned about her father's plan and lost interest in exam preparation.

She decided to inform her class teacher, Ms. Renuka, who was also socially aware and knew about the harmful consequences of forced child marriage. When Sujata's family left to finalize the wedding alliance, Ms. Renuka and Panchayat member Sharda Devi reached there. Sujata's parents could not understand what was happening.

Notes to the facilitator

You may encourage a discussion among the participants using the following question as a prompt:

What should have been done by the Panchayat member and the teacher? As prompts, you may discuss the options below:

- » Inform the police immediately
- » Advise Sujata's as well as the boy's parents that it is not right to force them into this marriage
- » Do not interfere, as it is a private family matter
- » Escalate the matter to the Child Protection Committee
- » Advise Sujata's parents to postpone the marriage till she pursues her medical degree, is financially independent, and wants to get married
- » Advise Sujata and the boy separately about the harmful consequences of marrying at a young age

Case study 2

Bhavna did not even realize when her marriage was fixed. She had barely completed 15 years of age and was married to Rohit, who was 19 years old. Rohit, too, was scared of his father to protest. His father was very strict and made all decisions at home. Even though Rohit wanted to study further and become a teacher, he could not do anything. He did not know what marriage meant and was unaware of the potential ill effects of marrying at a young age. Bhavna also wanted to study further but had no say in the matter – so she agreed to marry, fearing her parents. Bhavna's in-laws lived in a different village.

After some time, when Bhavna visited her parents, she had a baby with her and was pregnant again. She looked very weak, and her skin was pale. Bhavna's mother was deeply concerned about Bhavna's ability to take care of two children at such a young age. She mentioned this to the ASHA worker.

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Village ASHA, ANM and Anganwadi workers came to see Bhavna. They advised her to visit the health centre immediately, but Bhavna told them that all would be well. ANM told Bhavna that she was anaemic. In the meantime, Panchayat member Anita Devi also joined them.

Notes to the facilitator

You may encourage a discussion among the participants using the following questions as prompts:

1. What action should Anita Devi take?
2. What role should the ANM and ASHA play?

(Adapted from: Training Module on Child Marriage, UNICEF India and NCPCR)

Role of PRIs in preventing and addressing child marriages

Panchayat members should:

- » Counsel children and their families by:
 - Highlighting the consequences of child/early marriage for the child parties involved (especially girls) and the need to invest in their empowerment to enable them to make critical life decisions at the right time
- » Improve access to education and reduce school drop outs by:
 - Undertaking campaigns around the importance of investing in girls and ending child marriage
 - Addressing reasons for school dropout, such as transportation, toilets, women teachers, etc.
 - Building life skills of girls
- » Foster an enabling legal environment by:
 - Ensuring access to Child Marriage Prohibition Officers by displaying the contact details of the designated officer
 - Ensuring the constitution and functioning of Village Child Protection Committees to prevent child marriages
 - Organizing regular legal literacy camps to create awareness of women's rights and entitlements

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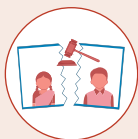
- » Address issues of safety and security by:
 - Ensuring the constitution and functioning of Mohalla committees for the safety of girls
 - Undertaking safety audits and ensuring desired compliance to make public places safe for women and girls
- » Improve access to gainful employment by:
 - Linking women and girls to self-help groups (SHGs) through National Rural Livelihoods Mission (NRLM)
 - Investing in building vocational skills of girls to equip them to say no to early and forced marriages
 - Creating awareness and ensuring uptake of schemes for women and girls
 - Ensuring access to livelihoods under NRLM and Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA)

Remember, as PRI officials holding a position of trust and authority in the community, you should not be seen promoting or participating in any child marriages

Key takeaways



The law prohibits marriages **between two children** as well as those **between an adult and a child** ('child' – a **girl below the age of 18 years** and a **boy below the age of 21**). Child marriages are **valid**. However, they are considered void if they are conducted through the use of force/deceitful means/involving trafficking or after a court injunction prohibiting the ceremony.



Parties to the child marriage have the **option to get their marriages annulled** within 2 years of attaining majority (i.e., 20 years) – they may approach the District Court on their own or with the support of the Child Marriage Prohibition Officer/local CSOs and NGOs. Girls who have filed for annulment of their (child) marriage are entitled to maintenance and suitable residence arrangements.

Resources



Short film:

[Baat Patey Ki: A Film on Ending Child Marriage, UNFPA \(2022\)](#)



Link to informative online platform:

[Nyaaya Legal Explainer on Child Marriage](#)

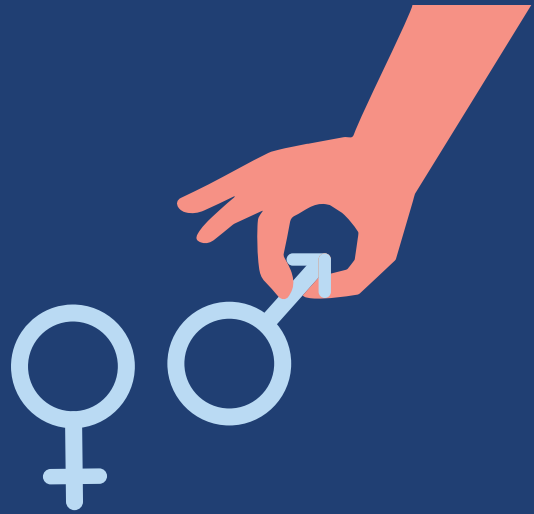


Relevant Acts and resources:

- » [The Prohibition of Child Marriage Act, 2006](#)
- » [Primer on Annulment of Child Marriage under the Prohibition of Child Marriage Act, 2006](#)



HARMFUL PRACTICE: GENDER-BIASED SEX SELECTION



Gender-biased sex selection, driven by societal preferences for male children, remains a significant issue in India and other parts of the world. This practice, often facilitated by modern technology, has led to a skewed sex ratio, with far-reaching consequences for gender equality. The devaluation of female lives perpetuates harmful stereotypes, reinforces patriarchal norms, and exacerbates discrimination against women. Beyond individual families, it creates long-term social imbalances, contributing to increased violence against women and a diminished role for women in public and economic life. Tackling gender-biased sex selection is crucial for fostering gender equality and building a more inclusive society.



This section discusses gender-biased sex selection, the nature of the offences and the punishments specified under the law. It primarily deals with the law laid out in the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, and the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996

I. PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994 (AND ACCOMPANYING RULES)

What is gender-biased sex selection?

Gender-biased sex selection occurs when families use different methods, including pre-conception and prenatal diagnostic procedures, to ensure the birth of a boy or avoid the birth of a girl.

What are prenatal diagnostic procedures?

Prenatal means before birth. As per the law, Section 2, techniques used to detect or diagnose any physical or mental conditions in a foetus are known as pre-natal diagnostic techniques or procedures or tests. These techniques involve the study of any body fluid,

blood, cells or any tissue from a pregnant woman or the foetus. This can also be done through a visual image, as is done in ultrasonography, or by removing samples of amniotic fluid, blood or any other tissue or fluid of a person.

What are preconception procedures?

Preconception (occurring before conception) procedures involve sperm sorting, i.e., separating sperm cells that carry the X chromosome from sperm cells that carry the Y chromosome. The law covers such preconception procedures that are meant to assign a particular sex for the embryo.



What are the legal purposes for which pre-conception and pre-natal diagnostic techniques can be conducted?

- » These techniques can be used to detect genetic and metabolic disorders, chromosomal abnormality, etc., in the foetus (Section 4(2))
- » They are also used when there are indicators that point towards a greater risk to the woman – if her age is above 35 years; if she has undergone two or more spontaneous abortions; if she has been exposed to potentially dangerous chemicals, drugs, radiation or infection; if there exists a family history of physical and/or mental challenges or any other genetic disease or any other conditions that have been stated as per the Act (Section 4(3))
- » The Act makes it imperative for the medical practitioner carrying out the tests to obtain the written consent of the pregnant woman for such tests and inform her about their side effects. A copy of the consent obtained must be given to the woman (Section 5(1))

To summarize, pre-natal diagnostic tests could be legally conducted if any of the above circumstances exist, posing a risk to the foetus and the pregnant woman. Certain prenatal diagnostic tests, such as sonography, are widely used to monitor the growth of the foetus and are now part of the routine antenatal check-up during the course of pregnancy. **However, they cannot be used for sex determination or selection.** In the case of ultrasound tests, the pregnant woman has to sign a declaration stating that she does not want to undergo the test for the purpose of determining the sex of the foetus.

Who does the law punish?

This law covers every person who could be involved in the process of sex determination and/or sex selection, including:

- » **Any medical practitioner**, including medical geneticist, gynaecologist, sonologist, radiologist, or registered medical practitioners, found to be violating any of the provisions of the Act (Section 23(1))
- » **Anyone who owns or is employed** in a Genetic Counselling Centre, Genetic Clinic or Laboratory, or anyone who owns such an establishment and is found to be violating any of the provisions of the Act (Section 23(1))
- » **Any person who seeks the aid** of any of the above establishments and professionals for conducting a pre-natal diagnostic technique on any pregnant woman for the purpose of sex selection would be punished (Section 23(3))
- » **Women who are compelled to undergo such a test** for the purpose of sex selection **would not be punished**, but the person/s compelling her would be liable for punishment as prescribed under the Act (Section 23(4))

What does the law prohibit?

The law prohibits the following activities:

Prohibition of sex determination

- » Nobody, including a genetic counselling centre, laboratory, or clinic, can conduct any prenatal diagnostic procedures for determining the sex of a foetus (Section 6(a))



- » No person shall conduct or cause to be conducted any prenatal diagnostic procedures for determining the sex of a foetus (Section 6(b))

Prohibition of sex selection

- » Nobody, including infertility specialists, can conduct sex selection on a woman or a man or on both by using any tissue, embryo, conceptus, fluid or gametes derived from either or both of them (Section 3A)
- » The law also prohibits anybody, including a relative or husband of a woman, from seeking or encouraging any prenatal diagnostic techniques or sex selection procedures on either or both of them (Section 4(4 and 5))
- » No person can cause or allow to be caused the selection of sex before or after conception (Section 6(c))

Prohibition on communicating the sex of the foetus

- » Nobody can communicate the sex of the foetus to the pregnant woman, her relatives or any other person by words, signs or in any other manner (Section 5(2))

Prohibition on the sale of machines for sex determination

- » Nobody can sell any ultrasound machine, imaging machine, scanner, or any other equipment that can detect

the sex of a foetus to any person or genetic counselling centre, clinic, or laboratory not registered under the law (Section 3B)

Prohibition of advertisements related to pre-conception and prenatal determination of sex or sex selection

- » No person or organization can issue, publish, distribute or communicate anything online or offline about the availability of facilities for prenatal determination of sex or sex selection before conception (Section 22)

What does the law regulate?

- » The law states that only Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics that are registered can conduct permitted prenatal diagnostic procedures; no one, including medical professionals, can conduct prenatal diagnostic procedures in any place other than the registered centres (Section 3 (3))
- » These registered centres can only employ people who meet the prescribed minimum requirements as set out in Rule 3 of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996



Case study

The facilitator may use the following case studies to unpack gender-biased sex selection by engaging the training participants in discussions:

Phulee stays in a village in Beed District of Maharashtra. Phulee has two daughters and is expecting her third child. Her husband and parents-in-law keep taunting her for bearing daughters. They forced her to undergo sex determination to ensure the birth of a son.

Notes to the facilitator

Please encourage the participants to discuss whether this is an example of gender-biased sex selection.

Response

By forcing Phulee to undergo sex determination, the family members are guilty of violating the PCPNDT Act. The clinic and staff who undertook sex determination are also offenders under the Act.

What are the offences and punishments under this law?

Any violation of the law will attract the following punishments (Section 23)

S. No	Offence	Punishment
1	Violation of the law by any medical practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or anyone employed by such a Centre, Laboratory or Clinic	<ul style="list-style-type: none">» Imprisonment for up to three years and a fine of up to Rs. 10,000 for the first offence» On any subsequent conviction, imprisonment for up to five years and a fine of up to Rs. 50,000
2	For doctors and registered medical practitioners: Suspension of the registration until the case is disposed of and, on conviction, removal of their name from the register for a period of five years for the first offence and permanently for the subsequent offence	<ul style="list-style-type: none">» Imprisonment for up to 3 years and a fine of Rs. 10,000 for first offence» Imprisonment for up to 5 years and a fine of Rs. 50,000 for subsequent offences» The medical practitioner's registration can be suspended from the State Medical Council on framing of charges and removed from the register for a period of 5 years for the first offence and permanently for subsequent offences

S. No	Offence	Punishment
3	Any person seeking the aid of a clinic, laboratory or counselling centre, or of any other person for purposes of sex selection sex, or for conducting prenatal diagnostic techniques for purposes other than those prescribed in the law	<ul style="list-style-type: none"> » Imprisonment for up to 3 years and a fine of Rs. 50,000 for the first offence » Imprisonment for up to 5 years and a fine of Rs. 1,00,000 for subsequent offences
4	Any person found to be advertising facilities for sex determination or sex selection	» Imprisonment for up to three years and a fine of up to Rs. 10,000

Remember: Any offence under this law is (Section 27):

Cognizable: A police officer may arrest the offender without a warrant.

Non-bailable: Getting bail is not the right of the accused. The courts have discretion to grant bail.

Non-compoundable: Parties to the case cannot settle the case out of court and decide not to prosecute.

alleged offence and of the intention to make a complaint to the court.

What action would be taken?

The Appropriate Authority will initiate an investigation. If there is information or a reason to believe that the practice of sex selection is taking place, the premises in question may be searched and examined for any record, register, document etc. Anything that could be furnished as evidence of the offence may be seized, and the unit may be sealed. If the Appropriate Authority feels it is in the public interest, it may suspend the registration without issuing notice. A case would then be filed, and once the offence has been proved, the guilty would be punished, as per the provisions of the Act.

Who can one complain to about a breach of the law?

As per the law (Section 28), Courts can take cognizance of complaints by:

- » The designated Appropriate Authority or of any officer authorized by the Central Government or State Government, or the Appropriate Authority. The Appropriate Authority at the State level is a high health department official above the rank of Joint Director of Health and Family Welfare.
- » A person who has given notice of at least 15 **days** in the prescribed format to the Appropriate Authority of the

What if the authorities don't act on the complaint?

If the Appropriate Authority takes no action within 15 days, the complainant can go to Court with the acknowledgement receipt. Alternatively, the complainant can also approach a social organization like an NGO working on women's rights issues in the area or State.



Role of PRIs in addressing gender-biased sex selection

For addressing son preference, panchayat members should:

- » Mobilize families and community to celebrate the birth of a girl child through innovative means
- » Ensure that families of pregnant women are counselled on the issue and given information about the illegality of sex selection by frontline functionaries
- » Ensuring that the elderly have access to social protection schemes so that they can lead a dignified life and this does not become a reason for preferring sons over daughters
- » Ensure the constitution and functioning of Village Health Nutrition and Sanitation Committees (VHNSCs) to enable access to health, immunization, nutrition services and information for women and girls
- » Ensure access for women and girls to property rights – inherited and marital property
- » Create awareness among the community about conditional cash transfer schemes for the education and well-being of the girl child
- » Ensure economic empowerment and self-reliance of women and girls

For tackling availability and misuse of technology, panchayat members should:

- » Undertake campaigns to inform the community about the illegality of gender-biased sex selection
- » Map sonography centres in the area and ensure they are compliant with the Pre-Conception and Pre-Natal Diagnostic Techniques Act
- » Remain informed about the designated Appropriate Authority for the area
- » Inform Appropriate Authority about any illegal sex determination or sex selection being undertaken in your area
- » Ensure that there are no advertisements in local newspapers, posters, wall paintings, or local cable channels on sex determination/sex selection in your area

Key takeaways



The Act **prohibits** the use of **prenatal diagnostic techniques** for determining the **sex of the foetus**, except for specified medical purposes.



The Act regulates the **sale, distribution, and use** of pre-conception and pre-natal **diagnostic** techniques to prevent their **misuse for sex selection**.



The Act **mandates the registration** of all **diagnostic clinics** and **centres** performing pre-conception and pre-natal procedures. **Non-compliance** can lead to **penalties** and the **closure** of clinics.

Resources



Reading materials:

- » [Frequently Asked Questions: A Handbook For The Public- The Pre-Conception and Pre-Natal Diagnostic Techniques \(Prohibition of Sex Selection\) Act, 1994](#)
- » [Frequently Asked Questions on PCPNDT Act and their Answers \(Hindi\)](#)
- » [Why Do Daughters Go Missing?](#)



Short films:

- » [Baat Patey Ki](#)
- » [Film on Beti Bachao, Beti Padhao](#)



Relevant Acts and Rules:

- » [Pre-Conception and Pre-Natal Diagnostic Techniques \(Prohibition of Sex Selection\) Act, 1994](#)
- » [Pre-Conception and Pre-Natal Diagnostic Techniques \(Prohibition of Sex Selection\) Rules, 1996](#)



TRAFFICKING IN PERSONS



Trafficking in persons is one of the gravest human rights violations, involving the exploitation of vulnerable individuals for forced labour, sexual exploitation, and other forms of abuse. In India, the legal framework addressing human trafficking is comprehensive yet complex, reflecting the country's unique socio-economic challenges. To curb the practice of trafficking in persons for sex work, the Immoral Traffic Prevention Act of 1956 (amended in 1986) was enacted. Legal provisions to deal with the crime of trafficking in all its forms are primarily included in the BNS.



This section primarily deals with the law on trafficking in persons in India as codified under BNS.

What is trafficking?

Trafficking is the recruitment, transportation, transfer, harbouring or receipt of people through any act of threat, force or inducement for exploitation.

Inducement may include the exchange of payments or benefits to achieve the consent of any person having control over the person being trafficked (Section 143).

Remember, the consent of the victim is immaterial in determining the offence of trafficking.

What are the common reasons for trafficking?

Individuals can be trafficked for physical or sexual exploitation. This includes practices such as slavery, forced labour, domestic servitude, forced marriage, petty crimes, prostitution, child pornography, drug peddling, removal of organs, and other forms of exploitation. ([Standard Operating Procedures for Combating Trafficking of Persons in India, NHRC, 2017](#) (Trafficking SoPs)).

Who can file a complaint of trafficking?

A complaint of trafficking can be filed by any of the following persons (Trafficking SoPs):

- » The parent or guardian of the victim
- » NGOs
- » Social worker
- » Labour Inspector/Labour Department
- » Railway Police
- » All public servants
- » Nurse, doctor or management of a nursing home or hospital
- » Any person who knows about the incident
- » Any person concerned with the safety and well-being of an allegedly trafficked person
- » The victim



Where can a complaint of trafficking be filed?

A complaint of trafficking can be filed at a police station (Trafficking SoPs). Since trafficking is a continuing offence, the Complaint can be filed:

- » **At source:** Area or place from where the victim is being recruited to be exploited
- » **During transit:** The route through which the victim is taken to the place of intended exploitation
- » **At the destination:** Area or place where the victim of trafficking is brought for exploitation or economic gain

How can a complaint of trafficking be filed?

If a victim is filing a complaint of trafficking where the offence did not take place, a zero FIR can be filed (FIR can be filed at any police station, regardless of jurisdiction). The complaint can be filed under the [different sections](#) of the BNS and other relevant laws covering child labour, bonded labour, sexual exploitation, child marriage, forced removal of organs, etc. (The Juvenile Justice (Care and Protection of Children) Act (2015), Bonded Labour System Abolition Act (1976), the Slavery Abolition Act (1843), POCSO, among others).

What is the punishment for trafficking?

Section 143 of the BNS lays down the following punishments for offenders of trafficking:

S. No	Offence	Punishment
1	Trafficking of a person	7 to 10 years and a fine
2	Trafficking of more than one person	10 years to life imprisonment and a fine
3	Trafficking of minor	10 years to life imprisonment and a fine
4	Trafficking of more than one minor	14 years to life imprisonment and a fine
5	A person convicted of the offence of trafficking minors on more than one occasion	Imprisonment for the remainder of that person's natural life, and a fine
6	A public servant or a police officer involved in the trafficking of a minor	Imprisonment for the remainder of that person's natural life and a fine

Punishments for sexual exploitation of trafficked persons (Section 144)

S. No	Offence	Punishment
1	Sexual exploitation of a trafficked child	5 to 10 years of imprisonment and a fine
2	Sexual exploitation of a trafficked person	3 to 7 years of imprisonment

Other sections of BNS that can be invoked for filing a case related to trafficking

BNS Section	Description
95	Hiring, employing or engaging a child to commit an offence
139	Kidnapping a child for the purpose of begging
140(3)	Kidnapping/abduction with the intention of secret or wrongful confinement
87	Kidnapping, abduction, or inducing a woman to compel her marriage
96	Procuration of a child
140(4)	Kidnapping or abducting in order to subject a person to grievous hurt, slavery
97	Kidnapping or abducting a child under 10 years with intent to steal from its person
145	Dealing in slavery
98	Selling children for the purpose of prostitution
99	Buying a child for prostitution
141	Importation of a boy or girl from a Foreign Country
146	Unlawful compulsory labour

Case study

The facilitator may use the following case studies to unpack human trafficking by engaging the training participants in discussions

18-year-old Sujata lives in a village in the Chhatarpur district of Madhya Pradesh. She lost her mother when she was very young and used to stay with her grandmother and father. She found solace in meeting her friend Shyam, who used to bring her gifts and speak to her nicely. Shyam promised to get her work as a receptionist at a reputed organization in Bhopal. Hoping to find work in a big city, she accompanied Shyam. On reaching Bhopal, Shyam leaves her in a brothel, saying it is his friend's house. Sujata is scared and tries to contact her family. In the village, Sujata's family desperately tries to look for her. Sujata manages to escape and calls her family to inform them about what happened.

Notes to the facilitator

You may encourage a discussion among the participants using the following questions as prompts:

1. What can you, as an elected representative, do to respond to such an incident
2. What interventions can you undertake to create awareness about the issue?
3. How can you support the rehabilitation of survivors?



Role of PRIs in preventing and responding to the trafficking of persons:

Elected representatives can play an important role in preventing trafficking of persons by:

- » Creating awareness about the issue through local and traditional media
- » Implementing community-based surveillance systems
- » Establishing local networks to monitor vulnerable populations
- » Collaborating with law enforcement agencies to prosecute traffickers
- » Linking survivors to services for support and rehabilitation, including counselling, psychosocial support, and legal aid.
- » Maintaining a record of women and girls from the community who migrate for work and/or get employment through agencies. Put in place a mechanism for regular follow-up of such individuals
- » Building rapport and working with the NGOs/CSOs for the rehabilitation of survivors

Panchayat members can respond to cases of trafficking by:

- » Counselling the family to report the incident and file an FIR without delay
- » Networking with local police to bring back the survivor
- » Addressing concerns of stigma that the victim might face after being rescued and brought back
- » Ensuring that the victim is linked to education and gainful employment
- » Educating women, girls and other at-risk community members about human trafficking, its causes and risk factors
- » Sustaining awareness and empowering the community, including local store owners, managers at taxi/bus stands, and taxi and bus drivers, to take action by immediately reporting to the Elected Representative or Police if they suspect a case of trafficking

Key takeaways



Women and girls are at a **higher risk** of being trafficked.



Section 143 of BNS was introduced as part of the **Criminal Law (Amendment) Act** to create an **environment** that deters **trafficking activities by criminalizing them**.



Various offenders of trafficking can face **punishment** ranging from **seven years to life imprisonment** (for the remainder of natural life) and a **fine**.

Resources



Relevant Acts, Rules and resources:

- » [Bharatiya Nyaya Sanhita, 2023](#)
- » [Standard Operating Procedures for Combating Trafficking of Persons in India, NHRC, 2017](#)
- » [Immoral Traffic Prevention Act, 1956](#)



TECHNOLOGY-FACILITATED GENDER-BASED VIOLENCE



With the rapid increase in technology use, the spaces and means for perpetrating GBV are also changing and expanding. Technology and online spaces are increasingly being misused to perpetrate GBV through what is known as technology-facilitated GBV (TFGBV). Some forms of TFGBV may also be referred to as cybercrimes against women and children. This kind of digital violence is committed and amplified through the use of information and communications, technologies or digital spaces against a person based on gender.⁴







⁴ UNFPA, Technology-facilitated Gender-Based Violence, 2021 <https://www.unfpa.org/publications/technology-facilitated-gender-based-violence-making-all-spaces-safe>



This section primarily discusses the sections relevant to (i) Technology-facilitated GBV under The Information Technology Act, 2000, and (ii) relevant sections of the BNS.

What are the different forms of technology-facilitated GBV (TFGBV)?

The different forms of TFGBV include but are not limited to⁵:

<p>Online sexual harassment: Involves any unwanted sexual behaviour via electronic means and can include unwanted sexual solicitation; unwanted requests to talk about sex; unwanted requests to do something sexual online or in person; receiving unwanted sexual messages and images; having sexual messages and images shared without permission; and revealing personal information about a person online.</p> 	<p>Cyberstalking: Involves monitoring a person's location and/or activities using GPS trackers, spyware, cameras and microphones or stalking a person by checking their email, call or message histories, as well as monitoring a person's social media profiles.</p> 	<p>Image-based abuse: Involves capturing, sharing or threatening to share sexually explicit images without consent.</p> 
<p>Release of private information: Involves the public release of an individual's private, personal or sensitive information, such as home and email addresses, phone numbers, and family member's contact information. It can lead to further online and physical harassment, such as receiving large amounts of abusive messages and threats by email and phone.</p> 	<p>Hacking: Involves the use of technology to gain illegal or unauthorized access to systems or resources, such as a person's phone or computer, to obtain personal information that may be used to blackmail, coerce or cause harm in any way.</p> 	<p>Impersonation: Involves stealing someone's online by creating fake social media accounts to spread false information and defame the person.</p> 

⁵ *ibid.*

I. INFORMATION TECHNOLOGY ACT, 2000

What are the punishments and penalties for TFGBV under the Information and Technology Act?

S. No	Offence	Punishment
1	Publishing or transmitting obscene material in electronic form (Section 67)	Imprisonment for up to three years and a fine of up to Rs. 5,00,000 on the first conviction; and imprisonment for up to five years and a fine of up to Rs. 10,00,000 for subsequent convictions
2	Publishing or transmitting material containing sexually explicit acts in electronic form (Section 67 A)	Imprisonment for up to five years and a fine of up to Rs. 10,00,000 on the first conviction; and imprisonment for up to seven years and a fine of up to Rs. 10,00,000 for subsequent convictions.
3	Publishing or transmitting material depicting children in sexually explicit acts in electronic form or facilitating abuse of children online (Section 67 B)	Imprisonment for up to five years and a fine of up to Rs. 10,00,000 on the first conviction; and imprisonment for up to seven years and a fine of up to Rs. 10,00,000 for subsequent convictions.
4	Identity theft (Section 66 C) by fraudulently or dishonestly making use of the electronic signature, password or any other unique identification feature of any other person	Imprisonment for up to three years and a fine of up to Rs. 1,00,000.
5	Violation of privacy (Section 66 E) by capturing, publishing or transmitting private images of a person without her or his consent, under circumstances violating the privacy of that person	Imprisonment for up to three years and/or a fine of up to Rs. 2,00,000.

How to report TFGBV or cyber crimes against women and girls?

One may report cyber crimes against women and children in India through:

Cyber Police Portal

This [portal](#) is dedicated to cybercrime complaints, especially those against women and children.

National Cyber Crime Reporting Portal

This [portal](#) has a dedicated section on registering cyber crimes related to women and children.

Local police station

You can visit your local police station to file a complaint.



Grievance officer

If you experience abuse or harassment on a digital platform, you can contact the grievance officer. You can find their contact details online.

Platform's support team

You can contact the platform's support team to report where you have experienced abuse or harassment.



II. SECTIONS UNDER THE BHARATIYA NYAYA SANHITA, 2023

The BNS includes provisions to combat actions that include voyeurism (Section 77), stalking (Section 78) and actions

to 'outrage the modesty of women' or intrude upon their privacy (Section 79).

Case study

The facilitator may use the following case studies to unpack TFGBV by engaging the training participants in discussions.

Disha, a young woman in the Khunti district of Jharkhand, recently broke up with her partner Ashok. In an attempt to take revenge and punish her, Ashok shared her private photos on social media without her consent. Disha is distressed and wants to take action against Ashok. She approaches her Panchayat representative, Jacinta, for help. Jacinta is not aware of how to resolve online abuse. However, she is resourceful and consults her district-level Panchayat representatives while maintaining the confidentiality of the case. The district-level Panchayat representatives connect her to law enforcement officials and inform her about Section 66 E of the IT Act and the option of registering the case online with the cyber crime reporting portal with the necessary details. Jacinta shares the options available to Disha for taking action and assures her about the support she can receive from the Panchayat. After Disha registers the case, it is taken up by the cybercrime cell, and the perpetrator is arrested, thus setting an example in the community.

Notes to the facilitator

You may encourage a discussion among the participants using the following questions as prompts:

1. What support do you need to improve your knowledge and skills for addressing such incidents, and how can you access this support?
2. What can you, as an elected representative, do to respond to such an incident?
3. How can you help raise awareness of TFGBV among young people?



Role of PRIs in preventing and responding to TFGBV and cyber-crimes against women and children:

Panchayat members should:

- » Create awareness on TFGBV and digital safety in collaboration with State cyber crime officials
- » Establish linkages between Panchayats, local police and cyber crime cells to ensure timely reporting and resolution of cases
- » Encourage safe online practices within the community, especially among young people, and being a strong voice against cyber crimes against women and girls
- » Promote digital literacy, especially among women and girls, with a focus on cyber security, privacy and safe online practices

Key takeaways



As **digital access, online digital transactions** and the **number of digital users increase** rapidly, the **risk of TFGBV** and **cyber crimes** against women and girls is also a growing concern.



The **IT Act and relevant sections of the BNS** are intended to **prohibit** the **misuse of technology**, create **online safety**, and **protect** against online abuse and violence.



Cyber crimes against women and children can be **registered online** through the **cyber police portal** or the **national cyber crimes reporting portal**.

Resources



Relevant Acts:

- » [The Information Technology Act, 2000](#)
- » [Bharatiya Nyaya Sanhita, 2023](#)



Additional resources for the Panchayat representatives:

- » [Cybercrime Reporting Portal](#)
- » [Handbook for Tackling Cyber Crimes, Government of Telangana](#)

SESSION 09

SELECT CRIMINAL OFFENCES AGAINST WOMEN AND GIRLS UNDER THE BHARATIYA NYAYA SANHITA, 2023



The Bharatiya Nyaya Sanhita (BNS), enacted on 1 July 2024, supersedes the erstwhile Indian Penal Code. It is a part of the country's criminal code and consolidates and codifies offences punishable by law.



This section discusses select offences against women and girls outlined in the BNS.

Forceful sexual behaviour

Forceful sexual behaviour is punishable under the Bharatiya Nyaya Sanhita, 2023 (BNS). This includes, among others, the act of insulting or outraging the modesty of a woman (punishable with imprisonment for up to three years and five years, respectively, under Sections 79, 74); forcefully removing a woman's clothes (punishable with imprisonment for a minimum of 3 years, extendable to 7 years, and a fine under Section 76); and the more aggravated offence of rape.

Rape (Section 63)

What is rape?

Under Section 63, **a man commits the offence of rape if he:**

- » Penetrates the body of the woman (vagina, mouth, urethra or anus) with his penis/ any other body part/any object; or forces her to do this with him or another person
- » Manipulates any body part of the woman to cause penetration into the vagina, urethra, anus or any other body part; or forces her to do this with him or another person

- » Applies of mouth to the penis, vagina, anus, or urethra of the woman or forces her to do this with him or another person

Under any of the following circumstances:

- » Against the woman's will
- » Without the woman's consent
- » Consent obtained by putting the woman or any of her loved ones in fear of hurt or death
- » If the man knows that he is not a woman's husband and that she has given her consent only because she thinks that the man is her (lawful) husband
- » If the woman is unable to understand the nature and consequences of the act to which she gives consent due to unsoundness of mind or intoxication or because the man has given her an unwholesome substance (either directly or through another person)
- » Where the woman is under 18 years of age (regardless of whether she consents to the act)
- » When the woman is unable to communicate her consent

What is consent?

Consent means an explicit **voluntary** agreement expressed by a woman through **words, gestures** or any other **verbal or non-verbal communication** to communicate her **willingness to participate** in a **specific sexual act** (Section 63).

The mere absence of physical resistance does not constitute consent.

What is the punishment for rape?

The offence of rape is punishable with rigorous imprisonment for a minimum of 10 years, extendable to imprisonment for life and a fine (Section 64).

The punishment is more aggravated in the following circumstances:

S. No	Offence	Punishment
1	<ul style="list-style-type: none">» An offence committed by a person in a position of authority or trust concerning the woman» Rape on a woman with physical/mental disability» Rape on a woman incapable of giving consent» Rape that causes grievous harm or endangers the life of the woman	Rigorous imprisonment for a minimum of 10 years that may extend to life imprisonment (meaning the remainder of the person's life) and a fine
2	Rape on a girl under 16 years of age	Rigorous imprisonment for a minimum of 20 years, which may extend to life imprisonment (meaning the remainder of the person's life) and a fine
3	Rape on a girl under 12 years of age	Rigorous imprisonment for a minimum of 20 years, which may extend to life imprisonment (meaning the remainder of the person's life) and a fine; or death
4	Rape causing death of a woman or leaving her in a permanent vegetative state	Rigorous imprisonment for a minimum of 20 years, which may extend to life imprisonment (meaning the remainder of the person's life) and a fine; or death
5	Gang rape	Each person is punishable with rigorous imprisonment for a minimum of 20 years, which may extend to life imprisonment (meaning the remainder of the person's life), and a fine
6	Gang rape of a girl under the age of 18 years	Each person is punishable with rigorous imprisonment for life (meaning the remainder of the person's life) or death
7	Repeat offence	Each person is punishable with rigorous imprisonment for life (meaning the remainder of the person's life) or death



Can a minor consent to sex?

A minor girl's consent to sexual activities is immaterial, i.e., if any of the sexual activities defined above are performed with a minor girl, it constitutes rape.

Can a wife file a case of rape against her husband?

Marital rape is not criminalized under the law. However, if one has sexual intercourse with a minor wife, it is punishable under law (with rigorous imprisonment for 10 years to life imprisonment, based on the age of the girl).

If a woman is living separately from her husband, he is guilty of rape if he has sexual intercourse with his wife without her consent, and is punishable with imprisonment for two to seven years, along with a fine (Section 67).

In the absence of recognition of marital rape as a 'crime', a woman can get relief under [PWDVA](#), which recognizes sexual violence as a form of domestic violence.

Where can the offence of rape be reported?

- » Police (through filing a First Information Report)⁶
- » One Stop Centres
- » Women's helpline (1091)

Will the survivor's identity be disclosed on filing a case of rape?

No. Printing or publishing the name or any matter that may reveal a survivor's identity is punishable with imprisonment for up to two years and a fine (Section 72).

The identity of the survivor can only be disclosed under the following circumstances:

- » For the purposes of investigation – only by the officer-in-charge of a police station or the police officer investigating the case
- » By the survivor herself or with her written permission
- » By the close family of the survivor or with their permission, in case the woman is a minor, of unsound mind, or dead. Here, too, permission can only be given to the chairperson or the secretary of a recognized welfare institution or organization

Voyeurism (Section 77)

Voyeurism is the act of:

- » Being watched in a private act
- » Capturing private images of a woman without her knowledge and consent
- » Distribution of private pictures and videos of a woman

The **punishment** for a first-time offender includes imprisonment for a term ranging from one to three years and a fine. For subsequent offences, the punishment is imprisonment for a term ranging from three to seven years and a fine.

Stalking (Section 78)

Stalking includes the act of:

- » Following a woman or attempting to contact a woman despite a clear indication of disinterest by the woman

⁶ For details on the process of filing an FIR, please also see Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023



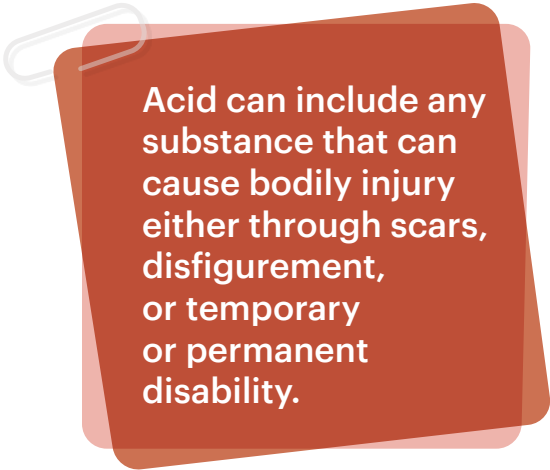
- » Monitoring the use of the Internet, email or any other form of electronic communication by a woman

The **punishment** for a first-time offender includes imprisonment for a term of three years and a fine. For subsequent offences, the punishment is imprisonment for a term of five years and a fine.

Acid attack (Section 124)

Acid attacks include voluntarily throwing or attempting to throw acid to cause hurt.

The **punishment** for acid attack is imprisonment for 10 years, which can extend to life imprisonment and a fine.



Acid can include any substance that can cause bodily injury either through scars, disfigurement, or temporary or permanent disability.

The punishment for attempting to commit an acid attack is a minimum imprisonment for five years, which can extend up to seven years, and a fine.

Section 124 is gender-neutral in its scope; it aims to prevent acid attack crimes against everyone.

Resources



Relevant Act and Rules:

- » [Bharatiya Nyaya Sanhita, 2023](#)



3. CONCLUSION AND WAY FORWARD: ROLE OF LOCALLY ELECTED REPRESENTATIVES ACROSS THE THREE TIERS

Panchayats can play a crucial role in promoting gender equality, tackling discriminatory social norms and ensuring effective implementation of laws relevant to women and girls. This section discusses PRI representatives' possible roles across the three Panchayat system tiers.

I. DISTRICT-LEVEL PANCHAYAT REPRESENTATIVES

Zilla Parishad representatives play a strategic role in the governance structure, bridging the gap between local communities and higher levels of administration. Their involvement is crucial in addressing GBV and harmful practices against women and girls, as several statutory mechanisms are mandated to operate at the district level. Here's an overview of their role in tackling these issues:

Implementation and monitoring of government laws, policies and programmes:

District Panchayat representatives need to liaise closely with the district administration and all line department officials to review and monitor the implementation of laws, policies and programmes addressing education, healthcare, nutrition, sanitation, and

GBV. Zilla Parishad representatives can undertake close follow-up with relevant authorities to ensure:

- » Constitution and functioning of statutory bodies such as the Local Committee (LC) for implementation of the POSH Act
- » Designation and performance evaluation of Protection Officers, Dowry Prohibition Officers, Child Marriage Prohibition Officers and Appropriate Authorities under the PWDVA Act, DPA, PCMA and PCPNDT Act
- » Improved functioning of OSCs, shelter homes and other facilities/services that are intended to respond to survivors of GBV and harmful practices
- » Collection of data and progress monitoring on responding to incidents of GBV and harmful practices, with due attention to human rights-based approaches
- » Strong linkages at the district level with the Skills Mission, State Rural Livelihoods Mission, Mahatma Gandhi National Rural Employment Guarantee Act, and women's collectives to enable the implementation of schemes for women's empowerment

Policy advocacy:

Zilla Parishad representatives advocate for gender-sensitive policies and practices. They can ensure that district-level policies align with national and State-level mechanisms aimed at combating GBV and harmful practices and that policies and programmes are adapted to meet the needs of local communities.

Resource mobilization and allocation:

Zilla Parishad representatives are involved in allocating and mobilizing resources for programmes aimed at addressing GBV and harmful practices. By overseeing the distribution of funds, materials and services to the village-level Panchayats and local organizations, advance the Government of India's initiative to promote women- and girl-friendly Panchayats through targeted allocations.

Training and capacity building:

Zilla Parishad representatives are responsible for organizing felicitation training programmes for local leaders, officials, and community members on issues related to GBV and harmful practices. They can help build the capacity of village-level Panchayat members and other stakeholders to handle cases of violence and harmful practices effectively, ensuring they are equipped with the knowledge and skills needed to support survivors.

Community awareness and engagement:

At the district level, Panchayat representatives can lead efforts to raise awareness about GBV and harmful practices by organizing campaigns and workshops to educate communities on gender equality, rights, entitlements and support services. Their leadership in community engagement can help foster a culture of respect and equality.



Support for local initiatives:

Zilla Parishad representatives can collaborate with local NGOs, women's groups, and other organizations on GBV and harmful practices. They can facilitate partnerships and enable market linkages for local entrepreneurship-based initiatives that address the needs of women and girls.

Establishment of linkages to support services:

Zilla Parishad representatives can link community members to various support services, including counselling, legal aid, and access to healthcare and education. They can also work to ensure that women and girls have access to safe and affordable transportation, housing, and other essential services.

Zilla Parishad representatives play a critical role in addressing gender-based violence and harmful practices against women and girls. Through their involvement in the implementation of laws and policies, policy advocacy, oversight, resource mobilization, community engagement, support for local initiatives, and linkages to support services, they contribute significantly to creating a safer and more equitable environment. Their leadership and strategic role are essential for ensuring effective responses to GBV and for fostering long-term change at both district and community levels.

II. BLOCK-LEVEL PANCHAYAT REPRESENTATIVES

Panchayat Samiti representatives play a crucial role at the block level as the bridge between the village and district-level governance structures. They are pivotal in addressing GBV and harmful practices. Here's an overview of their role in tackling these challenges:

Implementation and monitoring of government laws, policies and programmes:

Panchayat Samiti members can play a role in supporting and strengthening the local institutional frameworks that address GBV and harmful practices by engaging closely with the Block Development Officer. Through this coordination, they can ensure the effective implementation of Central

and State Government schemes and programmes at the block level, including programmes related to rural development, poverty alleviation, education, health, and infrastructure. By creating a conducive environment informed by human rights-based approaches, Samiti members can encourage GBV and harmful practices survivors to report offences and avail of support services.

Community mobilization management:

Panchayat Samiti members can organize campaigns, workshops, seminars, and outreach programmes that educate people on their rights, entitlements and available support services. They can also



mobilize the community to challenge and change harmful social norms that perpetuate GBV and harmful practices. By engaging with local leaders, religious figures, and influential community members, they can drive social change and promote gender equality.

Establishment of linkages to support services:

Panchayat Samiti members act as intermediaries between the community and government services. They facilitate

access to support services for survivors of GBV and harmful practices, including medical care, legal aid, and mental health and psychosocial support. By working closely with local health centres, legal professionals, and counselling services, they help ensure that survivors receive comprehensive support. In particular, Panchayat Samiti members can create awareness about the existence of OSCs at the district level, where survivors can avail themselves of all services under one roof.

Panchayat Samiti members at the block level are essential in addressing gender-based violence and harmful practices against women and girls. Through their multifaceted roles in policy-making, awareness-raising, support facilitation, reporting, and community mobilization, they contribute significantly to creating a safer and more equitable environment for women and girls. Their proactive engagement and leadership are key to driving progress in gender justice at the grassroots level.

III. VILLAGE-LEVEL REPRESENTATIVES

Gram Panchayat representatives hold a critical position in the local governance framework of rural India, as they interface most closely with communities at the village level. Their involvement is essential in addressing GBV and harmful practices. Here's an overview of their role in tackling these issues:

Implementation and monitoring of government laws, policies and programmes:

Gram Panchayat representatives are responsible for implementing schemes, policies and programmes at the village level. They ensure that benefits reach the intended recipients and that the programmes are effectively executed. This includes strengthening local infrastructure

(public amenities, WASH etc.) and facilitating access to resources such as financial aid, educational opportunities, and health services. By virtue of their direct interface with community members, Gram Panchayat representatives are also best positioned to ensure that the rights of women, girls and other vulnerable groups are upheld.

Community mobilization management:

Gram Panchayat representatives are crucial in raising awareness about GBV and harmful practices within their communities. They can initiate and lead local campaigns, workshops, and discussions to educate community members about the rights of women and



girls and other vulnerable groups, as well as the applicable laws. Their efforts in mobilization help build a collective sense of responsibility towards preventing and addressing violence.

Establishment of linkages to support services:

At the village level, Gram Panchayat representatives act as the first point of contact for community members who may be experiencing GBV or harmful practices. They offer support by providing a listening ear, guiding survivors towards available resources, and referring them to appropriate services such as medical care, legal aid, and counselling. They help ensure that survivors receive timely and practical support. In particular, Gram Panchayat representatives can create awareness about the existence of OSCs at the district level, where survivors can avail themselves of all services under one roof.

Monitoring and reporting:

Gram Panchayat representatives play a key role in monitoring and reporting

incidents of GBV and harmful practices. They are often aware of local issues and can observe and document instances of GBV and harmful practices. Their role involves informing the survivors about their rights and entitlements and enabling them to pursue due course of action. Gram Panchayat members can also follow up on the progress of these cases to ensure justice and support for survivors.

Addressing discriminatory social norms:

Traditional and harmful practices against women and girls, and discriminatory norms contribute to gender inequality and violence. Gram Panchayat representatives are uniquely positioned to challenge and change these practices. They can engage with community and religious leaders, elders, and families to promote rights-based approaches and encourage the adoption of practices that respect women's and girls' rights and dignity.

Gram panchayat representatives are essential in the fight against GBV and HP. Through their roles in advocacy, support, monitoring, building legal awareness, challenging discriminatory norms, community mobilization for the implementation of government schemes, they significantly contribute to creating a safer and more equitable environment for women, girls and other vulnerable groups. Their active engagement and leadership are vital for fostering an environment that is conducive to upholding critical human rights.

PRIs, through their three-tier system, have a unique opportunity to usher transformative change in the lives of women, girls and other vulnerable persons. It is hoped that this primer will equip Elected Representatives and PRI functionaries with the necessary knowledge and skills to advance rights and choices for all.



