



**LEGAL TIPS  
FOR  
SOCIAL WORKERS WORKING ON  
LGBTIQA ISSUES**

**BINDUMADHAV KHIRE**

DIRECTOR BINDU QUEER RIGHTS FOUNDATION (PUNE)

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**BindumadhavKhire**

June 2021  
Pune

## FOREWORD

Before the Supreme Court judgment, in 2018, on Section 377 IPC, things were very difficult for the LGBTIQA community. Most were in the closet and faced extortion, violence, and discrimination on a large scale. They were afraid of approaching the police and continued to suffer injustice quietly.

It was in this background that I took charge of the Social Security Cell in Pune, in 2011. During this period, Police Commissioner Dr Meeran Chadha Borwankar, started a novel initiative of organizing quarterly meetings between NGOs and the police for better communication between the two. That important initiative helped the NGOs and police dialogue and understand practical problems faced by various communities, NGO staff, and police. On 17/03/2011, at the first such meeting, I met MrBindumadhavKhire, then President of Samapathik Trust.

After a couple of meetings between MrBindumadhavKhire and me at the Social Security Cell, it was decided that I give a confidence-building talk to the LGBTIQA community. And so, on 09/04/2011, at *Pune Sarvajanic Sabha* Hall, I spoke to the community. There were hardly two dozen attendees, but it was a beginning. I assured them that there are police who are sensitive and understanding of their issues. I also gave them my contact number, stating that they were to call me in case of a crisis.

Post this meeting, I suggested that Samapathik Trust collaborate with the Social Security Cell to organize a dialogue on LGBTIQA issues for the police station in-charge of police stations in Pune and PCMC. The event took place on 06/11/2012 and was a huge success.

Later on, I was posted as police station in-charge of Faraskhanapolice station (Pune), and I undertook the initiative of distributing roses to participants at the third annual Pune LGBTIQA Pride Walk organized by Samapathik Trust on 24/11/2013. This was my way of publicly giving out a clear signal that the law-abiding LGBTIQA community should not be afraid of approaching the police for help. Mr. BindumadhavKhire mentioned that this was the first time in India that a police officer distributed roses to the LGBTIQA community at a Pride Walk.

Later on, I got posted to the Intelligence wing in Mumbai, then took charge of ATS Pune, Satara, Sangli region, and finally retired as ACP. During these years, I kept in touch with the work being done by Samapathik Trust, Mr. BindumadhavKhire, and the various happenings on the LGBTIQA front.

On 06/09/2018, in a landmark decision, the Hon'ble Supreme Court declared Section 377 IPC unconstitutional to the extent that it criminalized consensual intercourse between two adults, whatever their sex, gender, or sexuality. After this Judgment, newfound confidence was seen in this community as gays, lesbians, transgender persons started coming out in large numbers and claiming their rights.

While this is a good beginning, there are a lot of social challenges. Cases of rejection and violence by family members, extortion of closeted men and discrimination on the basis of gender/sexuality are still seen. The lockdown during the Covid-19 crisis has made matters worse; there has been a rise in such cases.

In this background, LGBTIQA community members, social workers, and NGOs who work on LGBTIQA issues need to be aware of basic information on criminal laws. They also need to be aware of various options available for assisting the affected Party. This manual is aimed to assist them in getting this basic know-how. While the manual is not legal advice or a substitute for legal advice, the information provided will give the reader an insight into some of the challenges and options involved. I hope the manual will be helpful to the LGBTIQA community and hope it gets updated periodically as the law evolves (and gets translated to Marathi as well). Lastly, the society should come forward, understand the problems of the LGBTIQA community and support them.

My best wishes to the LGBTIQA community!

**Former ACP Bhanupratap Barge**

May 2021, Pune

## INTRODUCTION

The past decade has been witness to significant empowerment of the LGBTIQA communities in India. The recognition of transgender persons as 'Third Gender' through the landmark judgment of National Legal Services Authority (NALSA) v/s Union of India on 15/04/2014 and the subsequent Transgender Persons (Protection of Rights) Act, 2019, are significant steps towards empowerment of transgender persons.[1]

The Supreme Court judgment on Section 377 IPC on 06/09/2018 decriminalized adult, consensual intercourse between same-sex individuals.[2] The Judgment has brought about a paradigm shift in the way law perceives same-sex relationships.

Despite the rapid changes in law, the community continues to face widespread discrimination at home, in the neighborhood, and at the workplace.

Instances of mental and physical abuse by family members, neighbors, colleagues, and society are too many to count. Vulnerable young adults have been driven to suicide due to abuse and ragging. At times, they have been thrown out or unable to take the abuse anymore, have left their homes for good. Some have run away with their life partners seeking shelter, employment and at times have, in fear of their families, sought to go underground. Closeted community members often face extortion with the threat of being outed. Social workers working for LGBTIQA continue to see a steady stream of such cases.

In the past two decades, social workers, most of them having no legal background, have handled such cases according to their capacities and have tried to assist, seek redress for the traumatized survivors. They have extensive experience in handling such cases and are aware of the challenges and vulnerabilities.

The new generation of social workers and LGBTIQA community members run into immense risks when handling legal issues and crisis cases related to LGBTIQA. Sometimes their good intention of assisting the Party ends up with their being put in precarious situations regarding the law, financial support, and long-term dependency issues.

Inexperience, insufficient knowledge of the law, absence of linkages/referral systems, financial constraints, lack of understanding of their limitations and the risks involved, inability to devote sufficient time for crisis cases, lack of objectivity, absence of documentation of past experiences, lack of understanding of choices involved in taking any decision and the potential risks involved with each of these choices makes their task difficult. On a personal level, handling legal cases take a toll on the social workers- many face great emotional stress and eventual burnout.

With a rich source of experience available with social workers and organizations who have been working on these issues for the past two decades, it is felt that documentation of their learnings in this manual will enable social workers, community members, and organizations who have no legal background to be better equipped to deal with similar cases that they may face.

## OBJECTIVES

- To increase the documentation of typical LGBTIQA legal cases faced by social workers, LGBTIQA community and organizations.
- To increase awareness and understanding of social workers, community members and organizations for handling typical LGBTIQA legal cases.
- To increase the quality of legal assistance provided to LGBTIQA.

### **BACKGROUND STUDY**

The author has a rich experience in handling legal/crisis cases in the past two decades. In addition, for preparing this manual, he approached various social workers, organization staff who worked on LGBTIQA legal/crisis cases and had telephonic discussions with them on the legal cases they handled. The discussions involved case studies, dialogue on strengths and limitations of the social worker, successes and failures of choice/decision taken in each case, and its short term/long term consequence.

The cases were then categorized based on core issue/s. Based on the categorization, representative fictitious scenarios were created, and for each of the cases, legal issues were listed.

The draft of the manual was sent for review to Advocates and social workers who had shared their experiences. Their suggestions, were incorporated wherever possible.

### **NEXT STEP**

The author is aware that there are scenarios that have not been covered in this manual. He is also aware that laws on LGBTIQA are rapidly evolving, and some aspects of the manual will sooner or later become outdated. It is hoped that the author will get a chance, in the near future, to update the manual to address the lacunae and correct any mistakes brought to his notice.

### **REFERENCES**

[1] National Legal Services Authority (NALSA) V/s Union of India.  
Writ Petition (Civil) 400 of 2012 with Writ Petition (Civil) 604 of 2013.

[2] Navtej Singh Johar and Ors v/s Union of India.  
Writ Petition (Criminal) No. 76 of 2016.



## TERMS USED

### TERMS ASSOCIATED WITH BIOLOGICAL SEX

Biological Sex	It is used to represent the anatomical/gonadal/chromosomal sex of a person.
Intersex	An intersex person is born with sexual/reproductive anatomy and/or chromosome patterns that do not fit the typical anatomy of a male or female. This may be apparent at birth or become so later in life.

### TERMS ASSOCIATED WITH GENDER IDENTITY

Gender	Refers to being 'masculine' or 'feminine' and corresponding social roles and behavior.
Gender Identity	Refers to self-identification through self-experience as a male or female or both or neither.
Agender	A person who does not experience either male or female gender identity.
Cisgender	A person whose biological sex is in sync with the person's gender identity. e.g., the body of a male and gender identity of a male; the body of a female and gender identity of a female.
Transgender	A person whose gender identity is different from their biological sex.
Pangender	A person who experiences multiple gender identities (pan=multiple).
Gender Dysphoria	A medical term denoting a person who strongly and consistently indicates gender identity different from their biological sex. Gender Dysphoria includes a strong desire to be treated as per their gender identification and a desire to be rid of one's biological sex characteristics.
Gender Affirmative Surgery	(Older term used 'Sex Re-Assignment Surgery'). Hormonal and/or surgical intervention to shape the anatomy as per the gender identification of the person.
Transphobia	Dislike and/or fear of transgender person/s.

### TERMS ASSOCIATED WITH SEXUAL ORIENTATION

Sexual Orientation	The scientifically accurate term for an individual's enduring physical and emotional attraction to members of the same and/or opposite sex and includes Lesbian, Gay, Bisexual and Heterosexual (Straight) orientations.
Asexual	A person who does not feel sexual attraction to anyone for an extended period of time.
Bisexual	A person who has the capacity to form enduring physical and emotional attraction to men as well as women. Bisexual persons may experience this attraction in differing degrees over their lifetime.



Heterosexual/Straight	A person whose enduring physical and emotional attraction is to people of the opposite sex only.
Homosexual/Gay	A person whose enduring physical and emotional attraction is to people of the same sex only.
Lesbian	The word Lesbian is used to describe a Gay woman.
Homophobia	Dislike and/or fear of Gays and Lesbians.
Biphobia	Dislike and/or fear of Bisexuals.

**OTHER COMMON TERMS**

Closeted	A person who is not open about his/her/their sexual orientation or gender identity.
Coming out	Revealing your gender/sexuality to someone.
Queer	<ol style="list-style-type: none"><li>1. At times it is used as an umbrella term to include the entire LGBTIA spectrum.</li><li>2. At times it means a person who does not fit the traditional binary gender/sexuality framework.</li><li>3. At times it is used to imply someone questioning their gender/sexuality.</li></ol>
LGBTIQA	L-Lesbian, G-Gay, B-Bisexual, T-Transgender, I-Intersex, Q-Queer, A-Asexual.

**Note:** Many of the definitions listed above have been drawn and adapted from: ‘*Sanchaar Media Guide*’- Recommended language manual for improved reporting on sexual minorities in India. (Copyright- The Humsafar Trust, 2015. Version 1.0. The ‘*Sanchaar Media Guide*’ has drawn and adapted certain definitions from Gay and Lesbian Alliance Against Defamation (GLAAD) media reference guide.)

## ACRONYMS

- BW Bailable Warrant
- CDR Call Detail Record
- CP Commissioner of Police
- CMA Criminal Miscellaneous Application
- CrPC Criminal Procedure Code, 1973
- FIR First Information Report
- HC High Court
- ICTC Integrated Counseling and Testing Centre (for HIV/AIDS)
- IPC Indian Penal Code, 1860
- IPO Indian Postal Order
- JMFC Judicial Magistrate First Class
- MOU Memorandum of Understanding
- MPR Missing Person Report
- NBW Non-Bailable Warrant
- NC Non-Cognizable
- NGO Non-Governmental Organization
- NHRC National Human Rights Commission
- NOC No Objection Certificate
- PC Police Constable/Police Custody
- PoA Power of Attorney
- PP Public Prosecutor (Govt. Pleader in Criminal Case)
- RPAD Registered Post with Acknowledgement Due
- SC Supreme Court
- SHRC State Human Rights Commission
- SP Superintendent of Police

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## **PART I: BASICS**

## 1. RISKS RUN BY SOCIAL WORKERS

### INTRODUCTION

In handling LGBTIQA legal cases/crisis cases, social workers and organization staff run multiple risks. They run the risk of violence; at times have to bear expenses; devote significant time to the cases. Handling crisis cases result in a lot of emotional and physical stress and, at times, trauma. The lack of objectivity in dealing with a crisis case, experience-identification with the survivor (hereinafter referred to as the Party), projecting their vulnerabilities on others make matters worse. With little support from the mainstream, the direct and indirect toll on the physical and mental health of the social worker is very high.

### VIOLENCE

One of the biggest risks highlighted by almost all the social workers was the risk of violence from parents and relatives of the Party they were trying to assist. Many reported that the family/relatives considered assistance provided by social workers, to the Party, as instigation, abetment, or unwarranted interference into the family's matters.

*"As I tried to assist the Party, her brother threatened me right inside the police station- "Tu bahar aa, maituzhedekhleta hu". (Step outside (the police station), and I will teach you a lesson.) I immediately reported the threat to the police station in-charge, who then spoke to the brother and asked him to cool it."*

### STRESS AND TRAUMA

Verbal abuse by parents/relatives and false accusation of abetment can be very stressful and traumatic for the inexperienced social worker.

Cases related to a missing/absconding LGBTIQA person or attempts of suicide by an LGBTIQA person can be nerve-racking for the social worker to handle. If the social worker does not have a supervisor to report to, or seek counseling from, the social worker has to carry all the burden singlehandedly. Repeated handling of such cases can precipitate depression.

*"I was unable to sleep the whole night wondering whether the Party who had called and spoken of suicide had taken the step. I felt that I would be responsible if he acted on that impulse. I was also unsure whether I should report the threat of suicide to the police."*

In some cases, during the inquiry, the social worker comes to know that the Party is lying. The case which the social worker is so valiantly trying to assist is based on fiction, distorted facts, or malafide intention on the part of the Party. In such cases, it is very damaging to the reputation of the social worker and invites castigation not only from the accused but also from the law enforcement agency. (Hence, it is extremely important to take a detailed history and wherever possible, to verify facts before the social worker takes a call to assist the Party.)

### OBJECTIVITY

At times an inexperienced social worker who belongs to the LGBTIQA community or one who has undergone a similar experience starts identifying with the Party. The social worker may subconsciously project his/her/their insecurities on the Party. Some social workers may consciously or subconsciously take on the role of a mentor, guide, using various tags- 'mother', 'brother', 'sister'

etc. to underline the relationship between the social worker and the Party. This lack of objectivity is a significant cause of personal anguish; it is also an obstacle in delivering quality and professional services. Needless to say, sexual attraction to the Party or vice versa makes matters many times worse.

*"I have been seeing so many cases of Cyber extortion. No victim seemed willing to come forward to file a complaint with the Cyber Cell of Police. I got so frustrated; I desperately wanted a case so that I could teach a lesson to the blackmailers."*

However much the social worker desire that the Party gets justice, he/she/they should never get carried away by their emotions. The social worker should play a completely objective role.

Under no circumstances should the social worker-

- get emotionally involved in a case
- get frustrated if the Party is unable to make up its mind and keeps on dithering for weeks or months
- take sides in a decision-making process of the Party
- direct, coerce the Party to follow a particular course of action
- get sexually involved with the Party

*"After dealing with the crisis situation and providing the client food and shelter, I came to know that the client had given a fabricated history. Before he could be confronted with it, he left without informing me. I don't know whether he had serious mental health issues or whether he was a fraud. I now wonder whether he was gay, as he claimed he was. It was such a frustrating experience."*

### **TIME COMMITMENT AND EXPENDITURE**

Handling legal cases/crisis, hospitalization or lodging/boardings issues are very time, labor and funds-intensive tasks. Most social workers and organizations do not have the required human resources or finances to deal with cases that drag on for long or where the Party is entirely financially dependent on the social worker/organization for his/her/their sustenance for a long time. In cases where the social worker is studying or working, he/she/they cannot commit the amount of time needed to handle legal cases to its logical conclusion. All such factors need to be considered when taking a call to assist the Party.

On occasions, it is seen that the social worker, to save time, is tempted to take shortcuts. More often than not, this proves costly. When it comes to legal matters, do not take shortcuts.

The effectiveness and success of social work depends upon the truthfulness, correctness, and clarity of information received from the Party. So, give time for the Party to settle down; and give the Party a long, patient hearing. If possible, reduce the minutes of the meeting in writing and get them signed by the Party. This caution is not meant to discourage the social worker's sincere urge to serve society. But always remember that only by strictly observing these general principles can the social worker equip oneself to serve the community meaningfully and fruitfully.

### **CLOSETED SOCIAL WORKERS**

At times the social worker is in the closet, which puts severe limits on the extent of assistance he/she/they can provide in legal cases. The social worker is unable to focus on the case, as a part of his mind is contemplating scenarios where he/she/they may get outed accidentally or intentionally.

## REFERRAL LINKAGES

Lastly, the social worker needs good referral linkages in place to deal with legal cases/crisis. Many towns have very few LGBTIQA inclusive services/organizations to refer the Party to when needed. In the absence of these, the social worker has to take on additional tasks and responsibilities which may be beyond the scope of his/her/their work.

*Example: A transgender person has been thrown out of her house and has approached a social worker for a place to stay. If the Shelter Home does not have facilities to house transgender persons, how will the social worker who has limited resources, arrange for a place of stay for the transgender person?*

Hence, wherever possible, every social worker working on LGBTIQA issues should have the following minimal referral linkages:

- **Mental Health:** Psychiatrist, Psychologist, Counselor
- **HIV/AIDS/STI:** STI/Skin specialist, HIV/AIDS specialist, ICTC Counselor
- **Legal Support:** Lawyer, current or former senior Police Officer for guidance on legal cases
- **Social Support:** Shelter Home contact, organizations working on women and children's issues, organizations willing to provide job opportunities for LGBTIQA





## **2. COMMON ISSUES OF HEALTH AND REHABILITATION OF SURVIVORS**

### **INTRODUCTION**

Many of the cases discussed in the book involve the Party leaving the house, forced to leave the house, confined to the house, same-sex couples who have eloped, Party who has faced extortion, etc. These experiences extract a significant toll on the mental health of the concerned Party. Many are depressed, emotionally exhausted, and with very low self-confidence. When the case relates to violence, physical health, too, is compromised.

### **PHYSICAL HEALTH**

In all cases where the Party has faced violence and requires treatment, it is crucial to take the Party, as soon as possible, to a Medical Practitioner for treatment. In matters which may escalate into a police case, wherever possible and feasible, take the Party to a State Government Hospital for hospitalization/treatment. The medical records are an important part of the evidence.

### **MENTAL HEALTH**

If the Party seems severely depressed/has suicide ideation, he/she/they should be referred to a Psychiatrist immediately. The Party willing, the social worker should also provide a referral to a Counselor.

### **LODGING**

The social worker should have referral linkage with a Shelter Home. When a Party needs shelter, request the Shelter Home contact to allow the Party to stay there temporarily. Accompany the Party to the Shelter Home and make sure that an entry, of the Party getting admitted, is made in the entry register. Alternatively, the social worker can contact colleagues/friends who could provide accommodation to the Party temporarily. Note that this arrangement is temporary, at best, for a few weeks.

In cases of a Party having left home/forced to leave home/has eloped, it is best to assume that the Party would need financial support for at least the next three to six months.

### **LONG TERM CHALLENGE**

The long-term challenge involves the Party becoming physically, emotionally, and financially independent. The Party will need assistance to move to a long-term place to live, find a job, financial support in the short-term, and access to mental health support services. This requires a long-term commitment of resources by the social worker/organization.

### **NOTE FOR SOCIAL WORKERS**

- Assisting Parties in legal cases/crisis extract a considerable price on the mental health of social workers too. They must remain aware of their mental health and seek prompt redress with visits to a Counselor or Psychiatrist.



### 3. BASIC CLASSIFICATION OF LAWS

Before we deal with various kinds of representative cases, it is important to understand some basic concepts. In layman's terms, in India, we have three types of laws- 1. Personal Laws, 2. Civil Laws, 3. Criminal Laws.

#### PERSONAL LAWS

These laws are based on religions and generally govern provisions related to marriage, separation, divorce, inheritance as per the specific religion. Hindus, Muslims, Christians, Parsis, Jews have their respective Personal Laws. Hindu Personal Law covers the affairs of Buddhism, Jainism, and Sikhism as they have a common source of origin. Also, some special statutes govern interfaith relations, such as The Special Marriage Act, 1954.

***Example 1:** The Hindu Marriage Act, 1955 lists the conditions of a valid marriage between two Hindus.*

***Example 2:** A couple married under The Hindu Marriage Act, 1955 wants to file for divorce. They will file a Divorce Petition in the Family Court for divorce, maintenance and custody of their children.*

#### CIVIL AND CRIMINAL LAWS

In reference to the law, "Civil" is used primarily as a descriptive term to denote conflicts between private individuals (Civil Wrong). In a **Civil case two or more individuals or private entities (such as Corporations) dispute their rights relative to each other (such as in a contract or a tort).**[1]

The Civil Laws govern various non-criminal disputes, such as disputes related to the contract, money, physical and intellectual property, and involve the demand of damage and compensation in monetary terms.

***Example 1.** A herd of goats owned by Ramesh enters a farm owned by Savita and eats all the vegetables growing there. Savita demands compensation from Ramesh, who refuses to give it. For this Civil Wrong, Savita can file a Civil suit against Ramesh for compensation. This is a Civil suit between the two Parties; it does not affect any other Party.*

As distinguished from Civil Law, Criminal Law is a system of laws concerned with punishing individuals who commit an offence/crime. **A criminal case involves the government attempting on behalf of its citizens to punish a person for violating its criminal law.**[1] Thus, wherein a Civil case, two individuals dispute their rights, a criminal prosecution involves the government attempting to punish an individual for either an act or an omission which is listed as an offence/crime.

A 'crime' is any act or omission in violation of a law prohibiting the action or omission.[2]

***Example 2:** Rajani steals gold ornaments from Savita. Savita goes to a police station in Pune having jurisdiction to report the incident. Theft is a cognizable offence under IPC. Hence, the police shall take cognizance of the offence and register the FIR.*

#### Difference Between Civil and Criminal Laws

One of the differences between Civil and Criminal laws is that, in Criminal Law, the offence is not considered to be a private matter between two individuals. As guardian of the population, it is in the

interest of the State that offences should not happen. If they do, the offender must be nabbed, punished according to law, the stolen property be recovered and handed over to the rightful owner.

So, in Example 2 although the offence of theft is caused by individual Rajani against individual Savita, the offence of theft is considered to be against the society as a whole. Hence, it is the State that prosecutes the offender.

Hence criminal case titles are denoted as <Offender> v/s State. In Example 2, the title of the case in Criminal Court would be *Rajani v/s State of Maharashtra*. Whereas in a Civil suit, the title of the suit carries their names on it. In Example 1, the title of the Civil suit will be *Savita v/s Ramesh*. **In this manual, we will be dealing with cases related to Criminal Law.**

### **Civil Wrongs and Offences**

Some acts are both Civil wrongs and Criminal offences.

**Example: Defamation.** If a Party is defamed, the Party can-

- file a police complaint OR
- file a Civil suit and claim damages for loss of reputation OR
- file a Civil suit for damages AND also file a police complaint

### **CIVIL COURTS AND CRIMINAL COURTS**

Civil Suits are heard in Civil Courts, and Criminal cases are heard in Criminal Courts.

#### **CIVIL COURTS**

##### **(a) Civil Court of Small Causes**

Small Causes Court has Original Jurisdiction (i.e., they are the lowermost Courts in the hierarchy, so they cannot handle Appeals.) It has pecuniary jurisdiction of up to Rupees Twenty Thousand (₹20,000.00) as of June 2021.

##### **(b) Civil Courts Junior Division**

Civil Court Junior Division has Original Jurisdiction (it is not an Appeals Court.) It has pecuniary jurisdiction of above Rupees Twenty Thousand (₹20,000.00) up to Rupees Five Lakh (₹5,00,000.00) as of June 2021.

**Example:** Anita wants to file a Civil suit of defamation against Mary for the amount of ₹One Lakh. So, she has to file the suit in the Civil Court Junior Division having jurisdiction.

##### **(c) Civil Courts Senior Division**

Civil Court Senior Division has Original Jurisdiction (it is not an Appeals Court.) It has pecuniary jurisdiction of above Rupees Five Lakh (₹5,00,000.00) up to Rupees One Crore as of June 2021.

##### **(d) District Court**

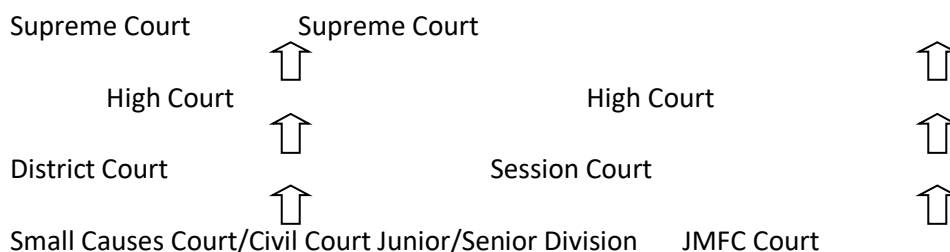
District Court functions as an Original and Appellate Court.

###### **(i) Original Jurisdiction**

District Court has pecuniary jurisdiction of above Rupees One Crore and no upper limit.

**(ii) Appellate Jurisdiction**

Appeals from the Small Causes Court, Civil Court Junior Division, and Civil Court Senior Division lie with the District Court. Appeals from the District Court lie with the High Court having jurisdiction. Appeals from the High Court lie with the Supreme Court.



**Simplified Hierarchy of Civil Courts**

**Simplified Hierarchy of Criminal Courts**

**CRIMINAL COURTS**

**(a) Judicial Magistrate First Class (JMFC) Court**

The lower Criminal Courts are Judicial Magistrate Second Class (JMSC) Courts and Judicial Magistrate First Class (JMFC) Courts. Judicial Magistrate Second Class (JMSC) Courts are not operational in Maharashtra.

Judicial Magistrate First Class heads the JMFC Court. The Court has Original jurisdiction (It is not an Appeals Court.) The offences which JMFC Courts can try are listed in the First Schedule of CrPC.

*Example: Ravi is accused of 'Unnatural Offences' and has been charged with Section 377 IPC. According to the First Schedule of CrPC, he will be tried by the JMFC Court.*

**(b) Sessions Court**

There is a Sessions Court for one or more districts. JudgesheadSessions Courts. The Courts function as Courts of Original and Appellate jurisdiction.

**(i) Original Jurisdiction**

Certain serious offences like rape, murder, etc., are triable by the Sessions Court. The offences which Session Courts can try are listed in the First Schedule of CrPC.

*Example: Reshma is accused of murdering her lover and has been charged with Section 302 IPC. According to the First Schedule of CrPC, she will be tried by the Sessions Court.*

**(ii) Appellate Jurisdiction**

Appeals from JMFC lie with the Session Court.

**HIGH COURT**

There is one High Court for one or more States/Union Territories. The High Court functions as Courts of Original and Appellate Jurisdiction.

**(i) Original Jurisdiction**

The High Court can hear Petitions under Articles 226 and issue Writs. (Refer Part IV. Chapter: Introduction to PIL and Writs.)

The High Court has power to quash an FIR under Section 482 CrPC.

**(ii) Appellate Jurisdiction**

Appeals from the Session Court lie with the High Court having jurisdiction.

**SUPREME COURT**

There is one Supreme Court of India. The Court functions as Court of Original and Appellate jurisdiction.

**(i) Original Jurisdiction**

The Supreme Court can hear Petitions under Article 32 and issue Writs. (Refer Part IV. Chapter: Introduction to PIL and Writs.)

**(ii) Appellate Jurisdiction**

Appeals from the High Court lie with the Supreme Court.

**REFERENCES**

[1] <https://www.law.cornell.edu/wex/civil>

[2] [https://www.law.cornell.edu/wex/criminal\\_law](https://www.law.cornell.edu/wex/criminal_law)



## 4. CLASSIFICATION OF OFFENCES

### OFFENCE

Offence means a commission of a criminal wrong (i.e., committing a crime). Offences can be classified in the following ways:

1. Non-Cognizable, Cognizable
2. Bailable, Non-Bailable
3. Compoundable, Non-Compoundable

### 1. Non-Cognizable (NC), Cognizable Offences

#### (A) Non-Cognizable (NC) Offence

NC offences are relatively less serious offences. The police cannot investigate a NC matter without Order from the Magistrate or arrest a suspect without warrant or Order from the Magistrate. An NC complaint can be filed at the police station or a police chowkyin whose jurisdiction the offence occurred.

On filing an NC complaint, generally the police will call the accused and take preventive action (for example, issue a warning).

**Note:** Although an NC offence can be filed in the police chowky, the Party may have to visit the police station to complete formalities. (Refer Chapter: NC Offence).

#### (B) Cognizable Offence

A Cognizable offence is any offence under any law for the time being in force, where the police can arrest a suspect without a warrant.

When a cognizable offence occurs, a First Information Report (FIR) is generally filed at the police station under whose jurisdiction the offence occurred. Some cognizable offences are bailable, and some are non-bailable.

#### First Information Report (FIR)

FIR is the first-in-time information of a cognizable offence given to the police based on which the police commence an investigation of the offence. (Refer Chapter: FIR).

Sometimes when a Party approaches the police station for filing an FIR for a cognizable offence, his/her/their experience is not satisfactory; the FIR does not get registered. If the FIR is not registered for some reason, there are other alternatives at the Party's disposal (Refer Chapter: Steps In Filing a Criminal Complaint.)

#### Notes

- Before signing the statement, ensure that the police have properly and exactly recorded your statement.
- It is for the police to decide whether the complaint you file is to be treated as an NC or a Cognizable complaint.
- In all cognizable cases where the arrest of the person is not required under Subsection 41(1) CrPC, the police shall issue a notice to the person against whom a reasonable complaint has been made, to appear before the police/appear at a place as may be specified in the notice. As long as the person complies and continues to comply with the notice, he shall not be arrested in respect of the offence, unless the police officer is of the opinion that he ought to be arrested.

## 2. Bailable, Non-Bailable Offences

### (A) Bailable Offence

A bailable offence is an offence where the accused has the right of bail, from the police or Court. Relatively less serious offences are bailable. In matters of a bailable offence, bail is the right of the accused and is/can be granted by the police at the police station. The police/Courts cannot deny bail in a bailable offence.

### (B) Non-Bailable Offence

A Non-Bailable offence is an offence where the grant of bail is not a right. The police cannot grant bail in a non-bailable offence. The accused has to apply for bail to the Court. Grant of bail is at the discretion of the Court. Bail is granted to the accused on certain terms and conditions (e.g., to present himself at the police station/Court as required) accompanied by either a Surety or a Bail Bond. The general principle is— Bail is the rule, and Custody is the exception.

#### (i) Surety (Personal Bond)

A surety is a written undertaking given by the accused or a person on his behalf to the police/Court to the effect that if the accused fails to adhere to terms and conditions of the bail, the accused will be liable to pay the amount of surety to the police/Court.

#### (ii) Bail Bond

In the case of a bail bond, the accused or a person on his behalf has to deposit the amount set for the bail bond in the Court as security. If the accused fails to adhere to the terms and conditions of the bail bond, the deposit gets forfeited.

#### First Schedule of CrPC

For each offence listed in IPC, the first schedule of CrPC lists the punishment, whether the offence is Non-cognizable or Cognizable, Bailable or Non-bailable and triable by which Court.

### Anticipatory Bail

Section 438 CrPC provides for granting of bail to a person apprehending arrest. When any person has reason to believe that he may be arrested on an accusation of having committed a non-bailable offence, he may apply to the High Court or the Court of Session for a direction under this section; and that Court may, if it thinks fit, direct that **in the event of such arrest, he shall be released on bail.**

Anticipatory bail is given after taking into consideration the following points-

- the nature and gravity of the accusation;
- the antecedents of the applicant (e.g. whether the Party has previously undergone imprisonment, on conviction by a Court, in respect of any cognizable offence);
- the possibility of the applicant to flee from justice;
- whether the accusation has been made with the object of injuring or humiliating the applicant by having him so arrested.

## 3. Compoundable, Non-Compoundable Offences

### (A) Compoundable Offences

Compoundable offences can be compromised/settled between the Party and the accused, which means that the Party (complainant) and the accused can settle the matter between themselves. The Party agrees to take back the charges levied against the accused. Relatively less serious offences are compoundable.

There are two types of compoundable offences:

1. Offences which are compoundable without the permission of the Court.  
*Example: Section 426 IPC- Mischief.*
2. Offences which can be compounded only with the permission of the Court.  
*Example: Section 494 IPC- Marrying again during the life-time of husband or wife.*

### **(B) Non-Compoundable Offences**

Non-Compoundable offences are offences which cannot be compromised by the Party (complainant) and the accused. Serious offences are not compoundable, which means that the Party and accused cannot settle the matter between themselves.

*Example: Section 292 IPC- Sale etc., of Obscene Books, etc.*  
*This offence is Cognizable, Bailable, Triable by any Magistrate. The offence is non-compoundable.*

#### **Section 320 CrPC**

The offences listed in IPC, which are Compoundable without permission of the Court, are listed in the table given in Section 320(1)CrPC, and offences listed in IPC, which are Compoundable with permission of the Court, are given in the table given in Section 320(2) CrPC.

### **NOTES**

- **Criminal Cases**

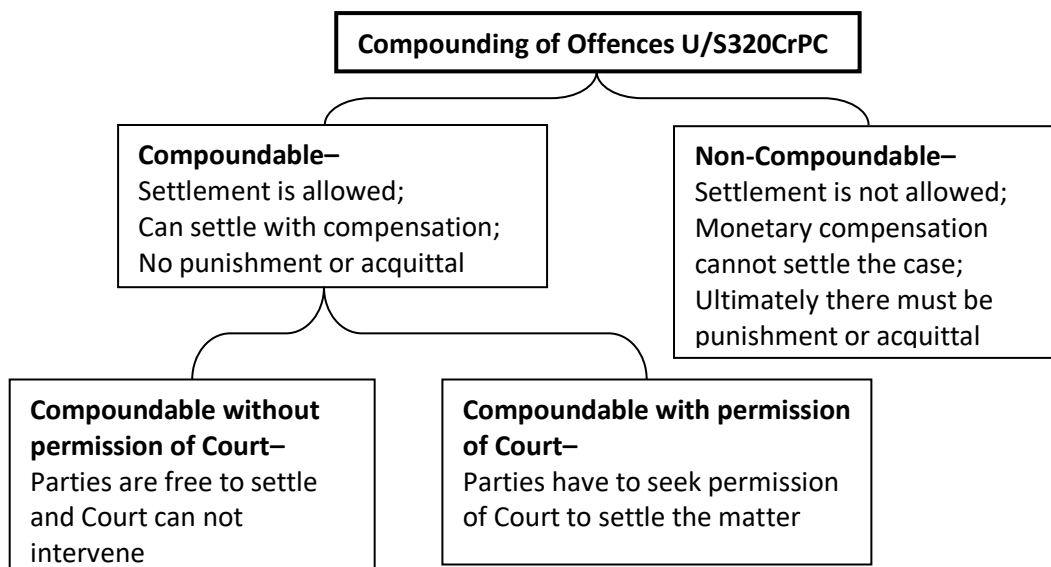
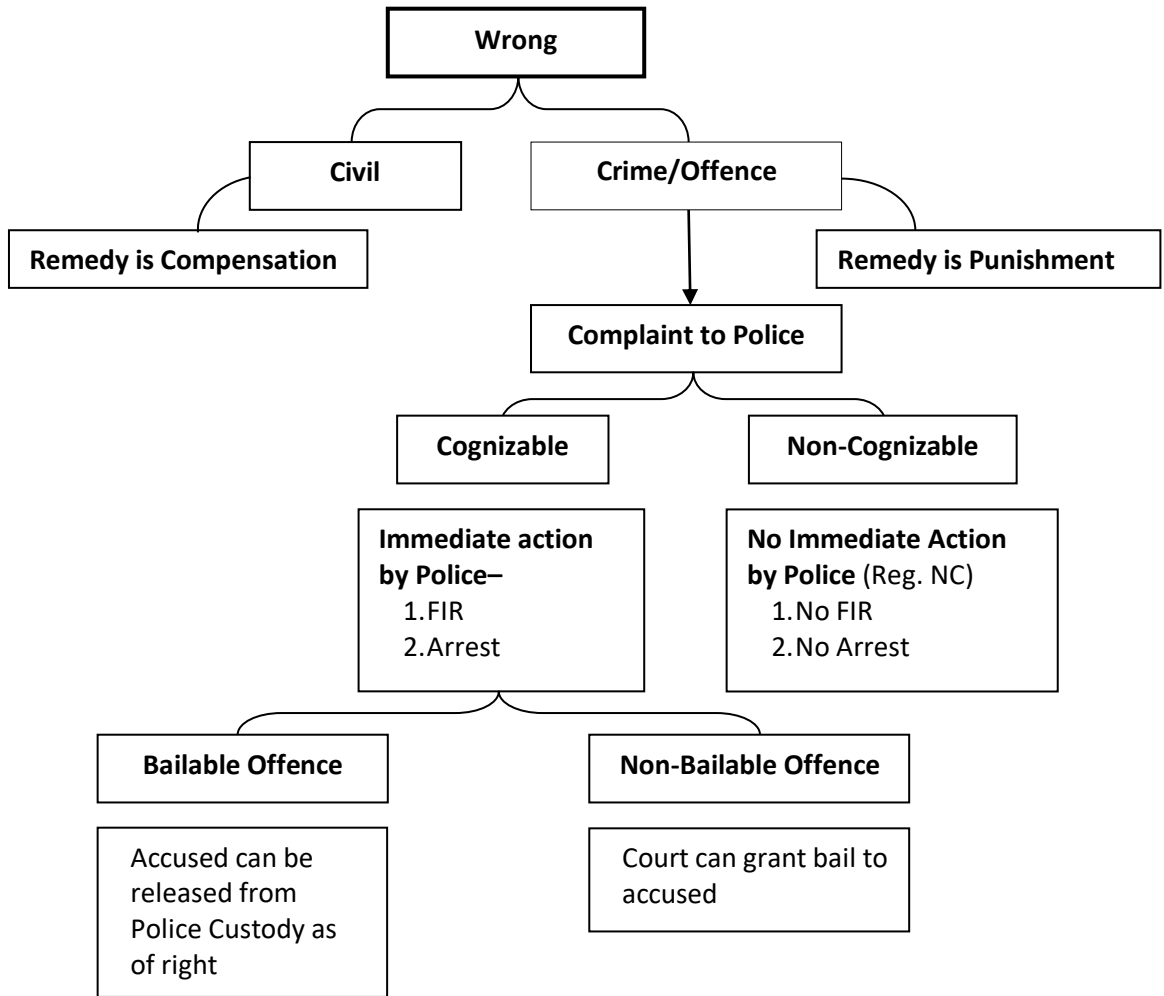
Criminal cases can be divided into two types- Warrants and Summons Cases.

A Warrants case is a case which relates to an offence punishable with death, imprisonment for life or imprisonment for a term exceeding two years. A Summons case is a case relating to an offence which is not a Warrants Case (Section 2 CrPC.)

- **Fundamental Principles and Basic Rights of Citizens**

- Ignorance of Law is no excuse.
- While approaching the Court to enforce a legal remedy, the Court lowest in the hierarchy is to be approached.
- Accused is innocent unless and until the offence is proved.
- Prosecution/police have the burden of proof- to prove the guilt of the accused.
- Every offence is bound to be proved beyond the shadow of a doubt.
- The person arrested is bound to be produced before the nearest magistrate within 24 hours of arrest.
- While arresting the person, dignity and self-respect of the person being arrested should be maintained.
- The person arrested is bound to be informed about the grounds of arrest.
- Person arrested can call to inform his family/friends/relatives of his arrest and the police station where he has been taken to.
- The person arrested has the right to consult his/her/their Advocate.
- The person arrested cannot be compelled to make a confession or self-incriminating statement.
- Executive (Police) and Judiciary (Court) are bound to be separate.





## 5. JURISDICTION

In Criminal Law, jurisdiction (geographical area) plays a very important role. Generally, the police station in whose jurisdiction the cognizable offence was committed investigates the offence, arrests the accused, prepares the Charge Sheet and submits it to the Court. The Criminal Court having jurisdiction takes cognizance of the case and conducts the trial.

So, FIR of a cognizable offence is generally filed at the police station where the offence occurred. On rare occasions, the police may file a zero FIR. This means the FIR is registered at a police station other than the police station under whose jurisdiction the cognizable offence occurred. In such cases, no number is given to this FIR, and hence it is called a zero FIR. The FIR is then transferred to the police station under whose jurisdiction the cognizable offence occurred. It is here that the FIR is given a number.

### GENERAL RULES REGARDING JURISDICTION

1. FIR of a cognizable offence is generally filed at the police station in whose jurisdiction the offence occurred.
2. **Theory:** As per CrPC, if the cognizable offence has continued over multiple jurisdictions, the FIR can be filed in any jurisdiction where the offence occurred.

**The General practice is:** File the FIR at the police station where the offence began.

*Example:* Niki is kidnapped and raped by three men in a moving car. They kidnapped her in jurisdiction A, raped her in Jurisdictions A, B, C, and finally, they threw her out of the car in jurisdiction C. Niki shall file an FIR at police station of jurisdiction A.

3. **Theory:** As per CrPC, if the cognizable offence has occurred in one jurisdiction and the immediate consequence occurs in another jurisdiction, the FIR for the offence can be filed at either police station having jurisdiction. i.e., either at the police station in whose jurisdiction the offence occurred or the police station in whose jurisdiction the immediate consequence occurred.

**The General Practice is:** File the FIR at the police station in whose jurisdiction the offence began.

*Example:* Two men beat Durgesh and try to rob him in jurisdiction A. He runs away, pursued by the perpetrators. They catch up with him in jurisdiction B, where they rob Durgesh. In this case, Durgesh shall file the FIR at the police station of jurisdiction A, as the offence began in jurisdiction A.

4. **Theory:** As per CrPC, if the cognizable offence has occurred through letter, phone, email, then the FIR for the offence can be filed at either the police station in whose jurisdiction the phone, letter, email was received or the police station in whose jurisdiction the phone call was made, letter posted, email sent.

**The General Practice is:** File the FIR at the police station where the Party received the letter etc.

*Example:* Rohit receives a call of extortion, at his home. "Pay me ₹10,000 or I will send your video of gay sex to your relatives, friends, and co-workers". Rohit shall file the FIR at the police station in whose jurisdiction Rohit has his home.

5. **Theory:**As per CrPC, if stolen goods are involved, FIR of a cognizable offence is generally filed at the police station in whose jurisdiction the offence occurred, or where the stolen goods were kept, by the thief, after the theft, or stolen goods were sold/disposed of, or proceeds of the goods stolen were kept.

**The General Practice is:** File the FIR at the police station in whose jurisdiction the offence took place.

*Example: Kirti was robbed of her gold chain in jurisdiction A, and the thief sold it in jurisdiction B. Kirti shall file the FIR in the police station of jurisdiction A as it was in this jurisdiction that she was robbed.*

6. **Theory:**If a cognizable offence occurs on a train or railway tracks or Railway station, the Party should file the FIR at the Railway police station in whose jurisdiction the offence occurred. If the Party is unsure at which point the offence occurred, then the Party can file the FIR at any Railway police station along the way of the Party's journey from source to destination.

**The General Practice is:** File the FIR at the Railway police station in whose jurisdiction the offence took place/or is likely to have taken place.

*Example: Dinesh was traveling from Pune Station to Dadar (Mumbai) by Deccan Queen train. He kept his bag, which contained his laptop, on the overhead rack. At Karjat, he checked his bag and took it down to drink water from the water bottle. He kept the bag back on the overhead rack. When he reached Dadar, he realized that his bag was missing. It had been stolen somewhere between Karjat and Dadar. In this case, Dinesh shall file the FIR at Karjat Railway police station. If Dinesh had not checked his bag and had not known where exactly the bag got stolen, he shall file the FIR at Pune Station Railway police station, as it was from this railway station that he started his journey by train.*

7. **Theory:**As per CrPC, if a cognizable offence occurs on a transport carrier, e.g., a State Transport (ST) Bus, truck, a local transport, metro railway, the FIR has to be filed at the police station in whose jurisdiction the offence occurred. If the Party is unsure at which point the offence occurred, then the Party can file the FIR at any police station along the way of the Party's journey from source to destination.

**The General Practice is:** File the FIR in the police station in whose jurisdiction the offence took place/or is likely to have taken place.

*Example: Dinesh traveled from Pune Station to Dadar (Mumbai) by State Transport (ST) bus. He kept his bag, which contained his laptop, on the overhead rack. At Lonavala, he checked his bag and took it down to drink water from the water bottle. He kept the bag back on the overhead rack. When he reached Dadar, he realized that his bag was missing. It had been stolen somewhere between Lonavala and Dadar. In this case, Dinesh shall file the FIR at police station having Lonavala ST station jurisdiction. If Dinesh had not checked his bag and had not known where exactly the bag got stolen, he shall file the FIR at police station having Pune ST Station jurisdiction, as it was from this jurisdiction that he had started his journey by ST bus.*



## 6. EVIDENCE

In a court of law, facts must be proved— bound to be established as true with the help of evidence. In legal terms, evidence is the available body of facts or information indicating whether a belief or proposition is true or valid. In layman's terms, evidence is facts and information which will aid the Party in proving their statements/case. It follows that, when pursuing any legal matter, it is extremely important to gather and retain evidence related to the case.

### GENERAL PRINCIPLES

- A person who asserts something carries the burden to prove that his assertion is true in the Court of Law.
- In a Civil case- the preponderance of evidence would be considered by the Judge.
- In a Criminal trial- guilt is to be proved beyond a shadow of doubt. The benefit of doubt would be given to the accused.

Magistrate/Judge does not consider:

- Hearsay evidence
- The general bad character of the accused
- Personal view or opinion of a witness, except an expert witness
- Irrelevant facts
- Lastly, presumptions, assumptions, prejudices have no value as evidence.

Generally, it is said that Law is nothing but common sense. But that is not always true. Never assume that whatever the Party believes to be true would be easily acceptable in the Court of Law as admissible evidence.

Indian movies and dramas, TV serials relating to crime and police investigation give us a misleading picture about legal evidence. In films, dramas, TV serials, it is generally seen that-

- Accused takes the stand, cries, and explains how he/she/they are innocent and has not committed a crime.
- Accused is shown to carry the burden of proof to prove his/her/their innocence.
- Accused confesses to the police officer that he has committed a crime, which the Court accepts.
- Victim of rape is cross-examined/humiliated in open Court.

All the above never happens/is not admissible evidence in Court.

### FORMS OF EVIDENCE

#### 1. Witnesses

Persons who have been witnesses to an offence. Their testimony in Court is evidence.

#### 2. Medical Evidence

If physical injuries or mental anguish has been caused, the affected Party should get examined and treated immediately, by a Medical Practitioner (wherever possible at a State Government Hospital) and maintain the medical records- case paper, examination record, test results, medication prescriptions, x-rays, etc. All these records are evidence of the injuries/mental anguish.

*Example: Four men kidnap Mayank, a gay youth, and sodomize him. After lodging an FIR, it is very important for Mayank to get medically examined by a State Government Hospital Doctor as soon as possible, so that evidence can be collected- skin cells from under the nails, semen smears, etc. He should not take a shower before evidence is collected. If a perpetrator has used a condom and has discarded it at the scene, the condom and its contents become important evidence. Mayank should*

*also retain his clothes and underclothes that he was wearing at the time of the incident. They could provide valuable evidence.*

### **3. Documents**

In the Indian Evidence Act, 1872 the definition of Document means anything written or inscribed on any substance. Hence, it includes utensils, stone inscription, photographs hanging on the wall, photo negatives, films, files, books, notebooks, diaries, bills, receipts, letters, etc. It can include credit card receipts, bank statement, envelope/parcel (if the Party received a letter or item through mail or parcel), letter/postcard, brochure/pamphlet etc.

**Example:** *If an ornament has been stolen, the Party may- (a) have a photo of the ornament worn at a function as evidence (of its existence, shape, design, color, etc.) (b) the receipt of the purchase of the ornament as proof of ownership.*

By virtue of the Information and Technology Act, 2000, electronic documents too are included in the definition of a Document. E.g., online money transfer receipt, documents on a hard disk/memory card/mobile/laptop, SMS, e-mail, URL of the webpage, chat transcripts, suspect's mobile number, screenshots, images, videos, CCTV footage, etc.

### **Documentary Evidence from Government Departments**

Very often, a Party needs a particular document or information archived in a Government department. Most times, on applying for the same through the established channels, the Party can obtain it. But there are times when certain public information is not provided for various reasons.

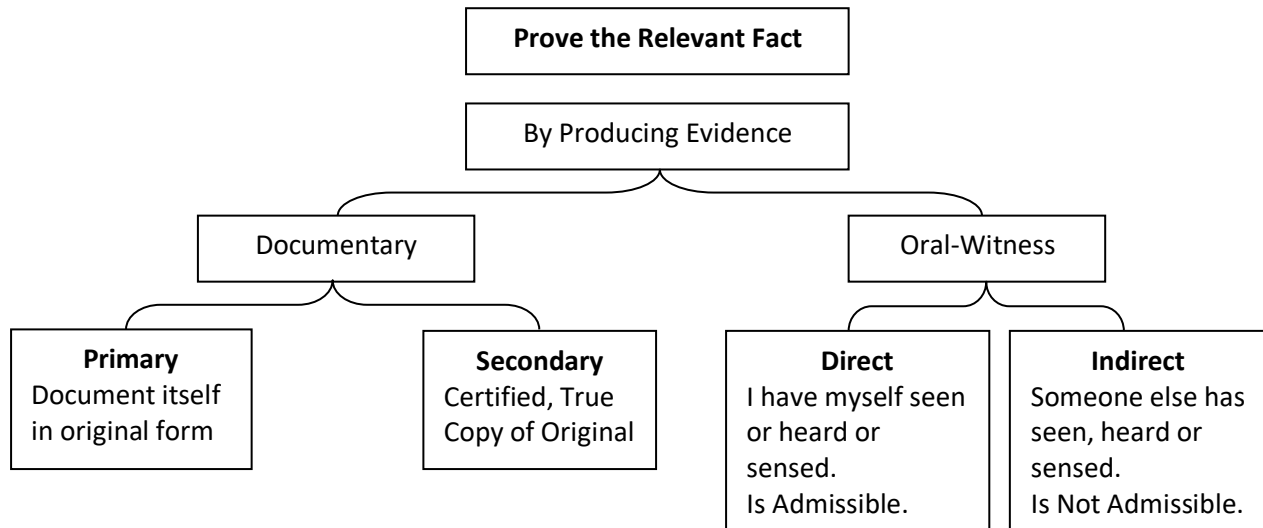
After a long struggle by social activist Shri Anna Hazare, we can now access public information from the Government department using the Right to Information (RTI) Act, 2005. The application for the information can be filed through an online or offline application.

**Online Application:** The Central Government/State Government or Local Government may have different websites for online filing of an RTI application. For example, the website: <https://rtionline.gov.in> can be used for filing an RTI application if a certain matter relates to the Central Government.

**Example:** *The author of this manual (Bindumadhav Khire) wanted to find out the total number of applications filed by Transgenders for Transgender Certificate and ID in Pune district within a certain period and the number of Transgender persons who had got their ID and Certificate in that period. He filed an RTI application online (Registration No. MOSJE/R/E/21/00154, Date of filing: 22/02/2021) on the above-given website. The application was routed to the Ministry of Home Affairs (MHOME/R/T/21/00434). On 01/03/2021 he received the details.*

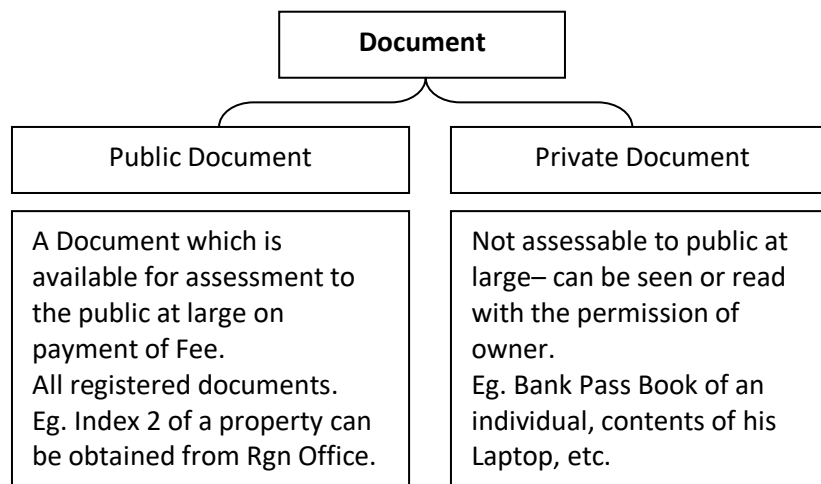
**Offline Application:** For a Central Government department, write an application on plain paper addressed to Public Information Officer, with the name and address of the concerned department and send it through Government Courier Speed Post along with an IPO of Rs. 10/-, drawn on Accounts Officer, Name of department and place. If the information is to be obtained from State Government, then instead of IPO, Rs.10/- Court Fee Stamp should be affixed. Within thirty days from the receipt of the application, the Public Information Officer is bound by law to provide the information. If the requested information is in the form of certified copies, fees at the rate of ₹2.00 per page are payable.

If nothing is communicated or wrongful information is sent, then the first Appeal can be made to the First Appellate Authority.



**Types of Evidence**

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**Types of Documents**



## 7. LIMITATION PERIOD

An offence needs to be reported to the police as soon as possible. If there is a delay in reporting an offence, the Party needs to provide a good reason for the delay. Delay in reporting an offence has serious consequences-

- It delays investigation
- There is a greater chance of crucial evidence getting lost or destroyed
- It puts a question mark on the intention of the Party
- Lastly, barring exceptions, Courts refuse to take cognizance of an offence past the prescribed limitation period

The limitation period for reporting an offence that has a punishment of a fine only is six months.

The limitation period for reporting an offence with a punishment of up to one year is one year.

The limitation period for reporting an offence with a punishment of more than a year and up to three years is three years.

There is no limitation period for reporting an offence that has a punishment of more than three years.

The limitation period is considered from:

- the day after the committing of the offence OR
- the day after the offence came to the notice of the affected Party OR
- in cases where the perpetrator of the offence is unknown, the day after which the affected Party or the Investigating Officer comes to know the perpetrator's identity.
- If the offence is ongoing, every day is a new start of the limitation period.

**Example:** Prashant goes on vacation for one month. On returning, he finds that his bike has been stolen. So, the limitation period for Prashant to report the offence started from the day after he came to know of the theft. This does not mean that Prashant can take his own sweet time to report the offence. He should report it immediately to the police, on coming to know of the offence.

### Language of Communication

Wherever possible:

- Letters to police and Local Authorities (e.g., Ward Office, Municipal Corporation, etc.) should be written in regional language.
- An Affidavit can be in Hindi or regional language or English.
- Complaint to JMFC can be in Hindi or regional language or English.
- Petitions in High Court/Supreme Court should be in English.



## 8. STEPS IN FILING A CRIMINAL COMPLAINT

**If the offence is exclusively a Cyber Crime, then:**

- **Online Complaint:**The Party should file an online complaint on the Cyber Crime portal (Refer Chapter: Introduction to Cyber Crime) or visit the Cyber Cell of Police having jurisdiction, to report the complaint.
- **Inquiry:**If the complaint is filed on the Cyber Crime portal, the police will call you and inquire about the incident.
- **FIR:**Depending on the facts of the case and seriousness of the offence/s involved, the police may direct the Party to the police station having jurisdiction to file a FIR.

**If the offence is not a Cyber Crime, then:**

- **NC Complaint/FIR:**The Party shall approach the police station having jurisdiction, to file the complaint. If it is a minor offence, the police will file a NC complaint. In case of a cognizable offence, they will file an FIR. The police are likely to direct the Party to another police station/Cyber Cell of Police if the Party has approached a police station which does not have jurisdiction to take the offence on record.
- **Letter to CP/SP**(Section 154(3) CrPC):If the police do not record the complaint, despite the correct jurisdiction, write an email letter and also courier a hardcopy through Government Courier Speed Post to the CP/SP of the relevant jurisdiction stating the facts of the case. (Refer Chapter: Letter to CP/SP.)

**Note:** In metropolitan cities/some urban areas which have a high density of population Police Commissionerates headed by a Commissioner of Police (CP) have been established to speedily and more efficiently handle law and order issues. The Commissioner of Police is the head of the unified police command structure of that region. Whereas for other areas, urban and rural, it is the Superintendent of Police (SP) who is in charge of that region.

- **If there is no response, to the letter, from the CP/SP office:** Approach an Advocate who may suggest appropriate action, depending on the case. A few examples are given below:
  - Filing a Private Criminal Complaint under Section 200 CrPC in the Criminal Court
  - Filing an Application under Section 156(3) CrPC in the Criminal Court (pleading for an order to investigate)
- **Outcome Unsatisfactory:** In case the outcome of approaching the Court, given in the previous step, is unsatisfactory, the Advocate may in certain cases advise filing a Writ Petition in the High Court, under Article 226. (Refer Chapter: Introduction to PIL and Writs). Approaching the High Court is funds intensive and should be done post evaluation of resources. In certain cases, he/she/they may suggest filing a Complaint with SHRC/NHRC.

**Caution:**In a Civil case, there is provision for amendment of Complaint and Application. But in a Criminal case, the complaint, once filed, cannot be altered or changed. Hence, before filing a Criminal Complaint, it is always preferable to do detailed preparation/homework on the complaint. Consult a skilled Advocate to ensure that all the technical points are accurately addressed in the complaint.

### LAW AND ORDER EMERGENCY

In a law and order emergency, e.g. if a Party is being chased by hoodlums etc. and no help is available, then if possible, the Party should call Police Emergency Number 100 and ask for assistance.





## **PART II: MINORS**

## 9. CASES OF MINOR PERSONS

*PARENT "It is because of your Trust (that works on LGBTIQA issues) that Aniket has got fancy ideas."*

### ANIKET'S CASE

Aniket was a 16 year old boy. He had feminine appearance and manners. He identified himself as a *Tritiyapanthi* (Transgender) and preferred to be called Ankita. Ankita came to know of an LGBTIQA organization in the city and started visiting it. It was the only place where she felt safe and comfortable. She was accepted there, and she also got to meet other members of the Transgender community.

Six months ago, she came out to her parents as a Transgender person. Since then, she started facing emotional and physical harassment at the hands of her parents. When they found out that she was frequenting the LGBTIQA Trust, they beat her badly and forbade her from visiting the organization. Hurt and angry, Ankita picked up her bag and left the house, telling her parents, "I am leaving for good. I don't want to stay here anymore."

Ankita came to the LGBTIQA organization. Suspecting that staff members of the organization were abetting Ankita, the parents followed her to the organization and, in anger, ransacked the office after accusing the staff members of misleading Ankita.

After that, the parents approached the police station having jurisdiction. The police called the staff of the organization to the police station. Under pressure from her parents, Ankita, who was a minor person, was forced to go home. The police asked the in-charge of the organization to give a statement related to the incident and severely reprimanded him for taking on a case of a minor person.

### ISSUES

**A minor person is any person who has not completed 18 years of age.**

At times a social worker will come across cases where a minor person has-

- run away from home and is found by someone and handed over to the social worker
- got separated from his family and is unable to provide contact details of his/her/their parents/guardians
- been abandoned
- no one to take care of him/her/them and has no apparent source of income
- been in conflict with the law

When dealing with a case of a minor person, first find out, wherever possible, whether the Party is in conflict with the law. I.e., the Party is accused of having committed an offence or not. Your approach will be based on whether the Party is not in conflict with the Law or whether the Party is in conflict with the Law. Note that:

- No act is an offence if committed by any person who has not completed the age of seven years.
- If the age of the person who committed the offence is between seven to twelve, then in that case, the maturity and understanding of the person has to be considered to decide whether the person's act is to be considered an offence.
- If the person who committed the act is above twelve years, then he/she/they will be tried accordingly to law.

## A. MINOR PERSON NOT IN CONFLICT WITH THE LAW

A minor person is presumed to be immature and so incapable of making an informed decision in his/her/their interest. This means that his/her/their parent/legal guardian has a legal right to take and implement a decision in his/her/their interest, even if their decision goes against the wishes/desire of the minor person.

For social workers working on LGBTIQA issues, handling a case of a person who is a minor can be problematic. LGBTIQA issues are sensitive in nature. There are a lot of misconceptions about the community amongst the common man. A major misconception is that young boys and girls are misled or abetted or recruited into the community by older community members.

In addition to these challenges, there is always a possibility of unanticipated complications arising. For example, in Ankita's case, what would happen if a social worker or an organization gives shelter to Ankita, and a couple of days later, she runs away without informing anyone? What would be the consequences for the social worker/organization? Would they be held liable? Yes.

### **If a minor person is not in conflict with the law, and is brought to the social worker:**

*Example: A minor girl has run away from home. She is found by a person and handed over to a social worker.*

## STEPS

1. **Contact parents/guardian:** Try to contact the minor person's parents/guardian.
2. **Unable to Contact parent/guardian:** Contact the **Child Welfare Committee (CWC)** of the relevant district and follow their instructions. They shall direct the social worker to bring the child to their office or direct the social worker to take the child to a **Children's Home**.
3. **If the social worker does not have the contact of CWC:** Contact an organization in the city that works on children's issues (E.g., *Muskaan* in Pune or *ChildLine* Helpline No: 1098) and follow their instructions.
4. **If the social worker has no referral linkage:** Approach the police station of the relevant jurisdiction and ask to meet the officer-in-charge of the **Special Juvenile Police Unit (Balkalyan Adhikari)**. (Each police station has an official designated as Juvenile/Child Welfare Officer to handle cases related to minor persons). Ask him/her/them for assistance in contacting the CWC. They are duty-bound to assist the social worker in reaching out to the CWC.

### **Child Welfare Committee**

Every district has at least one Child Welfare Committee (CWC). The CWC is empowered to deal with the case according to the provisions of The Juvenile Justice (Care and Protection of Children) Act, 2000. It has powers to-

- take efforts to locate the parents/guardian of the minor person and hand the minor person over to the parents/guardian if they are fit to take care of the child
- seek adoption of the child
- place the child (if an infant) in foster care
- have the minor person stay in a Children's Home

## **B. MINOR PERSON IN CONFLICT WITH THE LAW**

There is a big difference in the way the law deals with an adult accused of committing an offence and a minor person who is in conflict with the law (is accused of having committed an offence). The police have a mandate to deal with law-and-order issues of adults. But they have a minimal role to play in dealing with a case related to a minor person in conflict with the law.

**If a minor person in conflict with the law is brought to the social worker:**

*Example: A fourteen-year-old boy is caught stealing a bike and is brought to the social worker.*

### **STEPS**

**1. Approach the Special Juvenile Police Unit:** Take the minor person in conflict with the law to the police station and ask to meet the officer-in-charge of the **Special Juvenile Police Unit** (*Balkalyan Adhikari*). The unit handles cases related to minor persons in conflict with the law. After apprehending the minor person in conflict with the law, the Unit must, within 24 hours, produce the minor person at the Juvenile Justice Board (JJB) of the district.

### **Juvenile Justice Board**

Every district has at least one Juvenile Justice Board (JJB). The JJB is empowered to deal with the case according to the provisions of The Juvenile Justice (Care and Protection of Children) Act, 2000. The focus of JJB is not to punish the child but to seek his/her/their reformation and rehabilitation.

A Probation Officer is assigned to the case who then prepares a report on the minor person in conflict with the law- the minor person's background, behavior etc. and submits it to the JJB. The JJB conducts an inquiry and passes appropriate orders.

The JJB has powers to—

- Call the parents/guardian for the inquiry
- Advice/admonish the minor person for small legal infractions and let him/her/them go home
- Direct him/her/them to undergo counseling
- Direct him/her/them to do social service
- Direct the minor person to be released on probation of good conduct
- In case of a serious crime, where safety and protection of the minor person is an issue, direct the minor person to be kept in an **Observation Home** for a certain period. (The minor person cannot be kept in the Observation Home beyond the age of 18 years.)

## **CHILDREN WHO ARE SURVIVORS OF SEXUAL ABUSE**

The Protection of Children from Sexual Offences Act, 2012 (PoCSO Act) provides the framework to protect children from offences of sexual assault, sexual harassment and pornography.

The highlights of the Act are—

- The Act is sex/gender/sexuality neutral.
- The Act makes sexual contact with a minor person an offence. It provides a list of acts which constitute a sexual offence against a minor person.
- The Act makes sexual harassment of a minor person an offence.
- The Act makes use of a minor person for pornography an offence.
- Abetment and attempt to commit the above acts is also an offence.
- The Act makes it mandatory for a person who comes to know that such offence has happened/is likely to happen to report it to the Special Juvenile Police Unit or local police.

**NOTES**

- The identification information of a minor person in conflict with the law is kept confidential. It is an offence to make the identification information public.
- As of June 2021, there are no separate or special facilities in Children's Homes or Observation Homes for transgender or intersex persons or boys who are feminine. There is an urgent need to establish such facilities for the safety of these vulnerable children due to their gender/sexuality or perceived gender/sexuality.



## **PART III: ADULTS**

## 10. DEATH

*RAVI "Surekha's relatives have disowned her. What do I do?"*

### SUREKHA'S CASE

Surekha is a *Tritiyapanthi* living alone in a small, rented hut. Ravi is her neighbor and landlord, and lately, he has been visiting her every day because she has been ill for some time now.

Today he repeatedly tries to ring the bell, knock on the door, but Surekha does not open the door. Assuming that she must be in deep sleep or in the washroom, he goes away and comes back a couple of hours later. Again, he gets no response. Ravi calls Omkar, a cousin of Surekha that he knows. Omkar does not answer the phone.

Worried, Ravi brings a chair, puts it next to the door, and, standing on it, sticks his hand in through the hatch at the top of the door and unlocks the door.

He goes in, past the small living room into the kitchen from where a foul smell emanates. As he steps into the tiny kitchen, he sees Surekha lying dead on the floor, ants, and flies crawling around her body.

Ravi calls Omkar again. This time Omkar picks up the call. On hearing the news of Surekha's death, Omkar tells Ravi that he and other relatives of Surekha have broken off all contact with her, and they are not to be contacted again and disconnects the call.

In desperation, Ravi calls a social worker for guidance.

### ISSUES

The cause of Surekha's death is unknown. Is it a natural death or unnatural death? If it is an unnatural death, is it due to murder, death caused by an animal, or due to an accident (e.g., electrocution, overdose, etc.)? This is for the police to investigate.

### STEPS

1. **Inform the police:** In such cases, the only thing to do is- inform the police. The act of informing the police shall be done by the informant. The social worker can tell the informant to-

- call Police Emergency Number 100 and give the information; or
- call the police station under whose jurisdiction Surekha was staying and give the information; or
- go to the police station in whose jurisdiction Surekha was staying and inform the police.

### NOTES

- Ravi opened Surekha's door of his own accord; although his intentions were good, technically, what he was doing was an illegal act. When there is a suspicion about any such unfortunate event, then as far as possible, no single person shall try to investigate. Try to gather a group of witnesses (e.g., neighbors) before breaking and entering someone's residence. The witnesses help to establish the fact that the person has no mala fide intention. Then immediately inform the police. On entering the house, it is very important not to touch the body or any object in the house.

Or

Without opening the door, inform the police and let them take care of it.



## 11. LEAVING HOME VOLUNTARILY

*SANDEEP "I just cannot put up with the physical and mental abuse anymore."*

### SANDEEP'S CASE

A graduate by education and unemployed, Sandeep was a feminine gay youth who had recently come out to his parents. His parents were shocked, and they took him to a Psychiatrist. The Psychiatrist made it clear that Sandeep's sexual orientation was normal and will not change.

Since then, their attitude had changed. They had started verbally and physically abusing him at home almost every day. One day he had been beaten badly by his mom and dad. Even his younger sister had joined in. Hurt and angry, he told them that he was leaving the house for good. His family members did not stop him. He picked up a few clothes, packed them in a rucksack, took his legal documents and wallet, and left the house.

In anger, he walked for a long time, not knowing where he was going. Finally, he sat down at a bus stop, and calming down, he thought of approaching an organization that worked with LGBTIQA. He took a bus and came to the LGBTIQA organization seeking assistance.

He was depressed and emotionally, physically worn out. He was hungry, as he had not eaten anything for a long time. He needed a place to stay and assistance in finding a job. He wanted to move on; he was not interested in filing a police complaint against his abusive family members.

### ISSUES

An adult person has the right to leave his/her/their house at any time. The reasons could be many- a conflict with family members on matters of sex/gender/sexuality, expression of gender/sexuality, relationship, etc. Generally, disagreements on the issues simmer for a while and suddenly erupt without any warning. Sometimes the quarrels are accompanied by violence inflicted on the Party. Unable to take the abuse anymore, the Party walks out of the house in hurt and anger. Sometimes, before the Party can take a call on leaving the house of his/her/their own accord, the parents throw the Party out of the house. In such cases, there is little time for the Party to plan for the eventuality of leaving the house.

### STEPS

1. **Physical safety:** Is the Party physically hurt to the extent that he needs immediate medical attention? If so, take the Party to a Medical Practitioner/Hospital for treatment. In case the matter escalates, the examination/treatment by the Medical Practitioner serves as evidence. (Where ever possible, visit the State Government Hospital for examination and treatment.)
2. **Thirst/Hunger:** Is the Party thirsty/hungry? In extreme emotional stress, the Party is generally unaware of thirst and hunger. Address this issue. This also gives time for the Party to calm down while having food.
3. **Reassurance:** Reassure the Party that support is available.
4. **Is Party minor or a major person?** Find out whether the Party is a minor person or a major person. Ask for a photo ID proof issued by the State or Central Government, check the birth date on the ID proof, and take a copy of the photo ID for your records.



5. **If the Party is a minor person:** Depending on the facts of the case, call the parents/guardian or call a CWC member and follow their instructions.

6. **If the Party is a major person:** Get the facts of the case in detail. Ask the Party whether the Party has a criminal record/whether any criminal complaint has been filed against the Party in the past. Ask the Party whether he is carrying valuables e.g. gold ornaments, large sums of money etc. This information gives the organization an idea of possible legal complications.

7. **Assistance:** Ask the Party what assistance is needed. Generally, it will be some or any of the following-

- Financial assistance to take care of food and travel so that the Party can go to a relative's/friend's house
- Find a temporary place to stay till the Party finds accommodation
- Find a job
- File a police complaint against the family for violence
- Desire to go back home when things cool down

8. **Inform the parents:** As an adult person, the Party has the right to leave his house. But there is a strong possibility that eventually, the parents will file a Missing Person Report (MPR) at the police station.

Also, since the LGBTIQA community is viewed with prejudice, there is a possibility that the organization may be accused of coercion or bad influence on the Party. So, for the sake of transparency, it is important to contact the parents of the Party.

With the Party's permission, contact the parents, identify yourself/your organization and inform them that the Party is safe and sound and is at the organization of the Party's own free will. It is possible that the parents may not pick up the call or tell the caller that they don't care.

If they continue to interact with you, then check whether there is a possibility of a reconciliation.

When terminating the call, make it a point to tell them to store your/your organization's name and number for future communication.

At times, the parents, in anger, switch off their cell phone or do not pick up calls. It is generally seen that after a few days to a couple of weeks, parents calm down and contact the organization to seek their son/daughter. If they don't have a contact number, they start searching for their son/daughter and, as a last resort, file a MPR at the police station under whose jurisdiction they stay.

9. **Party shall contact the police:** The police need to be informed about the developments. There are different ways of doing this.

**Option A:** The Party can write an email letter, in the nature of a For-Your-Information, to the concerned police station (**the police station in whose jurisdiction the Party stayed at the time of leaving the house**) marking the CP/SP (**in whose jurisdiction the Party stayed at the time of leaving the house**) in CC.

The letter should inform the police of the incident. Do not hide the Party's sex/sexual orientation/gender identity from the police. In this case, the fact that Sandeep is gay should be mentioned in the letter. The letter should include the fact that the Party is an adult, has left his house

of his own free will, and has taken only his belongings, documents, and pocket money. The letter should also note that the Party has voluntarily approached the organization for lodging and rehabilitation, and currently, the organization is looking after his needs. Make sure that the Party provides contact details- cell number, address for communication.

The email shall be sent through the Party's email id. A copy of the email should be kept with the Party and a copy of the email with the organization for record purposes.

**AND**

He shall sign a hardcopy of the letter and send the hard copy by Government Courier Speed Post/RPAD to the concerned police station and courier a copy to the concerned CP/SP. The original courier receipt should be kept with the Party and a copy of it with the organization for record purposes. An illustrative letter by Sandeep is given at the end of the chapter.

*Example: The Party left his house in Amravati city and came to Pune city. The Party shall write the email/letter to the police station of the jurisdiction where the Party stayed in Amravati city at the time of leaving the house. A copy of the letter shall be sent to the CP of Amravati city.*

**Option B:** If the Party stayed nearby (from the organization office), then the Party can take the letter (as mentioned in Option A) to the concerned police station in-charge (**the police station in whose jurisdiction the Party stayed at the time of leaving the house**). The Party can deliver the letter to the police station and ask for an acknowledgment (date, stamp, signature) on the copy of the letter for his record. Normally, giving such a letter to any police station and obtaining their acknowledgment is difficult. **Email and communication through Government Courier Speed Post/RPAD is preferable and has authenticity in the court of law.**

**10. Arrangement for stay:** Contact the nearest Shelter Home and request them to admit the Party to the Shelter Home temporarily. Accompany the Party to the Shelter. If the Party does not have any money, provide the Party some financial support for his daily needs. Alternatively, the organization can contact their trusted friends/colleagues who could share their residence with the Party for a few days.

**11. Follow-up:** Wait for two weeks or so to see whether there is a follow-up by the Party's parents. If there is no follow-up, assist the Party in preparing his resume and contact your linkages to get the Party a job on a temporary basis. The job will assist the Party in becoming financially independent; it will also help keep the Party occupied for 8-10 hours a day.

It is to be assumed that the Party will need financial support for at least the next three to six months, and the organization will be expected to arrange for the same, to be given on a periodic basis.

**11. Conciliation:** If the Party's parents want to take him back, the Party's wishes must be given priority. (Whether the parents/organization wants a conciliation to happen or not is immaterial.) If the Party does not want to go back, he should not be coerced to do so. If he wants to go back, have the parents and the Party sign a release letter, stating that the Party is leaving of his own accord; his parents promise not to abuse him and that if the incident happens again, the parents are liable to face legal action. Have two witnesses sign the letter. Keep the letter for your record. (Note that it is not legally binding for the Party's parents to give such a letter. Nevertheless, such a request should be made, as a precaution, to ensure that the parents are aware that their abuse is actionable.)

After the Party returns to his home, and if the Party had sent an email/letter to the police station or CP/SP about the incident, the Party should inform them in writing that the matter has been satisfactorily resolved, by email and a letter by Government Courier Speed Post/RPAD. (Similarly, if the Party runs away from the Shelter Home or any other place of residence to an unknown location without informing anyone, the organization should inform the police station and CP/SP of the development.)

### NOTES

- If Sandeep had desired, then, in addition to Option A/B, he could have filed a complaint against the family members by visiting the police station/police chowky in whose jurisdiction he stayed at the time of leaving the house.
- The parents/relatives could accuse the organization of misleading their son. The accusation won't carry any weight if the organization has kept a good trail of documents- Party's ID proof denoting age, copy of the Party's email/letter to the police, courier receipt of the letter to the police station and CP/SP, the communication through which the Party/organization has been keeping the police abreast of the happenings.
- There is a possibility that the organization staff may be verbally/physically abused by parents/relatives for aiding the Party. So, if a meeting is arranged between the parents and organization staff at any place (e.g., Shelter Home), then for safety reasons, ideally, a team of 2-4 staff members should be present at the meeting. A lone staff member has more chance of abuse/violence inflicted on him/her/them by the parents/relatives.
- If the Party that has been forced to leave her home is a self-identified transgender/intersex person, one of the points that can be discussed in the meetings with the parents/guardian is that Section 12(2) of the Transgender Persons (Protection of Rights) Act, 2019 gives the transgender/intersex person a legal right to reside in the household.
- At times, the Party thrown out of the house asks for assistance but since he/she/they live very far off from the organization, providing assistance is a challenge. In such cases, wherever possible-
  - Provide referrals to the nearest organization/social worker who can provide assistance to the Party.
  - If the Party does not have cash, ask the Party to procure a small loan from his/her/their friends/relatives. Alternatively, if the Party has a bank account and ATM Card, transfer a small amount online, for travel/food, to the Party's bank account.

Provide detailed address/directions of the organization to the Party and ask the Party to note the details along with the contact person name/number on a piece of paper. In case the Party loses the cell phone/cell phone runs out of battery or recharge amount, the Party should be able to reach the nearest organization/social worker.

Date: 01/04/2021

To,  
Respected Dhane Chowk Police Station In-Charge  
City Korda,  
Taluka Basad, District Nirvad, Maharashtra

**Subject: Leaving Home Voluntarily**

I, Sandeep Madan Raje, Age 21, Residing at 22, Nele Vasti, Dhane Chowk, City Korda, Pin- 411999, Taluka Basad, District Nirvad, Maharashtra, Cell: 1111111111, email id: xxxxx@xxxxx.com respectfully state as follows-

1. I was born on 01/01/2000. I am now an adult of 21 years age and capable of taking my own decisions.
2. My parents are: Father- Madan Rambhau Raje and Mother- Sunita Madan Raje.
3. I have completed my graduation in B.Com.
4. Recently I told my parents that I am gay. My parents did not accept my sexuality and started treating me badly.
5. Aware that our differences can never be reconciled, I decided to leave my house for good.
6. Today, that is on 01/04/2021, at 9 am, after informing my parents, I left my house of my own free will.
7. I am safe and sound.
8. I am periodically in touch with my friends and relatives.
9. While leaving the house, I have only taken the following items with me-
  - a. Documents-Aadhar Card, Pan Card, Voter ID, Passport, Bank Pass Book, Education Marklists, Certificates
  - b. 4 sets of shirt/pant
  - c. 1 bag
  - d. 1,000 Rs. (One thousand Rs. only) of my pocket moneyOther than the above mentioned items, I have not taken any money, ornaments, valuables or securities with me.
10. I anticipate that my parents will file a missing complaint about me at your police station.
11. This letter may be treated as a 'For Your Information' letter that I am not missing, that I, as an adult person, have left of my own free will and that I am safe and sound.
12. I am currently staying at xxxxx.

I thank you for your cooperation and assistance.

<Signature>  
Sandeep Madan Raje  
Place: xxxxx

**Illustrative letter, by Sandeep, to the Police Station In-Charge**

दिनांक: ०१/०४/२०२१

प्रति,  
माननीयधनेचौकपोलीस ठाणेप्रमुख,  
शहर कोरडा,  
तालुका बसड, जिल्हा निरवाड, महाराष्ट्र

**विषय: स्वेच्छेनेघरसोडणेबाबत**

मी,संदीप मदन राजे, वय२१, राहणार २२नेले वसाहत, धनेचौक, शहर कोरडा, पिन कोड-४११९९९,तालुकाबसड, जिल्हानिरवाड, महाराष्ट्र. फोननंबर: ११११११११११,ईमेलआयडी xxxxxx@xxxxx.com खालीलप्रमाणेलिहूनदेतआहेकि,-

1. माझे जन्म ०१/०१/२०००रोजी झाला. माझे वय २१ असून मी सजानआहे.
2. माझ्या वडिलांचे नाव मदन रामभाऊ राजे आहे व आईचे नाव सुनीता मदन राजे आहे.
3. माझे शिक्षण B.COM.पूर्ण झालेआहे.
4. नुकतेचमी माझ्या पालकांना, मी समलिंगी असल्याचे सांगितले.
5. त्यांना माझी लैंगिकता मान्य नसल्यामुळे ते मला वाईट वागणूक देऊ लागले.
6. आमच्यात टोकाचे मतभेद असल्यामुळे मी घर सोडण्याचा निर्णय घेतलावआज दिनांक ०१/०४/२०२१रोजी,सकाळी१वाजता, पालकांना सांगून, मी स्वेच्छेनेघर सोडलेले आहे.
7. मी सध्यासुरक्षित ठिकाणी आलोआहे.
8. मी अधून मधून माझ्या मित्रांच्या व नातेवाईकांच्यासंपर्कात आहे.
9. घर सोडताना मी माझ्या सोबत खालील गोष्टी घेऊन आलो.  
(i) कागदपत्रे- आधार कार्ड, पॅन कार्ड, झयव्हींगलायसन्स,मतदान कार्ड, पासपोर्ट, बँकेचेपास बुक, शैक्षणिक प्रमाणपत्रे  
(ii) चारशर्ट पॅन्ट  
(iii) एक बॅग  
(iv) एक हजाररुपये रोख रक्कम (pocket money)  
वरती नमूदकेलेल्या वस्तू सोडून मी कोणतीही वस्तू- पैसे, दागिने किंवाइतर मौल्यवान वस्तू माझ्यासोबत घेतलेल्या नाहीत.
10. शक्यता आहे कि माझे पालक मी हरवल्याची तक्रारआपल्या पोलीस स्टेशन मध्ये दाखलकरतील.
11. हे पत्र आपल्यामाहिती साठी लिहिलेआहे कि, मी हरवलेलोनाहीये, मी सुरक्षित आहे, प्रौढ आहे आणि मी स्वेच्छेने घर सोडले आहे.
12. मी सध्या xxxxxठिकाणी राहत आहे.

आपल्या सहकार्यासाठी मनापासूनआभार.

<सही>

संदीप मदन राजे

शहर xxxxx

**Illustrative letter, in Marathi, by Sandeep to the Police Station In-Charge**



## 12. NC OFFENCE

*GAURAV* “I want to bring this matter on police record.”

### GAURAV’S CASE

Gaurav was a gay youth who stayed with his mother. His father had passed away a few years ago. His older brother Akshay got married a year ago. Akshay and his wife did not get along with his mother, and so they stayed separately.

After Gaurav completed his degree education and got a job, his mother started planning for his marriage. It was then that Gaurav came out to his mother as gay. His mother was shocked and confided in her brother, who in turn spoke to Akshay.

On 01/04/2021, Akshay barged into Gaurav’s house and abused him. When Gaurav asked the reason, Akshay replied “You are gay. You have ruined our name and reputation. How will I face my in-laws?” When Gaurav asked him to leave, Akshay had slapped him and kicked him. Their mother had to intervene in their fight.

Worried that Akshay would time and again vent his ire on him, Gaurav approached a social worker.

### ISSUES

Minor offences are listed as Non-Cognizable (NC) offences under the First Schedule of CrPC. In this case, Akshay has committed offences of Intentional Insult (Section 504 IPC), Criminal Intimidation (Section 506 IPC) and Causing Hurt (Section 323 IPC.) The Party can file an NC complaint with the police station/chowky having jurisdiction. The police have no powers to investigate the offence without Order of the Magistrate, but they can record the NC, call the accused to the police station/chowky and warn the accused.

### STEPS

1. **Facts of the Case:** Get the facts of the case in detail.
2. **What assistance does the Party need?** In this case the Party did not feel counseling would work; he knew his brother too well. He wanted the matter to be on police record so that the police could issue a warning to his brother.
3. **File an NC:** Assist the Party in identifying the police station/chowky having jurisdiction to file the NC complaint. An illustrative NC complaint filed by Gaurav is given at the end of the chapter.

N.C.R

NON COGNIZABLE OFFENCE INFORMATION REPORT

In respect of Non-Cognizable Offence

(Under Section 155 CrPC)

एन.सी.आर

असंज्ञेय अपराधकी सूचना रिपोर्ट

असंज्ञेय अपराधके संदर्भ में

(अंतर्गत धारा 155 द.प्र.सं.)

PS: चार चौक District: निर्वाड NCR NO (असंज्ञेय अपराध प्रतिवेदन): 999/2021 Date: 01/04/2021

1. Acts & Sections of law (कानूनके अधिनियम एवं धाराएँ)

S.No.(क्र.)	Acts(s)(आधिनियम)	Sections(धारा(एँ))
1.	भारतीय दंडसंहिता 1860	323
2.	भारतीय दंडसंहिता 1860	404
3.	भारतीय दंडसंहिता 1860	406

1. Place of occurrence (घटनास्थल) :

(a) Information received at P.S) (पोलीस ठाण्याला माहिती)

Date (दिनांक) 01/04/2021

Time (वेळ): 01:05 बजे

(b) General Diary reference (ठाणेदैनंदिनी संदर्भ)

G.D.No. (ठाणेदैनंदिनी): 011

G.D. Time (ठाणेदैनंदिनी): 01:05 बजे

(c) Occurrence Date (घटनेची तारीख) 01/04/2021 Time (वेळ): 11:00 बजे Time Range (वेळ): 11.45 am

(d) Place (ठिकाण): 431 माने चाळ, चार चौक, शहर कोरडा-411999, महाराष्ट्र

2. Name & residence of Complainant (तक्रारदाराचे नाव)

Name: गौरव रामजी आडके

S.No. ( आ.क्र.) Address Type (पत्त्याचा प्रकार) Address (पत्ता)

1) वर्तमान पत्ता 431 माने चाळ, चार चौक, शहर कोरडा-411999, महाराष्ट्र

2) स्थायी पत्ता 431 माने चाळ, चार चौक, शहर कोरडा-411999, महाराष्ट्र



2. Name, father's Name, Age & Residence of accused/suspect (आरोपी/संशयितानेनाम/वैदनाचेनाम, वयवराहण्याचेठिकाण):

- a) Name: अक्षय रामजी आडके
- b) Father's Name (पिताकानाम): रामजी धोंडिबा आडके
- c) Age (वय) : 25 From To(पर्यंत) :
- d) Residence

S.No. (आ.क्र.) Address Type (पत्याचाप्रकार)Address (पत्ता)

- 1) वर्तमान पत्ता 332 राजे चाळ, चार चौक, शहर कोरडा-४११९९९
- 2) स्थायी पत्ता 332 राजे चाळ, चार चौक, शहर कोरडा-४११९९९

3. NCR Contents (अदखलपात्रअहवालाचामजकूर)

जबाब: दि ०१/०४/२०२१ मी गौरव रामजी आडके, वय वर्ष२१, व्यवसाय नोकरी रा. ४३१ माने चाळ, चार चौक, शहर कोरडा-४११९९९,मो. नंबर ११११११११११ समक्ष xxxxxला तक्रार जबाब लिहून घेण्यास सांगतो की, मी वरील ठिकाणचा राहणारा असून मी एका दुकानात कामाला आहे. मी माझ्या आई बरोबर राहतो. माझा मोठा भाऊ अक्षय रामजी आडके वय २५ याच वर्षापूर्वी लग्न झालं आणि तो व वाहिनी वेगळी कडे राहतात. त्याचं व आमचं फारसं सख्य नाही. गेल्या महिन्यात माझ्या आईने माझ्या लग्नाचा विषय काढला तेव्हा मी माझं लग्न लावू नका, मी समलिंगी आहे असं सांगितलं. आईला धक्का बसला व तिने ते मामाला सांगितलं. त्याच्याकडून ते माझ्या भावाला कळलं. दि. ०१/०४/२०२१ रोजी सकाळी ११ वाजता माझा भाऊ अक्षयघरी आला आणि मला शिविगाळ करायला सुरुवात केली असता मी त्याला शिव्या का देतो असं विचारताच त्यानी "तू गे आहेस.तू माझी समाजात इज्जत घालवलीस. सासरवाडीला मी कसं तोंड दाखवू" म्हणून शिविगाळ करून थापडाबुक्क्याने मारहाण केली. आमच्या आईने आमच्या भांडणाची सोडवासोडव केली. तरी मला शिविगाळ करून थापडा बुक्क्याने मारहाण करणारा माझा भाऊ नामे अक्षय रामजी आडके याच्यावर योग्यती कार्यवाही करून मला न्याय द्यावा. माझा जबाब माझे सांगणे प्रमाणे संगणकावर टंकलिखित करण्यात आला व त्याची एक प्रिंट काढून मला वाचून दाखविली. माझे सांगणे बरोबर व खरे आहे. समक्ष psi xxxxx पो.स्टे. चार चौक हा जबाब दिला. सही.

6. Particulars of properties involved(Attach separate sheet if necessary) (समाविष्ट मालमतेचा तपशील)

Sr. No. Property Type(मालमतेचा प्रकार) Property Description(मालमतेचे वर्णन)

7. Name and full address of witnesses, if described in contents of NCR (साक्षीदारांचे पूर्ण नाव व पत्ता, अदखलपात्र अहवालाच्यामजकुरात वर्णन केले असल्यास)

Sr. No. Name (नाव) Address (पत्ता)

1 वंदनाबाई रामजी आडके Present Address: ४३१ माने चाळ, चार चौक, शहर कोरडा-४११९९९  
Permanent Address:४३१ माने चाळ, चार चौक, शहर कोरडा-४११९९९

8. R.O.A.C (वाचून दाखवले,सांगितल्या प्रमाणे बरोबर लिहले)

9. Informant is advised to seek help in concerned court (माहिती देणाऱ्याला न्यायालयात दाद मागण्याची समज देण्यात आली.)

Signature /Thumb impression of the complainant/ informant

(शिकायतकर्ता/सुचनाकर्ताकेहस्ताक्षर/ अंगुठेकानिशान)

Signature of OfficerIn-charge, Police Station (थानाप्रभारीकेहस्ताक्षर)

Name(नाम): xxxxxxxxx

Rank (पद): xxxxxxxxx

No.(सं.): xxxxxxxxx

Illustrative NC Complaint, in Marathi, by Gaurav





## 13.FIR

PANKAJ “The *Devrushi* started harassing me, insisting that I pay him another ₹20,000.00”

### PANKAJ’S CASE

Pankaj was a feminine gay youth who came from a lower middle class background. He worked a job and used a lot of his time in religious and spiritual pursuits. Often he visited *Jatras* (religious fairs), seeking blessings of various *Sadhus*.

When his mother suffered a stroke paralysis, he approached many *Sadhus* for her wellbeing. A few months ago, he was referred to a *Devrushi* (A spiritual person practicing Rituals/Black Magic). The *Devrushi* (called *Akka*) was a *Tritiyapanthi* who had a small temple adjacent to his residence. He had been very gentle and kind to Pankaj and stated that he would perform black magic to cast some spells provided he was paid ₹5,000.00. Pankaj paid the money to the *Devrushi*.

Over a month, the *Devrushi* started inviting Pankaj every week for some rituals and asking for more money. In all, Pankaj ended up paying him a total of ₹28,000.00. The next time the *Devrushi* asked Pankaj for money, he refused. The *Devrushi* got angry and cursed Pankaj, that unless he was paid another ₹20,000.00, he would perform black magic on Pankaj and his mother so that his mother would die vomiting blood and Pankaj would become a *Tritiyapanthi* and spend his life clapping and begging for alms. Angry with the *Devrushi*, Pankaj warned the *Devrushi* to stop harassing him. Incensed, the *Devrushi* gave an ultimatum to Pankaj that Pankaj should deliver the money within twenty-four hours or else... Pankaj had approached a social worker for assistance.

### ISSUES

At times, vulnerable people become the target of some unscrupulous *Sadhus* and *Devrushis* who exploit the ignorance and superstitious nature of the public to extort them. Exploiters can be from any community- e.g., straight or LGBTIQA community. Similarly, the victims too are from straight or LGBTIQA community.

In this case, the *Devrushi* had committed the offence of Criminal Intimidation (Section 506 IPC). In addition, she has also committed a cognizable offence under Sections 3 of The Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and *Aghori* Practices and Black Magic Act, 2013. Most Parties, in this case Pankaj, are afraid of approaching the police and suffer the threats in silence. It is only as a last resort that the Party decides to approach the police.

### STEPS

1. **Facts of the Case:** Get the facts of the case in detail. Request the Party not to leave out anything. There are times when Party hides information that he/she feels could show him/her/them in a bad light. It is necessary to explain to the Party that it is not in his interest to hide anything. If the police later unearth some unsavory facts, it may put a question mark on the integrity of the complaint.

2. **What is the assistance needed?** In this case Pankaj was determined to file a FIR against the *Devrushi*.

3. **File FIR:** Assist the Party in identifying the police station having jurisdiction. In this case it was the police station in whose jurisdiction the *Devrushi* lived (as that was the place where the offence had occurred). An illustrative FIR filed by Pankaj is given at the end of the chapter.

NOTES

- If a criminal case is related to some specific aspect, in this case- superstitions and black magic, the Party or the social worker can seek assistance from an organization working on that specific cause. For example, if the city where the *Devrush* lives has social workers who work for *AndhashraddhaNirmulan Samiti* (an organization in Maharashtra which works for eradication of superstitions), Pankaj or the social worker could approach *AndhashraddhaNirmulan Samiti* or their social workers for assistance in filing the FIR.

FIRST INFORMATION REPORT

(Under Section. 154 Cr.PC)

(धारा154 दंडप्रक्रियासंहिताकेतहत)

1. District (जिल्हा): निर्वाड P.S. (थाना): चारचौकYear (वर्ष): 2021

FIR No. (प.सू.रि.सं.): 0099 System Date and Time (सिस्टमदिनांकऔरसमय): 01/04/2021 13:00वाजता

Original Date and Time (वास्तविकदिनांकऔरसमय): 01/04/2021 09.00 वाजता

2. S.No. (क्र.सं.)	Acts (अधिनियम)	Sections (धाराएँ)
1.	भारतीयदंडसंहिता१८६०	५०६
2.	महाराष्ट्रनरबळीवडतरअमानुष, अनिष्ट अधोरीप्रथा व जादूटोना प्रतिबंधनिर्मूलन कायदा, २०१३	३

3. (a) Occurrence of offence (अपराधकीघटना):

Day (दिवस): मधले दिवस Date From (दिनांक पासून):01/03/2021Date To (दिनांक पर्यंत):01/04/2021

Time Period (कालावधी)Time From (वेळेपासून): 09:00तास Time To (वेळेपर्यंत): 11:00तास

(b)Information received at P.S.(थाना जहां सूचना प्राप्त हुई):Date(दिनांक):01/04/2021 Time (समय):13:00तास

(c) General Diary reference (रोजनामचा संदर्भ): Entry No. (प्रविष्टि सं.): 011 Time (समय): 13:00तास

4. Type of Information (सूचना का प्रकार):

5. Place of Occurrence (घटना स्थळ):

1. (a) Direction and distance from P.S. (थाना से दूरी और दिशा): उत्तर१कि.मी. Beat No(बीट.सं.):

(b) Address (पता): १११, शिंदेवाडी, कोरडा-४११९९९, ता. बसड, जि. निरवाड, महाराष्ट्र, भारत

(c) In case, outside the limit of this Police Station, then Name of P.S.

(यदिथानासीमाकेबाहरहैतोथानाकानाम):

District (State) ((जिल्हा) राज्य):

6. Complainant / Informant (शिकायतकर्ता / सूचनाकर्ता)

(a) Name (नाम): पंकजआत्मारामबारटके

(b) Father's/Husband's Name (पिता/पतिकानाम):

(c) Date/Year of Birth(जन्मतिथी/वर्ष): 2000

(d) Nationality (राष्ट्रीयता): भारत

(e) UID No. (युआयडी सं.):

(f) Passport No. (पासपोर्ट सं.):

Date of Issue (जारी करने कि दिनांक):

Place of Issue (जारी करने का स्थान):

(g) Occupation (व्यवसाय):

(h) Address (पता):

S. No. (क्र.सं) Address Type (पता का प्रकार) Address (पता)

1. वर्तमान पता

१३ माने चाळ, चार चौक, शहरकोरडा,

तालुकाबसड, जिल्हा निर्वाड, महाराष्ट्र, भारत

2. स्थायी पता

१३ माने चाळ, चार चौक, शहरकोरडा, तालुका

बसड, जिल्हा निर्वाड, महाराष्ट्र, भारत

(i) Phone number (दूरभाषसं):

Mobile (मोबाईलसं): 91-1111111111

7. Details of known/suspected/unknown accused with full particulars (ज्ञात/संदिग्ध/अज्ञातअभियुक्त कापूरेविवरणसहितवर्णन):

S. No.(क्र.सं.) Name (नाव) Alias(उपनाम) Relative's Name(रिश्तेदार) Present address(वर्तमानपता)

1) रमाकांत महादेव अडसुळअक्का १११, शिंदेवाडी, तालुकाबसड,

जिल्हा निर्वाड, महाराष्ट्र, भारत

8. Reasons for delay in reporting by the complainant/ Informant (शिकायतकर्ता/सूचनाकर्ताद्वारा रिपोर्ट देरी से दर्ज कराने के कारण):

9. Particulars of properties or interest (संबंधित सम्पत्तिकाविवरण):

S.No.	Property Category	Property Type	Description	Value (in Rs/-)
क्र.सं	सम्पत्ति	श्रेणी सम्पत्ति के प्रकार	विवरण	(मूल्य)(रु में)

10. Total value of property stolen (In Rs/-) (चोरी हुई सम्पत्ति का मूल्य) रु में:

11. Inquest Report / U.D. Case No., if any (मृत्यु समीक्षा रिपोर्ट / यू.डी प्रकरण सं., यदि कोई हो):

S.No. (क्र.सं) UIDB Number (यू.डी. प्रकरण सं.)

12. First information contents (प्रथम सूचना तथ्य):

१) पोलीस ठाणे- चार चौक

२) महाराष्ट्र नरबळी आणि इतर आमामनुष, अनिष्ट व अघोरी प्रथा व जादूटोणाप्रतिबंधवनिर्मूलनकायदा, २०१३ चे कलम ३, भा.द.वि.सं.कलम ५०६.

३) खबर देणार- पंकज आत्मराम बारटक्के, वय- २१ वर्ष, धंदा/नोकरी- कारकून, रा. १३ माने चाळ, शहरकोरडा, तालुका बसड, जिल्हा निर्वाड, महाराष्ट्र, मोबाइल नंबर ११११११११११.

४) आरोपीचे नाव- तृतीयपंथी रमाकांत महादेव अडसुळ(अक्का) वय ४५वर्ष, रा. १११ शिंदेवाडी, शहर कोरडा, तालुका बसड, जिल्हा निर्वाड, महाराष्ट्र, मोबाइल नंबर ९९९९९९९९९९.

५)अ. घ. ता. वेळ. ठिकाण-तारीख ०१/०३/२०२१ रोजी सकाळी ९ ते तारीख ०१/०४/२०२१ सकाळी ११ वाजेपर्यंतवेळोवेळीशहर कोरडा, तालुका बसड, जिल्हा निर्वाडचे हद्दीतील, राष्ट्रीय महामार्ग९९९ चा उत्तरेस २ कमी वर असणाऱ्याशिंदेवाडीयेथे, चार चौकपोलीस ठाणेच्या उत्तरेस०१ किमी.

६)तपशील- तारीख ०१/०३/२०२१ रोजी सकाळी ९ ते तारीख ०१/०४/२०२१ सकाळी ११ वाजेपर्यंतवेळोवेळी१११ शिंदेवाडी, शहर कोरडा, तालुका बसड, जिल्हा निर्वाडचे हद्दीतील,राष्ट्रीय महामार्ग९९९ चा उत्तरेस २ कमी वर असणाऱ्याशिंदेवाडीतराहणारीतृतीयपंथी रमाकांत महादेव अडसुळ(अक्का) वय ४५वर्ष, रा. १११ शिंदेवाडी, शहर कोरडा, तालुका बसड, जिल्हा निर्वाड, महाराष्ट्र, यांनीमलाहवेतून सोन्याची साखळी काढून दाखवण्याचा चमत्कार करून दाखवलावमाझ्या स्टोक पॅरालिसिस झालेल्याआईवर कोणी तरी करणी केले आहे व ती काळी जादू करूनकाढावी लागेल या कारणानेमाझ्या कडून वेळोवेळी पैशाची मागणी करून एकूण रु२८,०००/-रुपये घेतले व आणखी पैसे देण्यास मी नकार दिला या कारण वरून आरडाओरडा करून चौवीस तासात मी जर आणखी २०,००० रुपये दिले नाहीतर माझ्या व माझ्या आईवर काळी जादू करीन ज्यानेमाझ्या आईच्या तोंडातून रक्त पडून तीतडफडून मरेल व मी तृतीयपंथी बनून रस्त्यात टाळ्या वाजवत फिरेन अशी धमकी दिली म्हणून माझी तिचेविरुद्ध तक्रार आहे. पुढील तपस xxxxxचार चौक पोलीस ठाणे हे करीत आहेत.

13.Action taken: Since the above information reveals commission of offence (s) u/s as mentioned at item No.2 (कीगयीकार्यवाही: चूकितपरोक्तजानकारीसेपताचलताहैकिअपराधकरनेकातरीकाभदसं. 2 मेंउल्लेखधाराकेतहत है):

- 1) Registered the case and took up the investigation (प्रकरणदर्जकियागयाऔरजांचकेलिएलियागया) or (था)
  - 2) Directed (Name of I.O.) (जांचअधिकारीकानाम): xxxxx, Rank (पद): पोलीसहवालदारxxxxx  
No. सँ: xxxxx to take the investigation (को जांचअपने पास में लेनेके लिये निर्देश दिया गया)or (था)
  - 3) Refused investigation due to (जांचकेलिए): or (केकारणइंकारकियाथा)
  - 4) Transformed to P.S. (थाना) District (जिल्हा):
- On point of jurisdiction (कोक्षेत्राधिकारकेकारणहस्तांतरित).

F.I.R. read over to the complainant/informant, admitted being correctly recorded, and a copy given to the complainant/informant, free of cost. (शिकायतकर्ता/ सूचनाकर्ताको प्राथमिकी पढ कर सुनाई गयी,सही दर्ज हुई माना और एक कॉपी निशुल्क शिकायतकर्ता को दी गयी )

R.O.A.C. (आर.ओ.ए.सी.)

14. Signature /Thumb impression of the complainant/ informant (शिकायतकर्ता/सुचनाकर्ताकेहस्ताक्षर/ अंगुठेकानिशान )

Signature of OfficerIn-charge, Police Station (थानाप्रभारीकेहस्ताक्षर)  
Name(नाम): xxxxxxxxx  
Rank (पद): xxxxxxxxx  
No.(सँ.): xxxxxxxxx

15. Date and time of dispatch to the court (अदालत में प्रेषण कि दिनांक और समय):  
Attachment of item 7 of First Information Letter (प्रथम सूचना रिपोर्ट के मद ७ संलग्नक):

Physical features, deformities, and other details of the suspect/accused: (if known/seen)  
(संदिग्ध/अभियुक्त कि शारीरिक विशेषताएँ, विकृतियाँ और अन्य विवरण: (यदी ज्ञात/देखा गया )

S.No. (क्र.सं)	Sex (लिंग)	Date/Year Of Birth (जन्मतिथी/वर्ष)	Build (बनावट)	Height (cms)(कद)	Complexion (रंग)	Identification mark (पहचान चिन्ह)
1	2	3	4	5	6	7

1 लिंग परिवर्तन 2005सडपातळ शरीर150-155सावळा  
पुरुष ते स्त्री

Deformities/Peculiarities (विकृतियां/विशिष्टताएं)	Teeth (दाँत)(बाल)(आँखें)	Hair	Eye (आदतें)(पहनावा)	Habits	Dress Habits
8	9	10	11	12	13

केसांचा रंग:काळा भुवयांची जाडी साधारण  
केसांची लांबी: लांब डोळ्यांचा प्रकार घारे  
केसाचा प्रकार: सरळ

Language/Dialect (भाषा/वोली)	Place of (का स्थान)	Others (अन्य)
	Burn marks (जले हुये का निशान)	Leucoderma (लूकोदर्मा (सफेद धब्बे))
		MoleScar (गुदे हुए का)
14	15	16 17 18 19 20

उजव्या अंगठ्यावर तीन तीळ

These fields will be entered only if complainant/informant gives any one or more particulars about the suspect/accused. (यह क्षेत्र तभी दर्ज कीएजाएंगेयदी शिकायतकर्ता/सुचनाकर्ता संदिग्ध/अभियुक्त के बारेमें कोई एक या उससे अधिक जानकारी देता है)



## 14. LETTER TO CP/SP

*SAROJ “They just gave me excuses for not filing my complaint”*

### SAROJ’S CASE

Saroj was a frail *Tritiyapanthi* who lived with her *chela*- Avni. On 01/04/2021, Saroj and Avni had been invited for a religious festival and procession of a Goddess. As the procession started, *Tritiyapanthis*, who had gathered, started dancing at the beat of *Dhol-Tasha*. At Sane Guruji chowk, as Saroj was dancing, she stumbled onto another *Tritiyapanthi* Bina dancing with her *chela*Raveena. Although Saroj apologized, Bina who was drunk started to curse Saroj. Bina’s *chela*Raveena joined the quarrel, and the quarrel soon escalated into a fight. The two beat-up Saroj; Saroj fell to the ground. Then while Raveena held Saroj’s hands, Bina ripped off Saroj’s gold earrings. Saroj screamed in pain and started crying as the earlobes tore and started to bleed. Bina and Raveena ran away with the earrings. Avni, Saroj’s *chela*, stood trembling, watching the fight, paralyzed with fear.

Avni then took Saroj to a nearby clinic where her earlobes were bandaged, and medications were given to prevent infection and reduce pain.

Saroj’s earrings cost ₹20,000.00, and she wanted them back. She also wanted Bina and Raveena punished. And so, she approached the police station of the jurisdiction in which the offence had occurred. She was made to wait for two hours then told that since the in-charge of the police station had gone out, she should come the next day. Saroj visited the police station the next day, but she was told that they were busy with an important case and should come the next day. And so, she went to the police station for four days, and on some pretext or the other, the police did not register the FIR.

Frustrated, Saroj approached an LGBTIQA organization for assistance.

### ISSUES

At times, a Party complains to the organization that despite repeated visits to the police station, the police have not recorded the FIR for various reasons.

### STEPS

**1. Facts of the case:** Get the facts of the case in detail.

**2. Send email to CP/SP:** If the Party has an email account, the Party shall send an email letter to the CP/SP having jurisdiction. The organization can assist the Party in drafting the letter. An illustrative letter by Saroj is given at the end of the chapter.

The email shall be sent using the Party’s email id. The Party should retain a copy of the email, and another is to be retained by the organization for record.

### AND

She shall sign a hard copy of the letter and courier the letter through Government Courier Speed Post/RPAD to the CP/SP having jurisdiction. The courier receipt should be kept for record purposes. The CP/SP will direct the police station to inquire into the matter.

**3. If there is no response, to the letter, from CP/SP office:** Consult an Advocate who can suggest appropriate action, depending on the facts of the case. Example:

- Filing a Private Criminal Complaint under Section 200CrPC in the Criminal Court



## NOTES

- **Medical evidence:**In case of injuries, the Party generally visits the nearest Medical Clinic/Hospital for treatment. In the above case, Saroj had gone to a private clinic. But, if the Party wants to file an FIR with the police, then wherever possible, the Party should approach the State Government Hospital for examination, treatment. The State Government Hospital report is an important part of the evidence.
- **Compromise in a case:**At times, the Party and the accused decide to compromise the matter before an FIR is filed. This is possible only in cases where the offence is not serious. In such cases, since the FIR has not been filed/the police have not taken cognizance of the case, the police have nothing to do with the case.

*Example 1: In the above case, Bina and Raveena may agree to a compromise with Saroj. They will tender an apology to Saroj, return the earrings and making a payment of ₹500.00 to Saroj for medical expenses incurred by her. In exchange, Saroj would not file an FIR against Bina and Raveena.*

In such cases where the Party and the accused voluntarily, without any coercion, decide to compromise, it is important that the Party negotiate with the accused with maturity, pragmatically and ensure that she is not a push-over. At times, the insecure Party may invite the organization for negotiating with the accused. It is suggested that the organization should not get involved in the negotiations for the following reasons-

- The organization should not take sides in a dispute. His/her/their job is to ensure that the Party gets the appropriate forum for seeking justice, and redress for the wrong
- The presence of organization staff may vitiate the atmosphere and adversely affect the negotiation
- The organization could later be accused of assisting in an unfair settlement

The organization can inform the Party that once a proposal of compromise has been outlined, the Party can get in touch with an Advocate to get inputs on whether the compromise proposal is reasonable, fair and just. It will help the Party get a better understanding of the compromise.

There will be times when, although the Party has suffered injustice and the accused is guilty of the offence, the Party may agree to a compromise where the Party ends up losing a bit. The important point to note here is that a legal battle in the Court comes with a cost and is also time-consuming. Therefore, as mentioned above, the decision to reconcile shall be pragmatic.

Date: 06/04/2021

To,  
Respected xxxxx  
The Commissioner of Police  
CityKorda,  
Taluka Basad, District Nirvad, Maharashtra,

**Subject: Request For Assistance in Filing Criminal Complaint**

I, Saroj Ravi Morde, Tritiyapanthi, Age 21, Residing At- 323 Muktai Nagar, City Korda- Pin Code: 411999, Taluka Basad, District Nirvad, Maharashtra, Contact number 1111111111 respectfully state as follows-

1) On 01/04/2021, I had gone to Ranji Guru for a religious function. After participating in the rituals. I joined them in the procession of the Goddess.

2) At approximately 7 pm on 01/04/2021, at Sane Guruji chowk, I lost balance while dancing. I stumbled onto another *Tritiyapanthi*, Bina, who was dancing with her *chela* Raveena. I apologized, but Bina was drunk and started abusing me. Bina's *chela* Raveena joined the quarrel, and the two beat me up. I fell to the ground. Then Raveena held my hands, and Bina ripped off my gold earrings worth ₹20,000.00. I was in pain and started crying. My earlobes were torn and started bleeding heavily. Bina and Raveena ran away with the earrings.

3) Avni is a witness to this incident.

4) At approximately 8 pm, Avni took me to a nearby private clinic of Dr. Mule. The doctor bandaged my ears and gave me medication.

5) Bin's contact number is 9999999999. She stays at Kate Vasahat (Shive Naka). I do not have Raveena's contact number or address.

6) On the same day, at approximately 10 pm, I approached Maharshi police station, in whose jurisdiction the incident had occurred. But despite repeated visits to the police station for four days, the police have not recorded my complaint.

7) I am worried that if the complaint is not taken and investigation done soon, Bina and Raveena will sell my earrings or run away.

8) Hence, I humbly request you to direct the police station to take cognizance of my complaint, investigate the matter and assist me in recovering my gold earrings.

<Signature>  
Saroj Ravi Morde  
Place: Korda

**Illustrative letter by Saroj, to the CP**





## 15. COMPOUNDING A CASE

*URVASHI “Both the Parties have suffered, but there is no reason to prolong this suffering. We would like to bring closure to the case and move on.”*

### URVASHI’S CASE

Urvashi ran an organization for the support of LBT (Lesbian, Bisexual Women, and Transmen). She had a staff of eight. Dhanashree was a recent hire. Two weeks ago, Urvashi noticed that her personal laptop which she had brought to the office was missing. Inquiry with the staff and the search of the office had not been successful in locating the laptop.

The next day, Urvashi checked the CCTV footage and saw that Dhanashree had taken the laptop, put it in her rucksack, and had immediately left the office.

When confronted with the evidence, Dhanashree, unable to give a straight answer had started crying. Urvashi gave Dhanashree an ultimatum to return the laptop within eight hours.

Even after eight hours, the laptop had not been returned. Urvashi tried to call Dhanashree, but her cell-phone was switched off. She then sent a message to Dhanashree that she would approach the police if Dhanashree did not return the laptop immediately. Urvashi waited two more hours but did not get a response from Dhanashree. Urvashi sent an office assistant to Dhanashree’s residence, but it was locked.

Finally, Urvashi approached the police station in whose jurisdiction she had her organization office. The police tried to contact Dhanashree, but her cell-phone was switched off. The police then registered a FIR against Dhanashree.

Early next morning, Dhanashree came to Urvashi’s house, apologized to Urvashi, and returned the laptop. She mentioned that she had mental health issues (she showed medical reports and prescriptions). After Urvashi’s confrontation with Dhanashree, Dhanashree had panicked and had gone to her mother’s place. There she had taken a couple of sleeping pills. It was only when she had woken up that she had seen Urvashi’s message. Dhanashree pleaded with Urvashi for forgiveness.

Considering the circumstances of the case, Urvashi decided not to proceed with the matter.

### ISSUES

Once a Party files an FIR, the case can proceed in one of the following ways:

**(a) Case runs its full course:** After recording of FIR-  
police investigate the case,  
arrest the offenders,  
file a Charge Sheet,  
Court takes cognizance of the case,  
Court frames Charges,  
trial takes place, and  
Judgment is delivered

**(b) Compounding an Offence (Compoundable without permission of the Court):** If the offence mentioned in the FIR is compoundable without the permission of the Court, the case can be

compromised between the Parties by submitting a joint Application to the Court (after police file a Charge Sheet in the Court and the Court takes cognizance of the case.) The Court will generally allow the Application.

**(c) Compounding an Offence (Compoundable with permission of the Court):** If the offence mentioned in the FIR is compoundable with the permission of the Court, the Parties can approach the Court by submitting a joint Application to the Court (after police file a Charge Sheet in the Court and the Court takes cognizance of the case.). It is the discretion of the Court to allow or disallow the Application.

**(d) Summary Closure Reports**

At times, the police, despite investigation, find no evidence or the perpetrators remain unknown; or the police find out that the case has been maliciously filed/a false case has been filed; or the victim has filed the case through a mistake of fact or law; or the accused has died. In such cases, the police submit specific reports to the Court.

- **Summary Closure Report 'A':** Case where the offence has occurred but no evidence has been found or the perpetrators are unknown.
- **Summary Closure Report 'B':** Case has been maliciously filed/a false case has been filed.
- **Summary Closure Report 'C':** Case filed due to an error of fact/law or it is a Civil case.
- **Abetted Summary:** Case in which the accused dies.
- **Quashing an FIR (Section 482 CrPC):** In exceptional cases, the Party who filed the FIR or the accused may desire to quash the FIR recorded by the police, because if the case were to proceed, it would amount to a clear abuse of law/legal process. In such cases, the Party or accused can ask an Advocate to file a CMA, under Section 482 CrPC, to quash FIR proceedings, in the High Court having jurisdiction. When filing a CMA, the Party is duty-bound to explain to the Hon'ble Court why it is in the interest of justice that the FIR be quashed.

The Court generally does not allow quashing of an FIR in serious offences. Withdrawal of cases pertaining to serious offences is not considered to be in the interest of the State.

*Example: The Hon'ble Court would not allow a survivor of gang rape to quash an FIR even if the survivor were to submit that she has voluntarily decided to settle the matter with the accused.*

- The option of filing a CMA is available to all offences- Compoundable and Non-Compoundable.
- An Application for quashing an FIR can be made by the accused, claiming that the FIR has been maliciously filed or a mistake of fact/law has occurred.
- If the Party admits that he/she/they filed a false case, then the Party will become liable to criminal proceedings for filing a false case (Sections 182, 211 IPC.)

**STEPS**

1. **Explain how a case proceeds:** Explain in detail to Urvashi and Dhanashree how a case proceeds once an FIR is filed.
2. **Assistance of an Advocate:** Ask them to take the assistance of an Advocate. On studying the circumstances and gravity of the offences mentioned in the case, whether the offences are Compoundable or not, the Advocate may suggest some options. A few examples are given below:

- Compounding the offence
- Compounding the offence with permission of the Court
- Approaching the High Court of relevant jurisdiction under Section 482 CrPC for quashing of the FIR



## 16. WRONGFUL CONFINEMENT

*REEMA "I have come out to my parents, and they have kept me locked up in the house. Please get me out of here."*

### REEMA'S CASE

Reema, a 20-year-old lesbian, had come out to her family. Coming from a very orthodox background, her parents had refused to accept her sexuality. They had confiscated her cell phone, stopped her from attending college, and forbidden her from stepping out of the house. Finally, they had actively started looking for a groom to get her married off.

One day, Reema got her break and, with a visiting relative acting as a conduit, had sent a message to an LGBTIQA organization. The message stated that she has been confined to her house without her consent and wanted someone to rescue her.

### ISSUES

As Reema is an adult, the parents' stand is untenable in the eyes of the law. Wrongful Confinement of an adult person is an offence (Section 342 IPC.)

### STEPS

**1. Facts of the case:** In such cases the organization should get detailed information about the case and request a written letter from the Party about her complaint. This document should include the Party's signature and a photocopy of the Party's Photo ID (one issued by the State or Central Government).

Alternatively, as per the condition of the Party and their access to technology, an email from the Party's email id, an audio/video message recorded in the Party's voice or WhatsApp or text message using either Telephone or Internet App can also be obtained. The self-communication to the organization will act as the basis for the proceedings.

The communication should be clear and unambiguous. It should state the date/time of making the communication, the person's name, address, age, education, occupation, reason for her confinement, how long she has been confined, and what assistance she requires. The communication should state the facts of the case with a clear demand that she is an adult, wrongly confined against her will and needs assistance to get free. Where ever possible ensure that the message is self-communicated by the Party.

**2. Check whether Party is a minor person or a major person:** Verify whether the Party is a minor or major person by checking their State or Central Government photo ID proof.

**3. If the Party is a minor person:** Depending on the facts of the case, contact the parents/guardian of the Party or CWC having jurisdiction and refer the case to it.

**4. If the party is a major person:** Approach the police station of the jurisdiction where the Party is confined and request them to check the veracity of the message received.

If your organization collaborates with an organization that works on women's issues, they should seek their assistance and take them along to the police station. This will lend more weight to your insistence on checking whether the Party is wrongfully confined.

On being approached, the police may make a preliminary inquiry. They may call Reema's parents/guardian and ask them to bring Reema to the police station or alternatively, they may visit Reema's residence. The police will speak to Reema privately and ask her whether she has been confined in her house against her will. If so, she will have to be set free; the parents cannot stop her release.

**5. If no action is taken by the police:** If Reema has access to technology, she should send an email using her email id, describing the case, to the CP/SP having jurisdiction. The CP/SP will direct the police station to inquire into the matter.

**AND**

If possible, she should sign a hard copy of the letter and give a request in writing to the organization to courier the letter through Government Courier Speed Post/RPAD to the CP/SP having jurisdiction. The original courier receipt should be kept for record purposes. The CP/SP will direct the police station to inquire into the matter.

**6. If there is no response, to the letter, from the CP/SP office:** Consult an Advocate who may suggest appropriate action, depending on the facts of the case. A few examples are given below:

- Filing an Application under Section 156(3) CrPC, in the Criminal Court, pleading for an Order to investigate
- Filing an Application under Section 97 CrPC, in the Criminal Court, pleading for issue of a Search Warrant for the person wrongfully confined

**7. Outcome Unsatisfactory:** If the outcome of approaching the Court, given in the previous step, is unsatisfactory, consult an experienced Advocate who has expertise in dealing with such cases. Depending on the facts of the case, he/she/they may advise you to file a Petition in the Hon'ble High Court, under Article 226, for a Writ of *Habeas Corpus*. Wherever possible, have the Party give an authority/PoA to the Advocate to approach the High Court. It is also important to file Affidavits indicating that the facts and details expressed in the pleadings are true and correct.

The Hon'ble High Court will order the parents to produce Reema in the Court. The Court will ask Reema to state whether she has been wrongfully confined. If so, she will be set free. (Refer Chapter: Writ of *Habeas Corpus*).

**8. If Party back-tracks:** If Reema backtracks from her stand in front of the police/Court and states that her parents have not wrongfully confined her and that she is at home of her own free will, nothing can be done. In such cases, the organization could be accused of rabble-rousing.

Hence, the self-communication by the Party, asking for assistance, to the organization is very important. It serves two purposes- It lays a foundation for the organization to provide assistance and secondly, it is a safety net for the organization. If the Party later back-tracks from her complaint and the organization is accused of harassing her parents, the organization has evidence that- It was the Party which had approached the organization with the complaint and; the organization acted in good faith on the complaint.

**Example:** *Rajesh and Sanjay are two adult gay men in love with each other. Rajesh's parents find out about their relationship and confine him at home, against his will. Sanjay approaches the police, who do not take action. So, Sanjay files a Writ Petition of Habeas Corpus without any self-communication from Rajesh. In the High Court, Rajesh states that his parents have not confined him. Here, Sanjay could face the ire of the Court.*

**Note:**Wherever possible, rather than fighting the Party's case as your own, it is always better, as a social worker/organization, to provide support and help to the Party to fight his/her/their case. Provide email id of police, contact details of the Advocate, give the Party proper counseling, and encourage him/her/them to stand for his/her/their cause.

**9. Rehabilitation:**After Reema is freed, she will have to be rehabilitated. The organization should inform the police/Court that temporarily, the organization will take care of Reema's needs- food, place of stay, etc. till she figures out the next course of action. In addition, Reema should request the police/Court to counsel her parents to ensure that they do not harass her or anyone who is assisting her.



## 17. 'CURE' BY FORCE

*ANNA "They are trying to 'cure' me by force. I want this treatment stopped."*

### ANNA'S CASE

Anna, a 21-year-old lesbian, came out to her family. Her parents, who were from an orthodox background, did not accept her and decided to send her for conversion therapy. Anna refused, but the unheeding parents forcibly sent her to a Psychiatrist who was promising a cure.

Anna approached a social worker stating that she wanted the treatment stopped as she was being treated without her consent.

### ISSUES

The Indian Psychiatric Society (IPS) and World Psychiatric Association (WPA) have given Position Statements that being a gay/lesbian/bisexual/transgender person is a normal variant of sexuality/gender. It is not an illness or a perversion. Attempts to 'cure' such persons are unethical and are likely to cause harm. (Refer Appendix A: Position Statement by IPS; Appendix B: Position Statement by WPA).

Section 18(2) of The Mental Healthcare Act, 2017, states that no person can be discriminated against in mental healthcare services on the basis of biological sex, gender, and sexuality. **This clause makes 'cure' or conversion therapy discriminatory.** The stand of the parents and that of the Medical Practitioner is untenable in the eyes of medical science and the law.

### STEPS

**1. Facts of the Case:** Get the facts of the case in detail. Request a written complaint, with signature, from Anna and also a photocopy of the Party's photo ID (one issued by the State or Central Government). The complaint should state the age of the Party, facts of the case and a demand for assistance in discontinuing the conversion therapy. The communication should be clear and unambiguous. Alternatively, as per the condition of the Party and access to technology, an email from the Party's email id, an audio/video message recorded in his/her voice or WhatsApp or text message using either Telephone or Internet App can also be obtained. It will act as the basis for the proceedings.

**2. Ensure self-communication:** Ensure that the message is self-communicated by the Party. This self-communication by the Party serves two purposes— it lays a foundation for the social worker in providing assistance, and secondly, it is a safety net for the social worker. If Anna later back-tracks from her complaint and the social worker is accused of harassing her parents, there is evidence that it was the Party which had approached the social worker and; the social worker had acted in good faith on Anna's complaint.

**3. Assistance of an Advocate:** Take the assistance of an Advocate for guidance in the matter.

**4. If the Party is a minor:** Under guidance from the Advocate, contact the parents/guardian or CWC having jurisdiction and refer the case to it.

**5. If the Party is a major:** Under guidance from the Advocate, and with consent from Anna, approach the parents to stop the conversion therapy. It indicates that the social worker is acting in a fair manner and has nothing against the parents.



**6. Notice to the Medical Practitioner/Medical Institution:** A notice by Anna can be issued to the Medical Practitioner/Institution, asking them to stop the conversion therapy, as it is unethical and illegal. If Anna is unable to do so, she can give an authority/PoA letter to the social worker or the Advocate to issue such a notice on her behalf.

**7. File police complaint:** Anna can approach the police station having jurisdiction (in this case it is the police station under whose jurisdiction the clinic of the Medical Practitioner/Institution is situated) and file a police complaint under Sec. 18(2) of the Mental Healthcare Act, 2017 against the Medical Practitioner/Institution.

**8. If no action is taken by the police:** If Anna has an email id, she shall send an email letter to the CP/SP having jurisdiction. The social worker can assist Anna in drafting the letter. The email shall be sent using Anna's email id. Anna should retain a copy of the email, and another is to be retained by the social worker for record.

#### **AND**

She should sign a hard copy of the letter and courier the letter through Government Courier Speed Post/RPAD to the CP/SP having jurisdiction. The courier receipt should be kept for record purposes. The CP/SP will direct the concerned police station to inquire into the matter.

**9. If there is no response, to the letter, from CP/SP office:** The Advocate may suggest appropriate action, depending on the facts of the case. A few examples are given below:

- Filing a Private Criminal Complaint under Section 200CrPC in the Criminal Court
- Filing an Application under Section 156(3) CrPC in the Criminal Court (pleading for an Order to investigate)

**10. Outcome unsatisfactory:** If the outcome of approaching the Court, given in the previous step, is unsatisfactory, then depending on the facts of the case, the Advocate may suggest a few options. A few examples are given below:

- Anna can give an authority/PoA letter to the Advocate to file a Civil suit under the Specific Relief Act, 1963 to obtain an injunction against the parents and Medical Practitioner/Institution from proceeding with the conversion therapy.
- Filing a Petition for a Writ of *Mandamus*, under Article 226, in the High Court having jurisdiction, for restraining the Medical Practitioner/Institution from going ahead with the conversion therapy.

If Anna changes her stand and states to the police/Court that her treatment is not conversion therapy but for some other mental health issue, there is nothing to be done. In such a case, the social worker could be accused of harassment and rabbleroxing. Hence the communication by Anna to the social worker must be self-communicated, clear, and unambiguous. The step-by-step approach taken by the social worker should be well documented.

#### **NOTES**

- **Advertisement of 'Cure' on social media:** If anyone comes across a video purporting a cure for homosexuality, then write to the social media organization, cite that it is illegal to discriminate against gay persons as per the Mental Healthcare Act, 2017 and ask them to take down the video.

If a video, website, or advertisement advertises a cure for being gay, then if possible, record/download the video, take a snapshot of the advertisement, snapshot of the Medical

Practitioner's name, medical institution, contact details, etc. Note down the link of the website, date/time of taking the snapshots. This is important evidence when filing a complaint with the appropriate authority.

- **For Maharashtra State:** If the Medical Degree has been issued to the Medical Practitioner by The Maharashtra Medical Council Act, 1965, then if Anna is willing, the social worker can assist Anna to write a letter of complaint to the Maharashtra Medical Council, giving the facts of the case and request them to have their Executive Committee investigate the matter and to take appropriate action under the provisions of The Maharashtra Medical Council Act, 1965. The Executive Committee will call Anna during the inquiry.

Section 11 of the Maharashtra Medical Council Act, 1965, provides for establishing an Executive Committee. Section 22 of the said Act provides for conducting an inquiry for misconduct against any Medical Practitioner registered with them. The Council or the Executive Committee is empowered to conduct an inquiry and take appropriate action (e.g., issue of warning, temporarily remove the Medical Practitioner's name from their register for a certain period or permanently remove the Medical Practitioner's name from their register.)

- Refer Chapter: Guidelines of Madras High Court, on prohibition of conversion therapy.



## 18. ELOPED COUPLE

*SHABANA "My parents will never accept our relationship."*

### SHABANA'S CASE

Shabana and Shailaja first met each other when they were in college, and their friendship had gradually blossomed into love. After graduation, Shailaja got a job and moved to Mumbai. Eventually the two decided to come out to their families about their sexuality and love for each other.

Shailaja's parents were shocked after she disclosed to them that she was a lesbian. They had approached a Psychiatrist. The Psychiatrist had counseled them, stating that being a lesbian was not a disorder but a normal variant of sexuality. He further added that it could not be changed. Eventually, after a year or so, the parents had come around to accepting Shailaja's sexuality. The fact that she was in a relationship with Shabana was, in a sense, a relief for them- Shailaja had a companion; she won't be alone.

When Shabana came out to her parents and told them that she was in love with a woman, all hell had broken loose. Considering her same-sex desire a sin, they had beaten her black and blue and had earnestly started looking for a groom. Realizing that they would never accept her, Shabana eloped and started living with Shailaja in a live-in relationship.

Fearing legal complications, they contacted an LGBTIQA organization for guidance/assistance. Meanwhile, Shabana's parents filed a Missing Person Report (MPR) at the local police station.

### ISSUES

As an adult, Shabana has the right to leave her house. But since she has not informed her parents, and if a missing complaint has been filed, the police's concern is for Shabana's safety. Has she been abducted? Has she harmed herself in some way?

### STEPS

**1. Facts of the case:** Get the facts of the case in detail- Background of the couple, When did they first meet?, When did they fall in love?, When did they come out?, When did they decide to go in for a live-in relationship? How long have they been living together? Does any Party have a history of eloping? If so what happened? etc.

**2. Check whether Parties are minor or major:** Verify whether the Parties are minor or major persons by checking their State or Central Government photo ID proof.

**3. If Parties are minor:** Contact the parents/guardian of the Parties or CWC having jurisdiction and refer the case to it.

**4. If one of the Parties is minor:** Consult an Advocate and act on his advice.

**5. If the Parties are major:** Request Shabana to call her parents/relatives/friends and inform them that she is safe and sound.

**3. Informing the police:** If Shabana does not desire to contact her parents/is unable to contact her parents/she comes to know that her parents have filed a MPR with the police station, then she shall send an email letter, from her email id, in the nature of a For-Your-Information to the police station in whose jurisdiction her parents stay (and have filed or likely to file a missing complaint) informing

them of the fact that she is an adult, has left her house of her own free will and that she is safe. She should also mention that she is in a relationship with Shailaja and that both of them are in a relationship of their own free will. The letter should also provide a list of belongings she has taken from her home. She can also request the police, to tell the parents not to harass/intimidate her in any way. Finally she should provide contact details.

The email should be cc'd to the CP/SP having jurisdiction where Shabana's parents stay. Shabana should keep one copy of the email, and the organization should keep one copy for the record.

**AND**

She shall sign a hard copy of the letter and courier the letter through Government Courier Speed Post/RPAD to the police station in whose jurisdiction Shabana's parents stay (and have filed or likely to file the missing complaint) and send a copy to the CP/SP having jurisdiction where Shabana's parents stay. Shabana should keep one copy of the letter, and the organization should file one for the record. The original courier receipt should be kept by Shabana and a copy of it by the organization for the record. An illustrative letter by Shabana, to the police, is given at the end of the chapter.

**AND**

**Execute an Agreement Deed Regarding Live-In Relationship:** The Parties should seek assistance of an experienced Advocate and execute an Agreement Deed Regarding Live-In Relationship, stating that the two are adults and are living together in a live-in relationship of their own free will. Along with the letter, copy of this document should be sent to the police station and CP/SP of the jurisdiction from where the Party eloped. An illustrative Agreement Deed Regarding Live-In Relationship of Shabana and Shailaja is given at the end of the chapter.

**Note:** There are times when parents, angry at the turn of events, may vengefully file a false case against a Party, in this case Shabana, of theft of ornaments, money, etc. So, when leaving the house, it is very important that the Party take only the minimal essentials needed for her immediate needs (legal identification and educational qualification documents, clothes, money for travel/food etc.) and not take any gold ornaments or a large amount of money. While writing an email/letter to the police, the Party should declare all her belongings in the interest of transparency.

**4. Follow-up:** Over time, some parents reconcile to the turn of events. Some don't. In the case of Shabana, they continued to search for their daughter and having finally located her, they started harassing her and her partner Shailaja by coming to their home and office and throwing tantrums. Despite repeated requests to be left alone, Shabana's parents continued to harass Shabana to return home. Finally, at wit's end, Shabana sought assistance of the LGBTIQA organization's Advocate.

**5. If the harassment continues:**

**OPTION (A)**

The Parties can consult an Advocate and send a notice to the family making the following averions:

- a. Details of the harassment faced from the parents,
- b. Asking the respondents to stop the harassment immediately; otherwise, the aggrieved Party would be forced to take Civil and Criminal action to protect herself and her partner.

The Civil action seeks an immediate order of Temporary Injunction under the Specific Relief Act, 1963, barring the aggrieved Party's parents from contacting/communicating with her, her partner or office staff where the Party and her partner works, and then finally seek a Permanent Injunction.

In case the actions of the respondent family are grave in nature, threatening of the Party's life, and there is a possibility of honor-crime, the aggrieved Party can file a FIR against the threat she/they have received from the family members.

### OPTION (B)

If the Parties apprehend threat to their safety and security/are harassed by the police, they can consult an experienced Advocate and file a Petition in the High Court having jurisdiction, under Article 226, for a Writ of *Mandamus*, directing the police to inquire with the parents of the Petitioners and instruct them to leave the Petitioners alone and grant necessary police protection to the Petitioners. (Refer Chapter: Guidelines of Madras High Court)

The steps mentioned above are challenging and will take an emotional toll. However, for the Party's safety, if required, this action needs to be taken.

### NOTES

- Elopement by same-sex couples may give rise to complications, which may be beyond the Parties or organization to handle. For example, in the above case, if parents lodge a false complaint against Shabana for stealing ornaments and Shailaja as an abettor, both could get into trouble with the law.

Some couples wish to go underground, but that is not easy. Their Call Detail Record (CDR), bank/debit/credit card transactions can be used to trace them. Also, since the Parties are not criminals, it is better for the Parties to seek legal means of redress than living underground, each day afraid of being found out.

So, wherever possible, when same-sex couples want to elope, it makes sense for them to approach an organization and seek their guidance and support. They must also seek the advice of an experienced Advocate. **The organization and Parties should be aware that in such cases, despite the resources available, there is no guarantee that things will not go out of control for the Parties.**

Date: 01/04/2021

To,  
Respected Dhane Chowk Police Station In-Charge,  
City: Korda,  
Taluka: Basad, District: Nirvad, Maharashtra

**Subject: Leaving Home Voluntarily**

I, Shabana Anwar Hussain, Age 21, Residing at 11 Varkute Residential Complex, Char Chowk, City Korda, Pin Code 411999, Taluka Basad, District Nirvad, Maharashtra, Cell: 1111111111, email id: xxxxx@xxxxx.com respectfully state as follows-

1. I was born on 01/01/2000.
2. Therefore, considering my age of 21, I am an adult and can legally take decisions related my life.
3. My parents are- father Anwar Usman Hussain and mother Razia Anwar Hussain.
4. I have completed my education in BA.
5. Recently I came out to my parents as a lesbian.
6. I also told them that I am in love with an adult woman who reciprocates my love.
7. My parents have not accepted my sexual orientation and my love for a woman.
8. Aware that the differences can never be reconciled, I decided to leave my house for good.
9. I was sure that if I were to inform my parents about my decision, they would never let me leave and so on 01/04/2021, at 07.00 am, without informing my parents, I left my house of my own free will, free of any coercion from any Party whatsoever.
10. I am safe and sound.
11. I am periodically in touch with my friends and distant relatives.
12. While leaving the house, I have only taken the following items with me-
  - a. Documents-Aadhar Card, Pan Card, Driving License, Voter ID, Passport, Bank Pass Book, Education related mark lists, Certificates
  - b. 4 punjabi dresses
  - c. 1 bag
  - d. 1000 Rs. of my pocket moneyOther than the items mentioned above, I have not taken any money, ornaments, valuables, or securities with me.
13. I anticipate that my parents will file a missing complaint about me.
14. This letter may be treated as a 'For Your Information' that I am not missing, that I as an adult person have left of my own free will and that I am safe and sound.
15. I and my partner Shailaja (age 21) desire to stay together. As adults we have the right to choose our way of life. We do not want any harassment from anyone. Hence if my parents get in touch with you, we humbly request you to counsel my parents to leave us alone.
16. We are attaching a copy of our Agreement Deed Regarding Live-in Relationship along with this letter.

I thank you for your cooperation and assistance.  
Shanana Anwar Hussain  
<Signature>

**Illustrative letter by Shabana, to the Police Station-In-Charge**



AND

**Shabana Anwar Hussain**D/o Anwar Irfan Hussain Residing at (permanent address)**11 Varkute Residential Complex, Char Chowk, City Korda, Pin Code 411999, Taluka Basad, District Nirvad, Maharashtra**, presently at (current address) **111, Sanders Road, Mumbai Pin xxxxxxxx**, having Aadhar card no. **xxxxxxxxxxxxx**(hereinafter called the Second Party)

WHEREAS both the parties are well known to each other since long;

AND WHEREAS both parties are major;

AND WHEREAS they want to live with each other in a live-in relationship of their own free will and consent and without any kind of force or pressure or undue influence from any quarter;

AND WHEREAS both the Parties want to execute the terms and conditions of the live-in relationship in writing;

**NOW THIS DEED WITNESSETH AS UNDER:**

1. That both the parties are major and date of birth of First Party is 02/01/2000 and date of birth of Second Party is 01/01/2000
2. That both the Parties have known to each other since long.
3. That both the Parties of their own will decided to live together in a live-in relationship.
4. That both the Parties are living together from today according to their sweet will and consent and without any kind of force, pressure or undue influence from any quarter.
5. That both the Parties assure each other that they will respect each other and take care of each other and perform their duties towards each other faithfully.
6. That the First Party has assured the second Party that she will keep, maintain and provide the Second Party with all necessities of life according to her resources.
7. The First Party has never forced the Second Party to live in a live-in relationship from any quarter.
8. That both the Parties have not brought any cash, jewellery, valuables or anything else from their parents.
9. That in case of any future dispute, neither Party will claim any right against the other Party.
10. That at any point in time, any Party in this live-in relationship is at liberty to live separately from the other Party by oral or written communication to the other Party.
11. That at any point in time, any Party in this live-in relationship is at liberty to terminate this live-in relationship with the other Party by oral or written communication to the other Party.
12. That it is further agreed between the Parties that in case of any dispute between the Parties, neither Party will initiate any case against the other or their respective family.



5. That both the Parties have fully understood the contents of the said deed.

**AFFIDAVIT**

I, **Shailaja Nitin Mankame** D/o **Nitin Sachin Mankame** Residing at (permanent address) **21 Sarode Residential Complex, Char Chowk, City Korda, Pin Code 411999, Taluka Basad, District Nirvad, Maharashtra**, presently at (current address) **111, Sanders Road, Mumbai Pin xxxxxxxx**; do hereby solemnly affirm and declare as under:

1. That I am a citizen of India and residing at the aforesaid address and holder of Aadhar card no. **xxxxxxxxxxxxxx**.

2. That I am major and my true and correct date of birth is **02/01/2000**.

3. That I know **Shabana Anwar Hussain** D/o **Anwar Irfan Hussain** Residing at (permanent address) **11 Varkute Residential Complex, Char Chowk, City Korda, Pin Code 411999, Taluka Basad, District Nirvad, Maharashtra**, presently at (current address) **111, Sanders Road, Mumbai Pin xxxxxxxx**, having Aadhar card no. **xxxxxxxxxxxxxx** and I have executed Agreement Deed In Regard to Live-in Relationship dated 01/04/2021 and in terms of the same I will live with **Shabana Anwar Hussain** according to my sweet will and consent from today and without any kind of force, pressure or undue influence from any quarter.

4. That I and **Shabana Anwar Hussain** both are major.

5. That in case of any dispute, we will not claim any right against each other.

6. That at any point in time, any one of us in this live-in relationship is at liberty to live separately from the other by oral or written communication to the other.

7. That at any point in time, any one of us in this live-in relationship is at liberty to terminate this live-in relationship with the other by oral or written communication to the other.

8. That the above Affidavit has been read over and explained to me in my vernacular language and after understanding the contents of the same I have signed the same according to my sweet will and consent.

**DEPONENT**

**VERIFICATION**

Verified at **MUMBAI** on this **FIRST** day of **APRIL, 2021** that the contents of my above Affidavit are true and correct and no part thereof is false.

**DEPONENT**

After understanding the contents of the same in their vernacular language, they have signed the present deed of live-in relationship.

In witnesses whereof both the parties have put their respective hands at **MUMBAI** on this **FIRST** day of **APRIL, 2021** in the presence of the following witnesses:

**WITNESSES:**

1. FIRST PARTY  
(\_\_\_\_\_)

2. \_\_\_\_\_ SECOND PARTY



## 19. STALKING

RAM "He has been stalking me for months now."

### RAM's CASE

Ram, a 21-year-old feminine gay man, has approached an LGBTIQA organization's Counselor stating that he is being stalked by a guy and wants assistance in reporting the matter to the police.

### ISSUES

Section 354(D) IPC (Criminal Law (Amendment) Act, 2013) makes stalking of a woman by a man a cognizable and bailable offence.[1] But, there is no similar provision for a man being stalked by another man/woman/transgender person.

### STEPS

1. **Facts of the case:** Get the facts of the case in detail. Generally, cases of stalking fall into the following three categories-

Attention seeking by the Party (there is no stalker); or

Party has mental health issues; or

Party is stalked by an obsessed stalker

Cross-checking and verification of facts are very important before providing assistance in the matter. Some points, for exploration, are listed below:

- Is the stalking physical or Cyber or both?
- When did the Party first notice the stalking?
- How did the Party realize that he is being stalked?
- In what way does the stalker track the Party? (e.g., following the Party to work and back, etc.)
- During what time of the day and night does the stalker stalk the Party?
- Does the Party know the stalker personally? If so-
  - Does the Party have the stalker's name, age, residence address, contact number?
  - When did the Party first meet the stalker? How? For what?
  - Have they ever had any relationship or an affair?
  - Has the stalker demanded anything from the Party?
  - Has there been any quarrel, break up between them?
  - Can the Party point out the stalker to the Counselor?
  - Has the Party confronted the stalker? If so, how did the stalker react?
  - Has the Party approached the police/Cyber Cell of Police for assistance? If so, what has been the outcome?

2. **Party seeking attention:** While noting down the details of the case, if the Counselor realizes that the Party is not able to give satisfactory answers, is vague in providing credible information, the Counselor is unable to corroborate any details on the stalking provided, then the Counselor will have to explore the possibility that the Party could be an attention seeker or the Party has mental health issues.

3. **Mental health issues:** At times, the Party has a mental health condition, e.g., *Psychosis*, *Schizophrenia*, etc. The Party, in his reality, can 'see' the stalker and believes that the stalker is physically following the Party. Whereas no person is stalking him in our reality, so the Counselor cannot get any concrete evidence (e.g., the Counselor cannot see the stalker.)

**Example:** A Party complains, "Someone is intercepting my messages and calls and tracking them. They know everything that is going on in my life." But, checking the mobile fails to detect viruses/worms;

*checking for a duplicate SIM fails to detect its presence etc. Despite various checks, the Party remains convinced that someone is cyber-stalking him. But no evidence is forthcoming. It turns out that the Party has Psychosis, has stopped taking medications and has not disclosed these facts to the Counselor.*

In Ram's case, during information gathering, the organization Counselor noticed that Ram's recollection of events was inconsistent and, at times, fantastic. Ram was then counseled and advised that he accompany the Counselor to a Psychiatrist. He reluctantly agreed. The Psychiatrist diagnosed him with *Schizophrenia*, but Ram refused to accept the diagnosis, did not take medications and a few days later came to the Counselor complaining that the Psychiatrist too has started stalking him. The Counselor tried to counsel Ram to take the prescribed medications; he refused. The Counselor closed the case; there was nothing further she could do in the matter.

**4. Obsessed stalker:** If a man is stalking a man, explore the possibility of contacting the stalker to initiate a dialogue with him. If the stalker is willing, he should be invited to the organization or a Counselor/Conciliator's office where everyone-Party, Counselor/Conciliator, stalker can feel safe. In some cases, this approach helps resolve the issue.

*Example: If the stalker is a love-lorn young person and has been following the object of his love, he may listen to reason. Further, during the discussion, it may come about that he needs Counseling, which can be provided to him with his consent.*

Some stalkers refuse to heed to reason. Generally, they have some real or perceived grievance against the Party and cannot resolve it through conciliation.

If the stalker refuses the offer of conciliation or walks out of a conciliation, then the aggrieved Party may be left with no option but to approach an Advocate. Depending on the facts of the case, one of the options the Advocate may suggest is to file an Injunction Application, under the Specific Relief Act, 1963, in the Civil Court. The Party shall initially seek an order of Temporary Injunction and then a Permanent Injunction, barring the stalker from stalking the aggrieved Party, contacting him or approaching him, either directly or indirectly, in any manner at any place.

Despite the best efforts by all, there are cases where the stalker, in hurt and anger, seeks revenge on the aggrieved Party.

*Example: A stalker has been in a relationship with the Party who has dumped him. He is now obsessed with holding on to the Party at all costs. The organization offers to provide a Conciliator to resolve the issue, but the stalker is not interested; he is adamant that the relationship resume. When the Party refuses, the stalker, in anger, outs the closeted Party to his family and friends.*

## REFERENCES

[1] Section 354(D)(1) IPC (*in short*)

(1) Any man who--

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking.

*(This is followed by details of conduct which shall not amount to stalking- E.g. Stalking for preventing or detecting a crime etc.)*



## 20. SEXUAL HARASSMENT AT WORKPLACE

*CHETAN "Since the day they came to know that I was gay, my colleagues started making snide remarks like, 'Don't go near him; he will make a pass at you.'"*

### CHETAN'S CASE

Chetan had recently joined an IT company. He soon came out to his friends and colleagues as a gay man. Since then, some of his team members started cracking homophobic jokes in his presence, avoiding him, resorting to innuendo- indicating that he was a sexual predator and any man working with him could become his sexual target. They paid no heed to his trying to reason with them. Frustrated, he contacted a social worker for advice.

### ISSUES

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 applies to sexual harassment of women at the workplace by an employee.

In the Act- Section 2(o) "workplace" includes— (i) any department, organisation, undertaking, establishment, enterprise, institution, office, branch or unit which is established, owned, controlled or wholly or substantially financed by funds provided directly or indirectly by the appropriate Government or the local authority or a Government company or a corporation or a co-operative society; (ii) any private sector organisation or a private venture, undertaking, enterprise, institution, establishment, society, trust, non-governmental organisation, unit or service provider carrying on commercial, professional, vocational, educational, entertainment, industrial, health services or financial activities including production, supply, sale, distribution or service; (iii) hospitals or nursing homes; (iv) any sports institute, stadium, sports complex or competition or games venue, whether residential or not, used for training, sports or other activities relating thereto; (v) any place visited by the employee arising out of or during the course of employment including transportation by the employer for undertaking such journey; (vi) a dwelling place or a house;

Section 2(n) Sexual harassment includes any one or more of the following unwelcome acts or behavior, whether directly or by implication, namely-

1. physical contact and advances; or
2. a demand or request for sexual favors; or
3. making sexually colored remarks; or
4. showing pornography; or
5. any other unwelcome physical, verbal, or non-verbal conduct of sexual nature.

Section 3(1) No woman shall be subjected to sexual harassment at any workplace.

It is mandatory that the Act is explained to the employees during induction training.

The Act mandates that an organization with ten or more employees must have an Internal Committee (IC) (Previously named Internal Complaints Committee). Any woman employee who is facing sexual harassment can give a complaint in writing to the IC.

The Committee is to inquire into and hear both sides before drawing a conclusion. If the accused is found guilty of misconduct, the Company Management can consider a range of options from efforts to arrive at conciliation between the Parties, apology to termination of employment. If the survivor desires to file a police complaint, the IC will provide due assistance.

Every offence under this Act is Non-Cognizable. If the survivor desires, she can file a FIR under Section 354 IPC[1] and Section 355 IPC.[2]

The Act does not cover sexual harassment faced by men. This means that if a man (whatever his sexual orientation) is sexually harassed at the workplace, he cannot seek assistance under this Act.

### STEPS

**1. Facts of the case:** Get the facts of the case in detail.

**2. Does the Company/Organization have an IC?** Check whether the Party's Company has an IC. Although by law, the IC's mandate is only to cover sexual harassment of women employees, some Company IC's have a more inclusive policy and cover sexual harassment of all employees irrespective of sex, gender, and sexuality.

**2. Submit a written complaint:** Even if the Company's IC addresses sexual harassment only of women, the social worker can suggest the Party to make a complaint in writing to the IC. Although the IC may not have the mandate, they are very likely to escalate the issue to Company Management. No sensible Company Management would want the Company's work environment and reputation to be vitiated by instances of sexual harassment of any kind.

In Chetan's case, understanding the gravity of the situation, the Company Management spoke to all the involved Parties and arranged a LGBTIQA sensitization session by a gay activist for all employees in the Company. At the end of the session, they made it clear that the Company has zero-tolerance for sexual harassment of employees at the workplace, whatever the sex, gender, or sexual orientation of the Party or the accused.

Since then, things have improved for Chetan. Although he did sense a barrier in communication, he was no longer a target for homophobic jokes or innuendos. The Company also started the groundwork of updating its anti-harassment policy to make it sex/gender/sexuality neutral.

### NOTES

- Although no law in India currently stipulates sex, gender, sexuality-neutral zero-tolerance Policy on Sexual Harassment at Workplace, increasingly Companies (especially Multi National Corporations), organizations are going in for such an inclusive policy.

### REFERENCES

[1] **Section 354 IPC:** Assault or criminal force to woman with intent to outrage her modesty.

Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely, that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

[2] **Section 355 IPC:** Assault or criminal force with intent to dishonour a person otherwise than on grave provocation.

Whoever assaults or uses criminal force to any person intending thereby to dishonour that person, otherwise than on grave and sudden provocation, given by that person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.



## 21. SPREADING INFECTION

*ASHOK "Manish may have infected so many youths with HIV. I have tried to warn him; he does not listen."*

### MANISH' CASE

Manish was a very handsome closeted gay guy in his mid-twenties. He was extremely health conscious and went to the gym regularly. In his tight T-shirt and jeans, he looked very sexy, and many gay and bisexual men- unmarried and married approached him. Over the years, he continued to be popular and had many sexual encounters with men. Quite a few of these encounters were unsafe (There was no use of condoms in anal sex.)

A few years later, Manish got himself tested for HIV at a private laboratory and found out that he was HIV positive. He confided in Ashok, one of his gay friends, who referred him to a Government ICTC. The ICTC Counselor advised him to undergo a confirmatory test. After the test confirmed the HIV diagnosis, Manish registered himself for Anti-Retroviral Therapy (ART) on the Counselor's advice.

Manish continued to have unprotected intercourse with various men. One day Ashok came to know from Vinay, one of their common friends, that Manish had unprotected anal sex with Vinay. Ashok warned Manish that he was putting his partners at risk of HIV by not disclosing his HIV status to his partners and having unprotected sex with them.

Manish refused to heed Ashok's warning. He was in great demand, and Ashok received reports that Manish continues to have unprotected intercourse with men without telling them his HIV status. Ashok had a big argument with Manish on this issue. Manish stated, "You say they are at risk; then they should take precaution". Frustrated, Ashok approached a social worker for advice. He wanted to take legal action against Manish so that Manish would not put others at risk.

### ISSUES

In rare instances, social workers may encounter a person living with HIV whose sexual behavior is negligent with respect to his partners' safety or someone who maliciously has unprotected anal sex with his partners, hoping to infect them with HIV.

These acts are criminal offences under Section 269 IPC (Negligent act likely to spread infection of disease dangerous to life)[1] and Section 270 IPC (Malignant act likely to spread infection of disease dangerous to life)[2]. Both the offences are Cognizable, Bailable, and Non-Compoundable.

The key issue is, whether a Party, who had unprotected intercourse with Manish, is willing to file an FIR against Manish, stating that Manish had put his life in danger by nondisclosure of his HIV status. (Note that the Party need not have tested HIV positive after his intercourse with Manish). Unless such a Party comes forward, no legal action can be taken against Manish. Ashok/social worker cannot file the FIR as they are not the affected Party. Generally the affected Party is unwilling to come forward due to the stigma attached to same-sex intercourse.

### NOTES

Ashok cannot publicly call out Manish for his negligent/malicious behavior. If Manish were to file a Criminal case of defamation against Ashok or a Civil suit against Ashok for loss of reputation, Ashok would have to prove that-

- Manish was living with HIV when Ashok made a public statement to that effect
- Manish was aware that he was living with HIV when Ashok made the public statement

- Manish had not informed his partner/s of his HIV-status when having intercourse with them

All Ashok can do is, educate them that they should not have unprotected vaginal or anal sex with anyone as they may not know their partner's HIV status.

#### REFERENCES

[1] **Section 269 IPC:** Negligent act likely to spread infection of disease dangerous to life.

Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

[2] **Section 270 IPC:** Malignant act likely to spread infection of disease dangerous to life.

Whoever malignantly does any act which is, and which he knows or has reason to believe to be, likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.





## 22. INTRODUCTION TO CYBER CRIME

**Authors: Pushkar Ekbote and BindumadhavKhire**

### INTRODUCTION

Incidents of extortion and fraud perpetrated through social media and dating apps are on an alarming rise. The perpetrators use very innovative and sophisticated methods to extort or defraud. In the case of the LGBTIQA community, their additional dimension of vulnerability complicates matters.

The Information Technology Act, 2000 provides legal recognition for transactions carried out by means of electronic data interchange and other means of electronic communication. It also provides for offences committed thru electronic means. This means that for offences related to electronic communications/social media etc., in addition to the IPC, the relevant sections of the Act too shall apply.

***Example:** Vivek, unknown to Prashant, surreptitiously video-records Prashant taking a bath. Two days later, Vivek sends this video to two of their mutual friends. The friends report the matter to Prashant. Prashant confronts Vivek. Vivek threatens to make the video viral if Prashant approaches the police. In this case Vivek has committed an offence under Section 503 IPC (Criminal Intimidation) and also 66E of the Information Technology Act, 2000 (violation of privacy).*

A few of the offences, listed in the said Act, are listed below (in short):

- Section 65** Tampering with computer source documents.
- Section 66A** This Section was struck down by Supreme Court's Order dated 24/03/2015.[1]
- Section 66B** Punishment for dishonestly receiving stolen computer resource or communication device.
- Section 66C** Punishment for identity theft- Fraudulently or dishonestly making use of the electronic signature, password or any other unique identification feature of any other person.
- Section 66D** Punishment for cheating by personation by using computer resource.
- Section 66E** Punishment for violation of privacy- Intentionally or knowingly capturing, publishing or transmitting the image of a private area of any person without his or her consent, under circumstances violating the privacy of that person.
- Section 66F** Cyber terrorism.
- Section 67** Punishment for publishing or transmitting obscene material in electronic form- Publishing/transmitting or causing to be published or transmitted in the electronic form, any material which is lascivious or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.
- Section 67A** Publishing or transmitting of material containing sexually explicit act, etc., in electronic form—Publishing/transmitting or causing to be published or transmitted in the electronic form any material which contains sexually explicit act or conduct.
- Section 67B** Publishing or transmitting of material depicting children in sexually explicit act, etc., in electronic form.

**Note:** Provisions of section 67, section 67A and 67B do not extend to any book, pamphlet, paper, writing, drawing, painting representation or figure in electronic form- (i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting representation or figure is in the interest of science, literature, art or

learning or other objects of general concern; or (ii) which is kept or used for *bona fide* heritage or religious purposes.

The most commonly encountered cyber offences, by social workers/organizations, are of extortion and fraud.

### **CYBER EXTORTION**

The strategy of the perpetrators is to establish friendship with the victim through social media platforms and dating apps. After gaining the victim's confidence, they generally extort the victim by-

1. Initiating a sexually explicit conversation which leads to sending and asking for nude photos or sex videos and using the victim's chats, photos, and videos to extort the victim.
2. Inviting the victim to a secluded place for a meeting where they could be beaten and robbed.

Most members of the LGBTIQ+ community, being in the closet, are unwilling to approach the police to lodge a complaint. Extortionists ruthlessly exploit this vulnerability. Perpetrators are on the lookout for closeted, married men who can be easily blackmailed. It cannot be emphasized enough that closeted gay men run a high risk of extortion by hooking up with strangers.

A few tips on dealing with social media or cyber-related crimes are given below:

1. If a Party suspects that someone has cloned his/her/their SIM, use the 'Find a Device' app for Android phone to check whether the SIM has been cloned.
2. If the Party suspects that his/her/their mobile is infected with Malware, use the 'Scan and Protect' feature in your Android phone to check whether the mobile is infected with Malware.
3. Take screenshots of messages/images related to the cyber-crime as they are important evidence.
4. In relevant cases, report the perpetrator on the dating app.

**Example:** The reporting categories of 'Grindr' dating app are given below:

1. *Illegal Activities*
  - A) *Mentions and/or photos of drugs and drug paraphernalia (including emoji)*
  - B) *Advertisement of sexual services, including escort or any illegal services*
2. *Spams*
  - A) *A user attempting to solicit your personal information*
  - B) *A user who prompts you to visit outside links for commercial purposes*
3. *Harassment or Bullying*
  - A) *Threats of violence or injury*
  - B) *Profile intended to defame others*
  - C) *Sharing of someone's personal information (name, phone number, address, photo) to harass them*
4. *Hate Speech/Discrimination*
  - A) *Hate speech or symbols*
  - B) *Discriminatory or bigoted statements*
5. *Nudity or Pornography*
  - A) *Full Nudity*
  - B) *Sex toys and sex acts (real or mimicked)*
  - C) *Shapes or outlines that make genitals visible through clothing*
  - D) *Crotch shots from any angle (front, back, and side)*
  - E) *Graphic text and emoji around sexual acts*

6. *Underage*
    - A) *Users who are under the age of 18*
    - B) *Photos where someone under the age of 18 appears*
  7. *Impersonation*
    - A) *Profiles impersonating other people, including celebrities*
    - B) *Copyrighted photos and illustrations*
    - C) *Profiles are used for advertising a product or service.*
5. File a complaint, as soon as possible, with the Cyber Cell of Police- either online (Website: <https://cybercrime.gov.in/>) or at the Police Cyber Cell having jurisdiction. (Refer Chapter: Crime Using Dating App.)

### **ONLINE FRAUD**

Many vulnerable, closeted gay youths seek a partner on social media and dating Apps. Their loneliness and desperation to find someone who accepts them and loves them for who they are, makes them very vulnerable. Unscrupulous persons exploit this vulnerability by pretending to fall in love with the Party, gain his/her/their love and trust and then defraud the Party. The love-lorn Party is desolate at losing his/her/their love as well as their hard-earned money. (Refer Chapter: Online Fraud.)

### **BASIC SECURITY TIPS**

At times, most of us inadvertently give out important information on social media, leading to an increased risk of fraud. Most of us remain unaware that we have unconsciously left a digital footprint. A few examples of footprints related to your safety/security/anonymity are listed below:

1. If your Facebook/Instagram accounts are linked with dating apps, it is possible to trace you if your Facebook/Instagram account is not protected.
2. The tracking of exact location using 'distance' on the profile is possible in some dating apps. It is possible to get information about your place of residence.
3. People tend to put photographs on social networking sites, which may inadvertently disclose personal information.

*Example: If you put the photo of your new car, with the registration number visible on social media, certain apps can trace the vehicle owner's name from that registration number.*

4. Sometimes, people put their mobile/WhatsApp contact details on social networking sites. If the same contact number is attached with bank account or Aadhaar (UID) Information, it may pose a financial risk.
5. By clicking on a Malware link sent by an unknown person, the Party may end up unknowingly downloading Malware on the gadget.
6. Take care not to share your OTP, Debit/Credit Card/Banking-related PIN, CVV, passwords with anyone.
7. Community members can create a safer environment on social media and dating apps by timely reporting illegal activities to the app management.

8. Do not engage in financial transactions with anyone unless you have verified their credentials and genuineness of purpose.

**The Citizen Financial Cyber Fraud Reporting and Management System**

As the manual was about to go for printing, came the news that the Central Government has launched a national helpline for Cyber Fraud.[2]

**Cyber Fraud National Helpline Number: 155260**

The helpline is managed by state police and as of June 2021, it is functioning in seven states and UTs, namely- Chattisgarh, Delhi, Madhya Pradesh, Rajasthan, Telangana, Uttarakhand and Uttar Pradesh. The facility enables banks and police for sharing online fraud related information and taking action almost real-time. The loss of defrauded money in online cheating cases can be stopped by chasing the money trail.

**STEPS**

- The affected Party should call the helpline and provide transaction and personal details to the police operator.
- The police operator submits the details in the form of a ticket on the The Citizen Financial Cyber Fraud Reporting and Management System.
- The ticket gets escalated to the concerned banks, wallets, merchants etc where the Party's money has been transferred.
- The Party gets an acknowledgement number of the complaint through SMS.
- The Party will also be asked to submit the complete details of the fraud on the national cybercrime reporting portal- <http://cybercrime.gov.in/> within 24 hours, using the acknowledgement number.
- The bank etc. where the money has been transferred will be able to see the ticket on the dashboard and if the money is still available, it will be put on hold. If the money has been moved to another bank, the ticket gets escalated to the next bank and so on.

**REFERENCES**

[1] Shreya Singhal vs. Union of India (AIR 2015 SC 1523).

[2] Government launches national helpline for cyber fraud, here is how it works. India Today Tech. June 18, 2021. The information provided in the manual is a modified and shortened version of this news.

<http://www.indiatoday.in/technology/news/story/government-launches-national-helpline-for-cyber-fraud-here-is-how-it-works-1816442-2021-06-18>



## 23. CRIME USING DATING APP

*SUBHASH "I am married and come from a reputed family. My wife will divorce me if she comes to know that I am gay."*

### SUBHASH' CASE

Subhash is a 35-year-old closeted married gay man with two children. He is an executive at a prestigious firm and uses dating apps to hook up with guys.

One day, he hooked up with a guy who invited him to his place. On entering the apartment, he found that three men were waiting for him. They beat him up, stripped him, made a video of him, and forced him to hand over his gold chain, gold ring. They then went with him to an ATM and made him withdraw ₹15,000.00. Then, after threatening him that if he approached the police, they would make the video viral, they left.

Subhash was terrified of being outed. He came from a reputed family. He knew his wife would divorce him if she came to know of his sexuality. He hoped and prayed that they would not make the video viral. Subhash got depressed; he couldn't sleep or focus on his work.

Three days later, he got a call from the extortionists stating that he better pay ₹15,000.00 more else they would make the video viral. Petrified, he withdrew ₹15,000 and handed it over to them.

A week later, when they called him again asking for ₹10,000.00, he contacted an LGBTIQA organization to file a FIR on his behalf.

### ISSUES

Organizations have no power to file a FIR on behalf of the Party.

### STEPS

- 1. Facts of the case:** Get details of the facts of the case.
- 2. Explain your limitation:** Explain to the Party that an organization cannot file a FIR on behalf of the affected Party.
- 3. Assistance in filing FIR:** Assist the Party in approaching the police station having jurisdiction. At times the Party, in this case, Subhash, is unwilling to take this step. Subhash feared being outed to his family; he feared having his name in the newspapers. Inform Subhash that he could request the police that his identity is not revealed to the press due to the sensitive nature of the case.

But in this case, Subhash refused to approach the police. The next time he received a call from the extortionists, he mentioned that he had approached an organization, and if the extortionists were to call him again, he would approach the police with assistance from the organization. The extortionists stopped calling him.

Subhash then informed the organization that he would take their assistance in filing an FIR if the extortionists get in touch with him again.

**NOTES**

- At times, the strategy of the Party threatening the extortionists, that the Party would file an FIR, does not work. Hardened criminals, sensing that the Party is making empty threats may escalate their demands. In such a scenario, the Party is left with very few choices: (a) Pay up, (b) File an FIR, (c) Not giving in to the demands and facing the consequence (d) The fourth possibility is the Party coming out to his family. If the Party is willing to do so, he will need a referral to a Psychologist with expertise in such matters. The family members too can consult the Psychologist on related issues.



## 24. ONLINE FRAUD

ZAKIR *"I have been so foolish, so, so foolish."*

### ZAKIR'S CASE

Zakir, a gay youth, met a handsome man online called James. Soon Zakir and James were exchanging messages with romantic and sexual content. A few months later, James mentioned that he had fallen in love with Zakir. Zakir was in the seventh heaven and couldn't believe his luck. A month later, James announced excitedly that he was coming to India to meet Zakir in person. James mischievously mentioned that he was bringing a very expensive gift for Zakir.

Zakir did not sleep for days, waiting for D day to arrive. He kept on fantasizing about his future with James, his knight in shining armor.

On 01/04/2021, James called Zakir at 01 am from a local number. He was crying and sounded scared. He told Zakir that he had arrived at the airport and the Customs officials had detained him. They were demanding ₹20,000.00 as Customs Duty for the gift he had so lovingly brought for Zakir. He didn't have so much money and pleaded with Zakir to pay the money. James sent the bank details to Zakir on WhatsApp.

After Zakir successfully transferred the money, he had been unable to get in touch with James. Eventually, Zakir realized that he had been taken for a ride and approached an LGBTIQ+ organization to assist him in filing an online Cyber-crime complaint against James.

### ISSUES

Online instances of fraud are on the rise. Gullible gay youths dreaming of finding their ideal partner or marrying someone in the USA or Europe and settling abroad are frequent targets of such online fraudsters. The perpetrator is well prepared with all the details that make a very effective smokescreen- his photos, friends/family photos, job profile, etc. The unsuspecting victim falls for it and has to pay a heavy price.

### STEPS

1. **Facts of the case:** Get details of the facts of the case.
2. **Report the Cybercrime:** Direct the Party to report the cyber-crime, as soon as possible, to the Cyber Cell of Police. The Party can report the cyber-crime by-  
(A) Filing an online complaint. Website- <https://cybercrime.gov.in/> (Refer Section: Steps in online reporting of cybercrime, listed in this chapter)  
OR  
(B) Approaching the Cyber Cell of Police having jurisdiction and filing the complaint

In addition, give an application to your bank to withhold the transfer of funds to the perpetrator's account. Attach a copy of the the Cyber Cell complaint with the application.

**2. Online complaint:** If the complaint is filed online, the Cyber Cell of Police will call the Party for inquiry.

**3. If Party and accused desire a compromise:** Party and the accused can reach a compromise in non-serious crimes only. Serious cases (e.g. a case related to PoCSO Act) cannot be compromised and require compulsory registration of FIR.

**4. File FIR:** If the Party does not want a compromise/a compromise is not possible for some reason, the Party can file an FIR, if it is a cognizable offence. In such cases, the Party will be directed by the Cyber Cell of Police to the police station having jurisdiction to record the FIR as, ultimately, the criminal complaint will be investigated by the police station having jurisdiction.

#### STEPS IN ONLINE REPORTING OF CYBERCRIME

The information given below (points 1, 2, and 3) is an edited version of the information provided in the FAQ on the <https://cybercrime.gov.in/> website (as of June 2021). You can file a complaint related to all types of cyber-crime on the portal- whether against an Indian Citizen/Indian Company or a foreign national/foreign Company.

**1. Online Registration:** To file the complaint, you must first register yourself using your name and valid Indian mobile number. You will receive a One-Time-Password (OTP) on your mobile number. Once you successfully register your mobile number on the portal, you will be able to report the complaint by selecting the appropriate category and sub-category.

**2. Report complaint:** Report the complaint accurately and with relevant details. Upload any evidence you may have, related to the complaint.

**Note:** A unique Hash value will be generated for each document/image uploaded as evidence. A hash value is an alphanumeric value of a fixed length that uniquely identifies data (e.g., 0800fc577294c34e0b28ad2839435945). The hash value acts as a unique fingerprint/number to a digital file you upload as evidence in the portal (e.g., images, videos, documents, etc.). The hash value you receive will ensure the integrity of digital evidence uploaded on the portal.

**3. Check status/Track complaint:** Once your complaint is submitted, you will receive a confirmation message in the portal. You will receive a SMS and an email with a complaint reference number on your registered mobile number and email id.

The complaints reported on the portal shall be handled by the concerned State/UT police authorities based on your selection of State/UT while reporting the complaint. You will be able to check the status of your complaint if you have registered the complaint using the “Report and Track” option or the “Report Other Cybercrime” section available on the portal. The complainant will receive an acknowledgment number that can be used to track the progress of the complaint by logging on to the portal and clicking on the “check status” option.

An illustrative online cyber-crime complaint by Zakir is given at the end of the chapter.







## 25. MARRIAGE OF CONVENIENCE

*RAJIV "Please help me to find a closeted lesbian for a marriage of convenience. My family is very conservative. I simply cannot come out".*

### RAJIV'S CASE

Rajiv was closeted and under pressure from his family to get married. He approached a social worker and stated that he desired to have a marriage of convenience with a closeted lesbian. The couple would mutually decide not to have intercourse. Rajiv asked the social worker to assist him in finding a suitable wife.

The social worker took efforts to find a match and finally met Sonam, who was a closeted lesbian and also looking for a marriage of convenience. The two got married. The family was not aware that the marriage was one of convenience.

Later on, pressure started building on Rajiv and Sonam to have a baby. By then, Rajiv had got a boyfriend and had started staying out late. The in-laws began to blame Sonam for not be-getting a child and Rajiv's disinterest in the family. Finally, during a quarrel, in a fit of anger, Sonam told them that Rajiv is gay and that their marriage is a marriage of convenience.

The marriage ended in a divorce. The family came to know that the social worker had been thematchmaker. They called the social worker and abused him for assisting in perpetrating the fraud.

### ISSUES

Although the social worker intended to be of assistance to the two closeted persons, Rajiv and Sonam, there is no doubt that the social worker has become party to a fraud of marriage perpetrated on the society. The social worker's reputation will suffer as he/she/they have become a party to deceit.

Additionally, if one of the married Party accuses the social worker of urging him/her into the marriage of convenience, the social worker could face a significant backlash from society.

From the LGBTIQA rights point of view, a marriage of convenience goes against the struggle of LGBTIQA community to find acceptance in society. The social worker is likely to face stiff opposition from the LGBTIQA rights movement for aiding in this case.

**Note:**Some LGBTIQA organizations have a policy of not taking on cases that require rendering assistance in a marriage of convenience.



## 26. DIVORCE

*RAUNAK: "I made a mistake of marrying a woman. I need to get out. I have suffered enough; she has suffered enough."*

### RAUNAK'S CASE

Raunak, a closeted gay guy, had been in a relationship with a man for two years. But unable to come out to his family, Raunak got married to a woman a year ago.

With great difficulty, he was able to consummate the marriage only once, and after that, he did not seek intimacy with his wife. His wife, unhappy at the turn of events, disclosed the matter to his parents, who had, in turn, questioned him. He stated that he was under stress because of his job, and he needed some time. The parents had tried to appease the wife, who waited for a few more months for things to improve. There was no improvement.

Finally, they suggested that Raunak visit a Doctor. The Doctor examined him and recommended a Nocturnal Penile Tumescence (NPT) Test (Raunak did not disclose his sexual orientation to the Doctor). Raunak passed the test. His parents were happy that Raunak had no 'issues' and that it was just a matter of stress at his workplace.

During all this time, Raunak has been thinking about ways of ending the marriage. He had made a mistake by getting married and felt very guilty that he was the cause of his wife's suffering. He needed to talk to someone who would be sensitive to his travails. He approached a Counselor at an LGBTIQA organization for guidance.

### ISSUES

Some (married to women) gay men are unable to have erection/sustain an erection when trying to have intercourse with their wives. If the parents come to know of the issue, they assume that it is due to a physical health issue and advise their son to approach a Doctor. The Doctor may refer the Party to Urologist for a NPT Test to rule out an organic cause.

Erectile-dysfunction may be due to any/some of the following-

- a consequence of some physical ailment, e.g., severe diabetes
- heart and blood vessel conditions like atherosclerosis
- a side-effect of a drug (e.g. some drugs used to treat mental health illnesses cause erectile-dysfunction)
- psychological
- the person has no sexual desire towards the person he is trying to have intercourse with (e.g. in this case Raunak was gay and felt no sexual desire/arousal for intercourse with his wife)

### Nocturnal Penile Tumescence (NPT) Test

NPT is a test, used for diagnosing organic cause of erectile dysfunction in men. In this test, the patient is admitted to the hospital, and a pressure cuff is wrapped around his penis. While the patient is sleeping during the night, the pressure cuff attached to a monitor monitors his penile erection. During sleep at night time, unknown to men, their penis gets aroused at different times. This arousal gets recorded on a monitor attached to the pressure cuff. If the penis experienced arousal during sleep, organic cause for erectile-dysfunction is ruled out.

**Note:** Most Doctors and parents do not consider the possibility that the man could have erectile-dysfunction because he is not attracted to women and may have no erectile-dysfunction when having intercourse with a man. **So, a NPT test helps rule out an organic cause of erectile-dysfunction; it is not a test to prove/disprove the person's sexual orientation.**

## STEPS

**1. Facts of the case:** Get details of the facts of the case.

**2. Reference to an Advocate:** Refer the Party to the LGBTIQA organization's Advocate.

Raunak met the Advocate and provided him details of his marriage under The Hindu Marriage Act, 1955. He told the Advocate that he was gay and stated that he wanted to end the marriage and initiate divorce proceedings as quickly as possible. He didn't want to suffer anymore. He didn't want his wife to suffer anymore either. He was willing to pay his wife all the expenses she had incurred in the marriage (the bride's parents had taken care of the marriage expenses) and pay a lump-sum alimony.

The Advocate explained various options and probed whether the marriage was consummated or not consummated. Raunak mentioned that he had peno-vaginal intercourse with his wife once. So the marriage was consummated. Raunak would have to apply for a divorce.

**3. Assistance of a Psychiatrist:** At times, the Party, worried that everyone would ridicule him if his sexuality is disclosed to his wife and her relatives, puts a condition that his sexuality not be revealed. This is a challenging demand as the wife, and her relatives would want to know why the Parties are filing for divorce.

The Party can seek services of a LGBTIQA friendly Psychiatrist to explain the issue to the wife and emphasize the sensitivity of the matter to her and seek her and her family's support.

**4. Divorce:** The Advocate explained various grounds for divorce provided in the Hindu Marriage Act, 1955 and stated that Section 13B of the Hindu Marriage Act, 1955, provides for Divorce with mutual consent. (A similar clause (Section 28) is present in The Special Marriage Act, 1954). Raunak and his wife could explore the possibility of filing for divorce under this clause.

The Advocate added that, due to the sensitive nature of the case, if the Parties desire, during the hearings in the Family Court, he can seek an in-camera session (no outsiders, other than the Court staff, Counselor, Advocate, and the two Parties are present in the Courtroom).

Raunak was not too happy with these options, but he could not come up with a better alternative. Finally, he decided to proceed according to the Advocate's advice.

## NOTES

- There are times when unscrupulous, closeted, married gay men, seeking a divorce, approach LGBTIQA organizations for finding ways in which their wife's character can be besmirched/maligned. This is done so that the blame for the divorce would fall on the wife, and the husband would have to pay little maintenance.

It is expected that LGBTIQA organizations assist a disempowered Party in securing his/her/their rights. This does not involve providing assistance to an unscrupulous Party (even if the Party belongs to the LGBTIQA community) to victimize another person. No help should be provided in such cases.



## 27. GIFTS AND LOANS

*RAMESH: "I thought he loved me. He took disadvantage of my love and faith in him. Now I want my money back."*

### RAMESH'S CASE

Ramesh, 24-years-old, was in love with Umesh, a 20-year-old. Although they lived in different cities, far off from each other, Umesh would come to meet Ramesh once in 3-4 months. Because Umesh came from a poor background, Ramesh would take care of Umesh's expenses during these visits.

When Umesh was badly off during the final year in college, Ramesh offered to pay Umesh's college fees. Umesh profusely thanked Ramesh for paying the fees. Ramesh felt that their bond was getting stronger and looked upon Umesh as his life partner. A month later, when Umesh shamefacedly asked Ramesh whether Ramesh could pay his hostel fees, Ramesh was more than willing to do so.

As soon as Umesh received the amount in his bank account, Umesh lost interest in Ramesh and stopped communicating with him. Ramesh tried to contact Umesh, but Umesh gave flippant answers and indicated that their relationship was one-sided; he was never involved with Ramesh.

Ramesh was hurt, pained, and then angry. He wanted to know what had gone wrong; he was willing to apologize for any mistake he might have made. Umesh ignored his pleadings. Ramesh then demanded repayment of the money he had paid for Umesh's college and hostel fees. Umesh ignored his demands and blocked Ramesh.

Furious at this turn of events, Ramesh contacted a social worker from an LGBTIQA organization, seeking assistance to recover his money which was more than ₹30,000.00. Ramesh had records of online transfers of around ₹20,000.00 and approximately ₹10,000.00 had been given in cash.

### ISSUES

In many such cases, it is seen that the funds are given out of love and affection without any expectation of returns. The assumption is that their relationship is a long-term one. At times the money is provided as an incentive for the partner to stay dependent on the giver and continue the relationship.

Later on, when the relationship sours, or it turns out that the other Party has manipulated/cheated to get the money, the Party which has given the money seeks a refund. With no evidence of the nature of the transaction- loan or a gift out of love and affection, recovery is difficult. This is especially true when the Party who has given the money is in the closet and cannot afford legal redress out of fear of being outed.

So, the critical issue is-

- Has the Party, in this case Ramesh, given the money as a loan or a gift out of love and affection?
- Is there any evidence- documents, emails, or chats that indicate that the funds Ramesh was giving to Umesh were in the form of a loan?
- If so, what were the terms of the loan? Were the terms of the loan in writing and communicated to Umesh? Had Umesh accepted the terms? Was the acceptance of the terms made in writing?

Without sufficient evidence, it is very difficult to prove that Ramesh had given the money as a loan and not as a gift out of love and affection.

## STEPS

**1. Consult an Advocate:** Depending on the facts and circumstances of such a case, the Advocate may suggest a few options. Examples:

- Not proceed on the legal front
- File a Civil suit for the recovery of the money
- In some instances, the case could qualify for a breach of trust (both Civil and Criminal)

From the facts of Ramesh's case, it seems that-

- (a) Ramesh' love for Umesh may have been one-sided. Umesh never appears to have expressed his love for Ramesh.
- (b) Ramesh seems to have presumed that Umesh would continue their relationship long-term. This presumption does not seem to have any evidentiary foundation.
- (c) Ramesh contends to have helped Umesh, but is the help altruistic?
- (d) Ramesh and Umesh have not entered any legal contract; they never executed/signed any document.

Hence, there is no evidence to prove Ramesh's advance to Umesh was a temporary loan.

## NOTES

- If during discussions, Ramesh mentions that he was asking for sexual favors in return for providing monetary assistance to Umesh for his education, then it is legally a VOID contract, and Ramesh has no right to claim the money back.
- **In the interest of the Party who provides funds to his/her/their partner, it is best to make clear, in writing, the terms on which the funds are given, and get in writing the acceptance of the terms from the other Party.** To draft a suitable document securing a Party's interest against another is a legal skill. Hence, before stepping into any financial agreement, it is advised that an experienced Advocate be consulted.



## 28. DOMESTIC VIOLENCE

*KARTIK "I love him. I made so many adjustments for him, but now he has thrown me out of the house."*

### KARTIK'S CASE

Kartik is a gay man in his late twenties. He has been in a relationship with Aman for the past five years. When Kartik came out to his parents, he was disowned by his parents. Since Aman stayed alone, he had invited Kartik to live with him. Since then, they had been staying together at Aman's place.

Kartik had always known that Aman was moody and had a short fuse, but when he started living with Aman, he saw, with increasing frequency, a hereto rarely seen side to Aman. Aman would get very violent when angry. Initially, he would break a glass or a plate in anger at Kartik's actual or perceived faults. Kartik, by nature, an insecure person, would apologize, even when he knew he was not in the wrong. But over time, things had slowly deteriorated, and Aman had started slapping Kartik in anger. The next day he would profusely apologize to Kartik and make amends, promising never to hit him again. The promise would barely last a week or so.

Kartik tried to reason with Aman, and find out the source of his anger, but he had no success. To add to Kartik's woes, he and a few other staff members of his Company got laid off from work and he had difficulty finding a new job. For the past few months, Kartik had been unable to contribute to the household expenses. That had made matters worse.

Two weeks ago, Kartik had been badly beaten by Aman. Aman had banged Kartik's head against the wall. Kartik needed five stitches. When the Doctor in the Emergency Room inquired, Kartik in a low voice had stated that he had slipped on the bathroom floor. Aman had stood beside him, staring stonily, without a word.

It was after this incident that Kartik approached an LGBTIQA organization and spoke with a Counselor. The Counselor had sensitively listened to Kartik as he cried and spoke of his love for Aman and the anguish he now faced. The Counselor had then discussed a few options with Kartik. A few examples are given below:

- Self-defence: Kartik didn't think he could block an attack in self-defense; how could he do that against his loved one? The thought was unimaginable.
- Couple counseling: Kartik wanted time to think about the option of coming with Aman for counseling. How would Aman react to such a proposal? He dreaded the thought.
- Police complaint: Kartik couldn't bear to think of the option of filing a police complaint against Aman.
- Moving out: Moving out for a while and giving each other space. Kartik was financially and emotionally very dependent on Aman and didn't think much of the idea.
- Breakup: Giving an ultimatum to Aman and breaking up with him if Aman touched Kartik again in anger was another option discussed. But living life alone with no one to hold on to was unthinkable to Kartik. He loved Aman and believed that with his love, Aman would change. He didn't think it would come to his leaving Aman. He just wanted to help Aman deal with his demons.



Yesterday, Aman had again lost it. Kartik, in anger, had given an ultimatum to Aman. Aman, furious at the ultimatum, had beaten Kartik black and blue, and had thrown him out from the house along with his bag and baggage. Kartik cried for forgiveness but to no avail.

Kartik, his hand in pain, had hailed a Rickshaw and had gone to a friend's house. His friend had taken him to a Doctor, who advised an x-ray. It turned out that Kartik's hand had a fracture. With his hand in plaster, Kartik along with his friend, had come to the Counselor for assistance.

### ISSUES

The dynamics of domestic violence in a gay relationship are similar to those seen in domestic violence of women in straight relationships. Important points to note are-

1. There is little or no support available to survivors of domestic violence in same-sex relationships from family, relatives, neighbors.
2. The Protection of Women from Domestic Violence Act, 2005 provides Civil remedies like 'Right to reside in a shared household' or obtaining 'monetary relief' to a woman if she is married or in a heterosexual live-in relationship (the definition of 'domestic relationship' (Section 2f) includes 'relationship in the nature of marriage'). Such civil legal protections are not available to partners in same-sex relationships (as of June 2021).

### STEPS

1. **Facts of the case:** Get details of the facts of the case.
2. **File a police complaint:** If Kartik desires, he can file a complaint against Aman under various IPC Sections of Assault, Criminal Intimidation, Causing Hurt etc.
3. **Moving On:** Assist Kartik in identifying a place to stay, provide temporary financial aid, assist him in finding a job, and, importantly, provide him mental health support services.
4. **Conciliation:** If Aman apologizes and shows his willingness to take Kartik back, would it be in Kartik's interest to go back to Aman? The Counselor may have his/her/their view, but it's not the Counselor's call to take. Kartik would have to take that call. The Counselor can only suggest that Kartik explore all the options and consequences with the Counselor before taking the call.



## 29. GAY MARRIAGE

SANKET AND UDDHAV “We have been living together for four years now. We love each other deeply and would like to get legally married.”

### SANKET AND UDDHAV’S CASE

Sanket and Uddhav were out gay men and had met each other at a party. They started dating and fell in love with each other. The initial years of the relationship had been a challenge, but both had struggled to make the relationship work. Now, after four years of living together, they were secure and well-adjusted to each other. Each had reached a stage where he could not think of being with anyone else.

The two celebrated this year’s anniversary by deciding to get married as per Hindu rituals (e.g. *sapta-padi*) They printed marriage invitation cards (*lagna-patrika*), booked a hall, and invited about 50 relatives, friends, and colleagues to witness their marriage.

Two weeks after the marriage ceremony, they approached an LGBTIQA organization seeking assistance in getting their marriage legally registered.

### ISSUES

#### Gay Marriage

As of June 2021, gay marriage does not have any legal status in India. Although Sanket and Uddhav were married in a Hindu marriage ceremony officiated by a priest, and although there were witnesses to the ceremony, the traditional interpretation of Marriage Laws in India does not recognize gay marriage.

After the Supreme Court Judgment on Section 377 IPC on 06/09/2018, which decriminalized adult, consensual intercourse between same-sex persons, Petitions were filed in the Kerala High Court and Delhi High Court, challenging the Hindu Marriage Act, 1955, Special Marriage Act, 1954 and The Foreign Marriage Act, 1969 on the grounds that they are discriminatory in so far as they exclude same-sex couples from their ambit. As of June 2021, their hearings are ongoing.

#### Marriage between a Transwoman and a Man (Or Transman and a Woman)

### STEPS

1. **File marriage application:** Apply with the Marriage Registrar having jurisdiction.
2. **Check the status of the marriage application:** Is the marriage registered or rejected due to a Party’s gender identity?
3. **If Application is rejected:** If the marriage application is rejected due to a Party’s gender identity, the Parties can go in Appeal.
4. **Check status of the Appeal:** Did the Appeal succeed or fail?
5. **If Appeal fails:** The Parties can file a Petition, under Article 226, in the High Court having jurisdiction for a Writ of *Certiorarified Mandamus* pleading that the orders of the Registrar of Marriages and Appellate authority be quashed, and they be ordered to register the marriage. Cite

the judgment of the Madras High Court- Arunkumar and Sreeja v/s Inspector General of Registration and Ors.as it has persuasive value (Refer Chapter: Writ of Mandamus for details of the Petition.)



## **PART IV: PIL, WRITs AND HUMAN RIGHTS COMMISSION**

## 30. INTRODUCTION TO PIL, WRITs

### INTRODUCTION

Part III of the Constitution of India lists Fundamental Rights. These are enumerated in Articles 14 to 35. A few examples are given below:

- Article 14: Equality before law.
- Article 15: Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.
- Article 19: Protection of certain rights regarding freedom of speech, etc.
- Article 21: Protection of life and personal liberty.

### WRITs

In case of violation of fundamental rights and any other rights of an individual, a Writ Petition pleading for relief can be filed in the High Court having jurisdiction, under Article 226 of the Constitution of India.

In case of violation of fundamental rights of an individual, a Writ Petition pleading for relief can be filed in the Supreme Court under Article 32 of the Constitution of India.

### PIL

It is a general rule that the community whose fundamental rights are violated has to approach the Court for relief. But there are exceptional cases where the affected Party is too disempowered to approach the Courts. In such cases, an organization that works for the affected community has *locus standi*, i.e., the right to file the case on behalf of the affected community. The organization has to establish *locus standi* in the PIL, i.e., explain why they have the right to file the PIL on behalf of the community.

In case of violation of fundamental rights and any other rights of a community, a PIL pleading for relief can be filed in the High Court having jurisdiction, under Article 226 of the Constitution of India.

**Example:** In the case of Section 377 IPC, Naz Foundation (India) Trust had filed a PIL, under Article 226, in the Delhi High Court in 2001[1] contending that Section 377 IPC violates the fundamental rights, namely Articles 14, 15, 19 and 21 of the Constitution of India, of all gay men in India who have adult, consensual gay sex. Since Naz Foundation (India) Trust worked on healthcare issues of gay men and MSM, it had *locus standi* to file the case on behalf of a community that was predominantly in the closet.

In case of violation of fundamental rights of a community, a PIL pleading for relief can be filed in the Supreme Court under Article 32 of the Constitution of India.

### Some Similarities And Differences Between Article 32 and Article 226

An important difference between Article 32 and Article 226 is that Article 226 allows you to file a Writ/PIL when there is a violation of a fundamental right or any other right. Whereas a Writ/PIL can be filed under Article 32 only when there is a violation of fundamental right.

A PIL pleading for relief is filed when the affected party is the community, whereas a Writ Petition pleading for relief is filed when the affected party is an individual.

There are certain similarities between Articles 32 and 226. Both Articles can be used to plead for relief through the following Writs:

- *Habeas Corpus*
- *Mandamus*
- Prohibition
- *Certiorari*
- *Quo-Warranto*

***Habeas Corpus (Bring the body):*** This Writ Petition is filed when a person has been illegally detained by a government body, private body, or individual. The Court will direct that the person be produced in Court. If the Court finds that the person has been detained illegally, the person will be released immediately. (Refer Chapter: Writ of *Habeas Corpus*).

***Mandamus (Command):*** This Writ Petition is filed when a statutory body (a body created by law, e.g., government, legal body, quasi-legal body) or a public official has either declined to perform its statutory duty or has been derelict in performing it. The Hon'ble Court has the power to command the statutory body or public official to perform the duty. (Refer Chapter: Writ of *Mandamus*).

***Prohibition:*** This Writ Petition is filed when a lower Court, during the hearing of the case, steps outside of its jurisdiction or does not follow due process. The Hon'ble High Court/Supreme Court has the power to prohibit/restrain the lower Court from stepping outside its jurisdiction or violating due process.

***Certiorari:*** This Writ Petition is filed when a lower Court has passed an Order which is outside its jurisdiction or has passed an Order without following due process. The Hon'ble Court has the power to quash such an Order of the lower Court. (Refer Chapter Writ of *Mandamus*).

***Quo-Warranto (By what authority?):*** This Writ Petition can be filed when a public official takes up a post for which the person is not qualified. The Hon'ble Court has the right to question the appointment, and if the respondent cannot prove the authority, the Court can strike down the appointment.

From the social worker/LGBTIQA organization's perspective, the Writs of *Habeas Corpus* and *Mandamus* are important.

**Note of Advice:** When filing a Writ/PIL, file it through an experienced Advocate. Do not file it independently. If the Hon'ble High Court or Supreme Court rejects the Writ/PIL at the threshold and considers it without substance, then a hefty fine could be imposed on the Party.

## REFERENCES

[1] Naz Foundation (India) Trust V/s Government of NCT of Delhi and Ors (CWP 7455 of 2001).



## 31. WRIT OF HABEAS CORPUS

True Case: Chinmayee Jena Versus State of Odisha & others[1]

### Facts Of The Case

1. Chinmayee, a Transman, obtained a Gender Dysphoria certificate from a Psychiatrist from the Central Institute of Psychiatry (Ranchi). He fell in love with a woman who had studied with him in the same school and college. The woman reciprocated his love, and the two began to live together.
2. On 17/03/2020, the two prepared a joint Affidavit which the two swore before the Executive Magistrate, Bhubaneswar, declaring that both are major persons and are staying together in a live-in relationship.
3. Subsequently, on 09/04/2020, Chinmayee's partner had been taken away by the partner's mother and uncle against her will.
4. Chinmayee filed a written complaint with the concerned police station, but no action was taken.
5. Soon, Chinmayee learned that his partner's parents were trying to arrange her marriage with someone else.
6. Chinmayee filed a Writ Petition for issuance of the Writ of *Habeas Corpus* in the Orissa High Court, under Article 226.

### Hearings and Judgment

- Over a few subsequent hearings (the hearings were done through online video conferencing due to Covid-19 pandemic), Hon'ble Justices S. K. Mishra and Savitri Ratho gave the following directions:
- Notices of the Writ were to be dispatched to the Parties through Government Courier Speed Post.
- The SP (Jaipur) was directed to-
  - provide adequate protection to the partner;
  - ascertain the wishes of the partner;
  - ensure that the partner's marriage is not solemnized against her will
- Parties and learned counsels were directed not to make any press statements or publicize the case in the local media.
- One of the Hon'ble judges, Savitri Ratho, called the partner on the phone and personally spoke to her to ascertain her wishes. The partner very categorically stated that she wanted to join the company of the Petitioner without further delay. The partner was asked to be present at the next Court hearing.
- On 24/8/2020, The Hon'ble Court allowed the Writ. The judgment cited Yogyakarta Principles, the judgments of NALSA v/s Union of India, Navtej Johar and Ors v/s Union of India and directed that the Petitioner and her partner have the right to decide their sexual preferences, including the right to stay as live-in partners. The State shall provide all kinds of protection to them, which are enshrined in Part-III of the Constitution of India, which includes the right to life, the right to equality before the law, and equal protection of the law. "...Hence, we direct that appropriate administrative/police action be taken to facilitate the partner to join the society of the Petitioner."

The Court also stated that it goes without saying that the partner's decision will affect her mother and her younger sister, both mentally and socially. But on account of the possibility of social

stigma or mental turmoil caused to them, an individual's right to select her life partner cannot be stifled or negated.

The State government functionaries recognizing the right of same gender persons to a live-in relationship submitted that the State was willing to carry out any order passed by the Court.

**REFERENCES**

[1] Chinmayee Jena V/s State of Odisha and Ors. Writ Petition (Criminal) No. 57/2020. Orissa High Court (Cuttack). Order dated 24/8/2020.





## 32. WRIT OF MANDAMUS

**True Case:**Arunkumar, Sreeja V/s The Inspector General of Registration and Ors.[1]

### Facts Of The Case

1. Shri Arunkumar and Ms. Sreeja, both Hindus, married on 31/10/2018 in a Hindu temple as per Hindu rites and customs. The marriage was not a bigamous one. The temple authorities permitted the performance of the wedding but declined to vouch for it.
2. Later, the Parties submitted a Memorandum for Registration of marriage before Joint Registrar II (Tuticorin & District). The marriage registration was refused on the ground that the term 'bride' in the Hindu Marriage Act, 1955 refers to a woman on her wedding day. Ms. Sreeja was not a woman but a transgender person.
3. The Petitioners filed an appeal with the District Registrar (Tuticorin & District) who upheld the decision of the Joint Registrar II (Tuticorin & District).
4. Thereupon, the Petitioners filed a Writ Petition under Article 226 in the Madurai Bench of the Madras High Court, challenging the refusal to register their marriage.
5. The Petition was filed under Article 226 of the Constitution of India to issue a Writ of *Certiorarified Mandamus*, to call for the records pertaining to the order of proceedings of the Joint Registrar II and the order of District Registrar and quash the same as illegal and consequently direct the Respondents to register the marriage.

### Order

On 22/04/2019, The Hon'ble Judge Mr. Justice G. R. Swaminathan relied on the landmark case of NALSA V/s Union of India to state that gender identity lies at the core of one's identity, gender expression, and presentation. Sreeja has chosen to express her gender identity as that of a woman. This falls within the domain of her autonomy and her right to privacy and dignity.

The expression 'bride' occurring in Section 5 of Hindu Marriage Act, 1955, cannot have a static meaning, and that the Court was free to apply the current meaning of a statute to present-day conditions. The expression 'bride' will include within its meaning not only a woman but also a transwoman, an intersex person/transgender person who identifies herself as a woman. The Hon'ble Justice also noted that as both the Petitioners profess Hindu religion, their right to practice Hindu religion as recognized under Article 25 of the Constitution of India has also been infringed.

The Order stated that:

- Fundamental rights of Sreeja guaranteed under Articles 14, 19(1)(a), 21, and 25 of the Constitution of India have been infringed;
- The Orders of Joint Registrar and District Registrar impugned in the Writ Petition stand quashed;
- The Joint Register II (Tuticorin and District) is directed to register the said marriage.

### REFERENCES

[1]Arunkumar, Sreeja V/s The Inspector General of Registration and Ors. WP (MD) No. 4125 of 2019 and WP (MD) No. 3220 of 2019. Madurai Bench of the Madras High Court. Order dated 22/04/2019.



### 33. GUIDELINES OF MADRAS HIGH COURT

**True Case:** Ms. S. Sushma and Ms. U Seema Agarval Vs. Commissioner of Police, Chennai and Ors. [1]

#### Facts Of The Case

1. The Petitioners, a lesbian couple whose relationship was being opposed by their parents fled to Chennai from their respective houses in Madurai.
2. The Petitioners with support from certain NGOs and persons belonging to the LGBTQIA community managed to secure accommodation and protection.
3. The Petitioners started searching for employment to financially sustain themselves.
4. Meanwhile, the parents of the Petitioners filed MPRs with the police and so two FIRs came to be registered.
5. The said Petitioners were interrogated by the police.
6. Apprehending threat to their safety and security, the Petitioners filed a Petition, in the Madras High Court, under Article 226 of the Constitution of India, pleading for a Writ of *Mandamus*, directing the police to inquire with the parents of the Petitioners and instruct them not to interfere with the life of the Petitioners and consequentially, to grant the necessary police protection to the Petitioners.
7. On 07/06/2021, Hon'ble Mr. Justice N. Anand Venkatesh pronounced the Order. The Hon'ble Justice was very open minded, sensitive and understanding in dealing with the case.

#### Order

- The Hon'ble Justice directed the police to close the FIRs and provide necessary protection to the said Petitioners.
- Going further, the Hon'ble Justice gave a set of interim guidelines/directions. This is an important development in the LGBTQIA rights movement and the guidelines, in short, are given below:

#### Interim Guidelines/Directions

- A. The police, on receipt of any complaint regarding girl/woman/man missing cases which upon enquiry/investigation is found to involve consenting adults belonging to the LGBTQIA+ community, shall upon receipt of their statements, close the complaint without subjecting them to any harassment.
- B. The Ministry of Social Justice & Empowerment (MSJE), has to enlist Non-Governmental Organizations (NGOs) including community-based groups which have sufficient expertise in handling the issues faced by the LGBTQIA+ community. The list of such NGOs along with the address, contact details, and services provided shall be published and revised periodically on the official website. Such details shall be published within eight weeks from the date of receipt of copy of this Order.
- C. Any person who faces an issue for the reason of their belongingness to the LGBTQIA+ community may approach any of the enlisted NGOs for safeguarding and protecting their rights.

D. The concerned NGO in consultation with the MSJE, shall maintain confidential records of such persons who approach the enlisted NGOs and the aggregate data shall be provided to the concerned Ministry bi-annually.

E. Such problems shall be addressed with the best-suited method depending on the facts and circumstances of each case- be it counselling, monetary support, legal assistance with the support of District Legal Services Authority, or to co-ordinate with law enforcement agencies about offences committed against any persons belonging to the LGBTIQ+ community.

F. With specificity of issue of accommodation, suitable changes are to be made in existing short stay homes, *Anganwadi* shelters, and “*garimagreh*” (a Shelter Home for transgender persons, the purpose of which is to provide shelter to transgender persons, with basic amenities like shelter, food, medical care and recreational facilities. Besides, it will provide support for capacity building/skill development of persons in the community, which will enable them to lead a life of dignity and respect) to accommodate any and every member of the LGBTIQ+ community, who require shelters and/or homes. The MSJE shall make adequate infrastructural arrangements in this regard, within a period of twelve weeks from the date of receipt of copy of this Order.

G. Such other measures that are needed for eliminating prejudices against the LGBTIQ+ community, and channelizing them back into the mainstream shall also be taken up. The Union and State Governments respectively, in consultation with such other Ministries and/or Departments shall endeavour to devise such measures and policies.

H. For the sake of creating awareness, this Court is suggesting various sensitization programs to be conducted by the concerned Ministry of the Union/State Government(s). *(In the Order, the Hon’ble Court has provided a list of sensitization programs for various Government departments. Note that, quite a few departments/institutions were added Suo Motu, as Respondents, since the guidelines given by the Court have to be followed/implemented by them.)*

The Hon’ble Court issued directions to prohibit any attempts to medically “cure” or change the sexual orientation of LGBTIQ+ people to heterosexual or the gender identity of transgender people to cisgender and to take action against the concerned professional involving themselves in any form or method of conversion “therapy”, including withdrawal of license to practice.

## REFERENCES

[1] Ms. S. Sushma and Ms. U. Seema Agarval Vs. Commissioner of Police, Chennai and Ors. W.P.No.7284 of 2021. Madras High Court. Order dated 07/06/2021.



## 34. HUMAN RIGHTS COMMISSION

### INTRODUCTION

At times, in cases related to human rights violations, by statutory authorities, the affected Party explores various legal options available at its disposal but still does not get justice. Depending on the circumstances of the case an experienced Advocate may suggest approaching the State Human Rights Commission (SHRC) or National Human Rights Commission (NHRC.)

The Protection of Human Rights Act, 1993 provides a forum for seeking redress in case of human rights violations. It provides for the formation of a National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRC). The main functions of NHRC are (Section 12):

- (a) inquire, *suo motu* or on a petition presented to it by a victim or any person on his behalf (or on a direction or Order of any court), into complaint of-
- (i) violation of human rights or abetment thereof; or
  - (ii) negligence in the prevention of such violation, by a public servant;

### FEATURES

- The complaint to SHRC/NHRC may be made in English or Hindi. However the Commission may entertain a complaint in any other language included in the Eighth Schedule of the Constitution.
- No fees are chargeable for filing the complaint.
- The complaint has to disclose a complete picture of the matter leading to the complaint.
- The commission may seek further information/Affidavit as may be considered necessary.

### LIMITATION PERIOD

SHRC/NHRC does not inquire into any matter after the expiry of one year from the date on which the act constituting violation of human rights is alleged to have been committed.

### STEPS

1. The Website <https://nhrc.nic.in/> can be used to file the complaint with SHRC/NHRC.
2. To submit a complaint to SHRC/NHRC, the Party has to first verify the mobile number through a One Time Password(OTP).
3. After successfully verification, the Party has to fill all the mandatory fields.
4. The form provides facility to upload relevant documents (The documents have to be in .pdf form only.)
5. The form provides an option whether the Party wants the name of the victim and complainant displayed on the website or not.
6. A unique Diary Number is issued after a successful submission.
7. The Diary number can be used to track the complaint status.

**NOTES**

- The NHRC does not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.
- Complaints which are ordinarily not entertained: Complaints which are illegible, vague, anonymous, frivolous, allegation not against public servant, complaint related to civil dispute (e.g. property rights, contractual obligations etc.), issues related to service matters, complaint in which the allegations do not make out any specific violation of human rights, matters subjudice before a Court/Tribunal, matters covered by a judicial verdict/decision of NHRC, the complaint is a copy of the complaint addressed to some other authority and finally, a matter which is outside the pervue of the Commission on any other ground.



**PART V: ADMINISTRATIVE MATTERS**

## 35. MOU BETWEEN AN ORGANIZATION AND A CLINICAL PSYCHOLOGIST

*RAVIKIRAN ORGANIZATION “We felt it was time we made our collaboration formal.”*

*Ravikiran* organization has identified a good LGBTIQA inclusive Clinical Psychologist in their city and has been referring their clients to the Psychologist. The response of the clients has been good. *Ravikiran* would now like to formalize the collaboration with the Psychologist with a MOU. The two Parties hold a couple of meetings, and the following points are finalized:

### Points for the MOU

1. **Party Introduction and Background:** Each Party will prepare a short paragraph providing its background.
2. **List of Terms and Conditions:**
  - a. Confidentiality, LGBTIQA inclusion, non-discrimination, and no commission charge for referral will be the cornerstones of the MOU.
  - b. Neither Party will pay any commission for the referral.
  - c. The Clinical Psychologist will charge the client ₹500.00 for the first session and ₹400.00 per subsequent session.
  - d. The Clinical Psychologist will be fully responsible for data confidentiality
  - e. The clients referred to the Clinical Psychologist by *Ravikiran* organization would not be canvassed directly or indirectly for any survey/research by the Clinical Psychologist.
  - f. The data gathered by the Clinical Psychologist on the clients referred by *Ravikiran* organization cannot be used for any survey/research.
  - g. The Clinical Psychologist will not share data of the clients referred by *Ravikiran* organization with anyone, including *Ravikiran* organization.
3. **Duration Clause:** The MOU would be for one year, starting from (date)01/04/2021.
4. **Premature Termination Clause:** Either Party can terminate the MOU by issuing a one-month notice to the other Party.
5. **Dispute Redressal Clause:** If there are any disputes, these would be resolved through a commonly acceptable person from their city who will act as an Arbitrator. The award granted by the Arbitrator would be binding on all Parties.

Based on the above points, an Advocate was identified to prepare a draft. After approval by both Parties, the MOU was printed on a ₹100.00 non-judicial stamp paper. The MOU was signed, stamped, notarized. *Ravikiran* organization kept the original document and gave a copy to the Clinical Psychologist.

### ISSUES

As an LGBTIQA organization starts building referral linkages with Counselors, Doctors, etc., it may decide to formalize its referral linkages through MOUs. Whenever a Party chooses to collaborate with another Party, the first step is to arrange a meeting/s between Parties to informally explore the collaboration. If the meeting is fruitful, the next step is a Letter of Intent (LOI).

This letter is sent by one Party to another, giving a brief introduction of the background and the reason for seeking a formal collaboration with the other Party in a specific area. If the other Party responds favorably, a formal arrangement called the MOU is drafted, finalized, and executed. (Some Parties dispense with the LOI and after discussions, proceed directly with an MOU).

The MOU lists the terms and conditions under which the Parties seek to collaborate. The MOU is less formal than a Contract, although many of its characteristics are the same.

**Note:** The Parties must get their final draft approved from their Advocate; alternatively, they can draft the points of the MOU and hand it to the Advocate so that he/she/they can, accordingly, frame the MOU for the Parties.

An illustrative draft of the MOU between *Ravikiran* organization and the Clinical Psychologist is provided below.

---

### Memorandum of Understanding

This **Memorandum of Understanding** is made and executed on this **xxxx** day of **xxxx**

#### **BETWEEN**

**RAVIKIRAN TRUST** an NGO Registered under the Bombay Trust Act, 1950 bearing Registration No: **xxxx** having its registered office at **xxxx**

#### **Through**

**xxxx**, Age- **xxxx** Years, Designation- **xxxx** Residing at **xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx** Hereinafter referred to as "**PRESIDENT**" (which term shall unless repugnant to or inconsistent with the context mean and include the successors-in-interest of the Trust, Trustees, Directors, legal representative and assignees) ..... **PARTY OF THE FIRST PART**

#### **AND**

**xxxx**, Age **xxxx** Years, Occupation- **Psychologist**, Residing at- **xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx** (Which expression unless repugnant to the context or meaning thereof shall be deemed to mean and include the executor herself, her successor, employees, managers, administrators and assignees etc.) hereinafter referred to as "**PSYCHOLOGIST**" ..... **PARTY OF THE SECOND PART**

**WHEREAS** the Party of the First Part i.e., **RAVIKIRAN TRUST** was established on **xxxx** in the city of **xxxx** By Trustees **xxxx**, **xxxx**, **xxxx** And is a Charitable Trust registered under the provisions of Bombay Public Trust Act, 1950, having its registered office at- **xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx**

**AND WHEREAS RAVIKIRAN TRUST** has been set up with the objective of providing various mental healthcare services to a very vulnerable, marginalized, and discriminated Gay, Lesbian, Bisexual, Transgender, and Intersex population

**AND WHEREAS** the Party of the Second Part **PSYCHOLOGIST** is a Clinical Psychologist

**AND WHEREAS** the **PSYCHOLOGIST** has done her M.A. in Psychology in the year **xxxx** followed by a Doctorate in the year **xxxx** at **xxxx** University

**AND WHEREAS** the **PSYCHOLOGIST** has the knowledge, sensitivity, and more than ten years of experience in affirmative counseling of the Gay, Lesbian, Bisexual, Transgender, and Intersex community members

**AND WHEREAS** after due deliberations and discussions between the parties, it is agreed between the Parties to have terms and conditions in writing as follows:



**NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND MUTUAL COVENANTS HEREAFTER CONTAINED, THE PARTIES HERETO AGREE AS FOLLOWS-**

**2) Following would be the Roles and Responsibilities of PARTY OF THE FIRST PART**

1. Maintain a list of Referral Linkages including but not limited to the Party of the SECOND PART.
2. Provide client referrals to various medical service providers, including but not limited to the Party of the SECOND PART through various means, including but not limited to- One-on-one Befriending Service, Social Contacts, Advertising, Suitable Online and Offline platforms.
3. Clients may also directly approach the Party of the SECOND PART, bypassing the referral service of PARTY OF THE FIRST PART.
4. The PARTY OF THE FIRST PART shall not charge for any referral either to the Party of the SECOND PART or the client referred.
5. The Party of the FIRST PART shall not be liable to pay, share or contribute any compensation or damages for any loss, injury, damage caused to the client referred to the PARTY OF THE SECOND PART or his/her property before or during Counseling/Assessment done by the Party of the SECOND PART.
6. The Party of the FIRST PART shall not be liable for any act of the client referred to the SECOND PARTY. In any case, The Party of the FIRST PART would not be liable to pay or compensate for any financial loss, injury, damage caused to a Party of the SECOND PART by a client referred to it by the Party of the FIRST PART.

**3) Following would be Roles and Responsibilities of the PARTY OF THE SECOND PART**

1. To provide assessment of Sexual Orientation/Gender Identity for clients referred to it by the Party of the FIRST PART.
2. To provide Counseling on issues related to Sexual Orientation, Gender Identity, Intersex Variations for clients referred to it by the Party of the FIRST PART.
3. To provide Counseling on issues related to Gender Affirmative Treatment/Surgery to clients referred to it by the Party of the FIRST PART
4. Party of the SECOND PART shall not discriminate against the referred client, including but not limited to, medically or financially.
5. Party of the SECOND PART shall consider all sexual orientation, gender identities, and variations in sexual/reproductive anatomy as normal variants of sexuality and shall not directly or indirectly suggest the client otherwise.
6. Party of the SECOND PART shall not advise, suggest, and coerce referred clients for unnecessary tests, procedures, treatments, counseling, therapy, or surgeries.
7. Party of the SECOND PART shall treat the clients referred with dignity, respect, and sensitivity.
8. Party of the SECOND PART shall not canvass any client for any survey/research, referred to it by the Party of the FIRST PART, nor use any client data for survey/research.
9. Party of the SECOND PART shall charge the client ₹500.00 for the first session and ₹400.00 per subsequent session.
10. Party of the SECOND PART shall be fully responsible for the confidentiality of client data gathered, stored, and accessed by the Party of the SECOND PART.
11. Party of the SECOND PART shall not share data of the clients referred to it by Party of the FIRST PART with anyone else, including the Party of the FIRST PART.

**4) Duration & premature termination:**

- a) This MOU is executed for the period of one year starting from **01/04/2021** and will be in the force up to **31/03/2022**, unless terminated before the stipulated time period. After the expiry of the term, both the parties may mutually extend the applicability of this MOU for a mutually agreed period.

b) During the tenure of the MOU, parties hereto may terminate the MOU either for breach of any of the terms and conditions of this MOU or otherwise by giving **one month's notice** in writing to the other Party.

**5) Amendment:**

No amendment or modification of this MOU will be valid unless the same is made in writing by both the Parties hereto or their respective authorized Representatives and specifically stating the aim to be an amendment of this MOU. The modifications/changes will be effective from the date they are made unless otherwise agreed.

**6) Confidentiality:**

It is agreed between the Parties that, subject to provisions of this MOU, both Parties shall not disseminate, disclose or share any information, in any form, of client referrals, to any third Party or external agency/personnel or to anybody and shall keep such information confidential.

**7) Mediation & Arbitration:**

In the event any dispute occurs between the Parties relating to the interpretation, implementation, or validity of this Agreement, the Parties agree to seek to resolve the dispute through mediation before pursuing any other proceedings. Any Party to the dispute may initiate the mediation with a notice to mediate. The costs of the mediation shall be shared equally by the Parties. If the dispute does not resolve within thirty days of the notice of desire to mediate, any Party may terminate the mediation and proceed to arbitration as set out below.

Any question, dispute, or difference whatsoever arising amongst the parties to this MOU out of or regarding the interpretation, scope, operation, or effect of this MOU, the same shall be referred to an ARBITRATOR within a period of three months from the notification by one Party to the other of the existence of such dispute or disputes. The ARBITRATOR shall be nominated mutually by the Parties herein. The arbitration award of the Arbitral Tribunal shall be final and binding on all the Parties hereto, subject to legal remedies available under the law. The venue of arbitration shall be at **PUNE**, and the arbitration proceedings shall take place under the Arbitration and Conciliation Act, 1996 or of any modifications, rules, or re-enactment thereof.

**IN WITNESS WHEREOF THE PARTIES HERETO HAVE SIGNED THIS MOU ON THE xx DAY OF xxxxx, 2021 IN PRESENCE OF**

Name/Sign/Stamp  
PRESIDENT  
RAVIKIRAN TRUST  
Reg. No  
Address

Name/Sign/Stamp  
CLINICAL PSYCHOLOGIST  
Address

**Illustrative MOU between *Ravikiran* Organization and a Clinical Psychologist**



## 36. FILING ONLINE APPLICATION FOR TRANSGENDER CERTIFICATE AND ID

### INTRODUCTION

In 2019, The Transgender Persons Protection of Rights Act 2019 and the Rules framed therein give every transgender and intersex person the right to identify as Male or Female or Transgender.

A person can obtain a Transgender Certificate and ID card with the birth name or a new self-chosen name by applying to the District Magistrate in whose jurisdiction the person is currently staying. The Certificate issued can be used to change the name and gender on all documents like Aadhar Card, Pan Card, Voter ID, Ration Card, School Leaving Certificate, Property documents, Passport, etc.

No medical examination, medical certificate of Gender Dysphoria, Hormone treatment, or surgery is required for applying for a Transgender Certificate and ID card.

### STEPS

1. The application has to be made through the online portal: <http://transgender.dosje.gov.in/>

2. A Mobile and an email id are required for initial registration. After registration, an OTP is sent to the Party's email id, which is used for logging in for the first time. The Party can then change the password.

3. After logging in, the Party has to select the option of '**Application for Transgender Certificate and ID**'. The following information is asked for:

- The full legal name (name given at birth)
- The new self-chosen name, if any
- The option of which name (legal or the new name) is to be printed on the Certificate and ID Card
- Residential Address, correspondence address
- Father's full name
- Educational qualifications
- Annual income

4. The Party is required to upload a scanned copy of the following documents. The Party need not have all of these documents—scan and upload those which the Party has. The maximum size of each scanned document should not exceed 150 KB.

- Aadhar Card (both sides)
- Pan card
- Voter ID (both sides)
- Bank Passbook Account Details Page which contains bank name, bank branch, IFSC code, account holder name, account holder address, account number
- Ration Card Details Page
- Passport
- Birth certificate
- Caste certificate
- MNREGA card

5. On the next page of the portal, the Party is required to upload a scanned copy of his/her passport photo and a scanned copy of the Party's signature in blue ink.

6. The Party is required to upload a notarized Affidavit on ₹10.00 non-judicial stamp paper declaring that the Party is a Transgender person. The format of the Affidavit is given at the end of the chapter.
7. After the Party has confirmed the details of the information provided, the Party has to submit the form online. The Party will get an Application Registration Number by email.
8. The Party can track the status of the application on the portal.

As per the Act, the Party is expected to get the Certificate and ID within 45 days of filing the application. But, expect delays (especially during the Covid-19 pandemic waves.)

#### **Changing Gender from Male to Female or Female to Male**

If a transgender person desires to change gender to Male or Female, the Party must first apply for a Certificate of transgender, as mentioned above. Once they get the Certificate, the Party can, post Hormone Treatment/Surgery, apply for a change of gender- from Transgender to Female or Transgender to Male. The Party is required to upload the report of the Doctor regarding Hormone Treatment/Surgery. The application has to be made through the same online portal provided above.

***Example:** A Transman desiring change of gender to Male must first apply to the District Magistrate for Certificate of Transgender. Once he gets the Certificate and ID as a Transgender, he can, post Hormone Treatment/Surgery, obtain a Certificate from the Doctor concerned of the Gender Affirmative Procedure and apply to the District Magistrate for change of gender from Transgender to Male. All of this can be done through the online portal provided above.*

**AFFIDAVIT**

I, (full name) \_\_\_\_\_, son/daughter of (parent's full name) \_\_\_\_\_, age \_\_\_ completed years, residing at- (address) \_\_\_\_\_, Taluka \_\_\_\_\_, District \_\_\_\_\_, City \_\_\_\_\_, Pin code \_\_\_\_\_, State \_\_\_\_\_ do hereby solemnly affirm and declare as under:

1. I am currently residing at the above address.
2. I perceive myself as a transgender person whose gender does not match with the gender assigned at birth.
3. I declare myself as transgender.
4. I am executing this Affidavit to be submitted to the District Magistrate for the issue of a certificate of identity as a transgender person under Section 6 of the Transgender Persons (Protection of Rights) Act, 2019 under Rule Transgender Persons (Protection of Rights) Rules, 2020.

Deponent  
(Signature of the Applicant)

**Verification**

I, (full name) \_\_\_\_\_, hereby state that whatever is stated herein above serial Nos. 1 to 4 are true to the best of my knowledge.

Deponent  
(Signature of the Applicant)

Identified by me  
Advocate  
Public

Before Me  
Notary

Tehsil  
Date

**Affidavit Format**



### **37. FILM FESTIVAL: PROCESS OF OBTAINING PERMISSION FROM I & B MINISTRY TO SCREEN FILMS WHICH DO NOT HAVE CBFC (INDIA) CERTIFICATE**

In India, for a film festival, it is mandatory to seek prior permission in writing from Information and Broadcasting (I&B) Ministry to screen feature/short films which do not have a certificate of Censor Board of Film Certification (CBFC)(India). The process of obtaining the permission is given below.

The application to be sent to the I & B Ministry should have-(A) a covering letter,(B) an index of documents attached and (C) documents. The .pdf file of the full application should be sent to the designated emailid given on the website. The signed and stamped hard copy of the full application should be sent to the designated address given on the website.

**Important:** Periodically check whether the application has been received / status of the application by phone/email.

**Illustration:** The template given below is derived from the application of the “ADVAIT Pune International Queer Film Festival” organized by *Samapathik* Trust and Bindu Queer Rights Foundation (Year 2020).

For your film festival, please check on the Information and Broadcasting Ministry website for the person's name and address to whom the application has to be sent. You will also need to modify the application format as per your requirement. For e.g. The above-mentioned film festival was for free; your film festival may have an admission fee. If you have an admission fee, you will have to pay entertainment tax, to the State Government, as per prevalent rules. This aspect is not covered in the template given below.

**A. Format of Cover Letter on Letterhead**

Date: \_\_\_\_\_

Ref: \_\_\_\_\_

**To,**

\_\_\_\_\_ (check name/address on I&B website)

\_\_\_\_\_

\_\_\_\_\_

New Delhi

**Subject: Application for seeking permission to hold a film festival in  
city \_\_\_\_\_, state of \_\_\_\_\_**

Respected Sir,

[Paragraph 1 - Introduce your organization which is planning to hold the festival]

[Paragraph 2 - If you have previously held such a film festival then mention the Annexure number where you have attached the scanned copy of the previous permission.]

**Details of this year's film festival**

Name of the festival: \_\_\_\_\_

Date/s: \_\_\_\_\_

Timing/s: \_\_\_\_\_

Venue: \_\_\_\_\_

**TERMS**

-No admission fees or direct/indirect charges of any kind will be levied on the audience.

-The event will be for invitees and delegates only.

For selection and preview of films that did not have a censor certificate, a 'Film Selection and Review Committee' of three persons having film background was formed. They reviewed and selected films from the applications received. All relevant documents are attached along with this application.

We kindly request you to go through the documents and grant us permission to hold the film festival. We also kindly request you to acknowledge receipt of the application via email or letter.

Thanking you,

Sign and Stamp

Name

Post

Email id

Contact Number

**INDEX OF DOCUMENTS ATTACHED**

<b>ANNEXURE</b>	<b>PAGE NO</b>
1. List of Films	—
2. Film Selection and Review Committee	—
3. Statements by Film Selection and Review Committee Members	—
4. Film Synopses and Film Selection and Review Committee Observations	—
5. Indian Film CBFC Certificates	—
Copy of Censor Certificate for film: _____	
Copy of Censor Certificate for film: _____	
:	
6. Consent for screening from copyright holders	—
Feature/Short/Documentary film: _____	
Feature/Short/Documentary film: _____	
:	
7. Certificate- Film Festival Is Not Commercial	—
8. Certificate- Film Festival Is For Invitees and Delegates Only	—
9. Rules and Regulations For The Film Festival	—
10. Previous Letter of Permission Granted by I&B Ministry for Film Festival (If any)	—
11. Organization Documents	
Copy of Registration Certificate	—
Copy of Pan Card	—
Copy of 12A Income Tax Registration Certificate (If any)	—
Copy of 80G Certificate (If any)	—
Brochure (If any)	—



**1. LIST OF FILMS** to be screened by (Organization Name) \_\_\_\_\_

Venue \_\_\_\_\_ on Date \_\_\_\_\_

Sr. No.	Film Name	Language	Type	Duration (min:sec)	Producer/ Director	Comments
1			Feature Film / Docu. Film / Short Film			Comment should be either - Censor Board Certi. Copy Attached OR Acceptable for Screening as per Review Committee Report
2			Feature Film / Docu. Film / Short Film			Comment should be either - Censor Board Certi. Copy Attached OR Acceptable for Screening as per Review Committee Report
3			Feature Film / Docu. Film / Short Film			Comment should be either - Censor Board Certi. Copy Attached OR Acceptable for Screening as per Review Committee Report
4			Feature Film / Docu. Film / Short Film			Comment should be either - Censor Board Certi. Copy Attached OR Acceptable for Screening as per Review Committee Report
5			Feature Film / Docu. Film / Short Film			Comment should be either - Censor Board Certi. Copy Attached OR Acceptable for Screening as per Review Committee Report

:

Total screening duration for the given day: \_\_\_\_\_ minutes

We have received permission, for screening all the above films, from all copyright holders.

The films have been deemed appropriate for screening by the Review Committee.

## 2. FILM SELECTION AND REVIEW COMMITTEE

A panel of three personalities with film industry background was formed for evaluating the films for screening at the festival. Films deemed inappropriate were rejected.

The Selection Committee comprised of-

1. Film Director/Writer/Assi. Director/Cinematographer/Sound Recordist/Actor Name: \_\_\_\_\_
  2. Film Director/Writer/Assi. Director/Cinematographer/Sound Recordist/Actor Name: \_\_\_\_\_
  3. Film Director/Writer/Assi. Director/Cinematographer/Sound Recordist/Actor Name: \_\_\_\_\_
- 

## SHORT CV OF EACH FILM SELECTION COMMITTEE MEMBER

1. Film Director/Writer/Assi. Director/Cinematographer/Sound Recordist/Designer/Actor Name: \_\_\_\_\_

Age: \_\_\_\_\_  
Address: \_\_\_\_\_  
Profession: \_\_\_\_\_  
Contact Details: \_\_\_\_\_  
Experience (around 5 to 10 lines) \_\_\_\_\_  
Awards Won \_\_\_\_\_

---

## 3. STATEMENTS BY FILM SELECTION AND REVIEW COMMITTEE MEMBERS

**Note:** Each committee member has to give a separate statement which the member shall sign.

Name of Committee Member \_\_\_\_\_

Date: \_\_\_\_\_

### To Whom It May Concern

I, \_\_\_\_\_ member of the selection committee of (film festival name) \_\_\_\_\_ organized by (organization name) \_\_\_\_\_ on date/s \_\_\_\_\_ at \_\_\_\_\_ do hereby solemnly state that, I have reviewed the films to be shown at (film festival name and year) \_\_\_\_\_. The synopses and our views on the film which we have selected for this film festival have been provided for your perusal (please refer to 'Film Synopses and Selection Committee Observations')

None of the films have any content that:

- Adversely impact the integrity of India
- Adversely impact the secular fabric of India
- Hurt the sentiments of any religion or caste

Signature  
Name  
Address  
Contact Number  
Email id

**4. FILM SYNOPSES AND REVIEW COMMITTEE OBSERVATIONS** *(for each film)*

1. Film Name: \_\_\_\_\_, Director: \_\_\_\_\_, Duration: \_\_\_\_\_,

Language: \_\_\_\_\_, Subtitle Language: : \_\_\_\_\_

Synopsis:(around 5 lines) \_\_\_\_\_

Observationby Review Committee: (around 3 lines)\_\_\_\_\_

CBFC Certification: N/A / Certified as U / U/A / A by CBFC (refer page no. \_\_\_\_ for scanned copy of CBFC certificate)

Awards: \_\_\_\_\_

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**5. CBFC (INDIA) CENSOR CERTIFICATES** *(for each film having CBFC (India) Certificate)*

Copy of Censor Certificate for film: \_\_\_\_\_

[Scanned Copy]

---

**6. CONSENT FOR SCREENING FROM COPYRIGHT HOLDERS** *(for each film)*

**1. Feature Film Name:** \_\_\_\_\_

Date: \_\_\_\_\_

To,  
Whom it may concern,

**Subject: Grant of Permission for screening my film (name)**\_\_\_\_\_

I, \_\_\_\_\_, hold the copyright of the film (name)\_\_\_\_\_ and I have given permission to (organization name)\_\_\_\_\_ having Reg. No. \_\_\_\_\_ to screen this film at venue \_\_\_\_\_, city\_\_\_\_\_, state\_\_\_\_\_ on date \_\_\_\_\_. ]

Sign  
Name  
Contact Number  
Email id

**7. CERTIFICATE- THAT THIS FILM FESTIVAL IS NON-COMMERCIAL(Scanned Copy)**

**[ORGANIZATION LETTER HEAD]**

Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN

This is to certify that the \_\_\_\_\_ film festival (Year \_\_\_\_\_) organized by (organization name) \_\_\_\_\_ to be held at venue \_\_\_\_\_ on date/s \_\_\_\_\_ is non-commercial in nature. No direct or indirect charges will be levied on those who attend the event.

Sign and Stamp  
Name  
Post

---

**8. CERTIFICATE- FILM IS FOR INVITEES AND DELEGATES ONLY**

**[ORGANIZATION LETTER HEAD]**

Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN

This is to certify that the \_\_\_\_\_ film festival (Year \_\_\_\_\_) organized by (organization name) \_\_\_\_\_ to be held at venue \_\_\_\_\_ on date/s \_\_\_\_\_ is meant only for invitees and delegates.

Sign and Stamp  
Name  
Post

---

**9. RULES AND REGULATIONS FOR THE FILM FESTIVAL**

**NAME OF FILM FESTIVAL \_\_\_\_\_, YEAR: \_\_\_\_\_**

Rules and Regulations shall come into force from date \_\_\_\_\_

*(Paragraph headings are given. Details to be filled by the festival committee):* DEFINITIONS, OBJECTIVES, ORGANIZERS, FINANCIERS, PLANNING COMMITTEE, FILM SELECTION AND REVIEW COMMITTEE, FILM ELIGIBILITY CONDITIONS, GROUNDS FOR DISQUALIFICATION, PRE-SELECTION STAGE, SELECTION STAGE, POST- SELECTION STAGE, AWARDS AND JURY (IF ANY), CLAIMS, COSTS, USE/RETURN/DISPOSAL OF DVDs AFTER THE FESTIVAL, INSURANCE AND DAMAGE CLAIMS, ARBITRATION and MISCELLANEOUS.

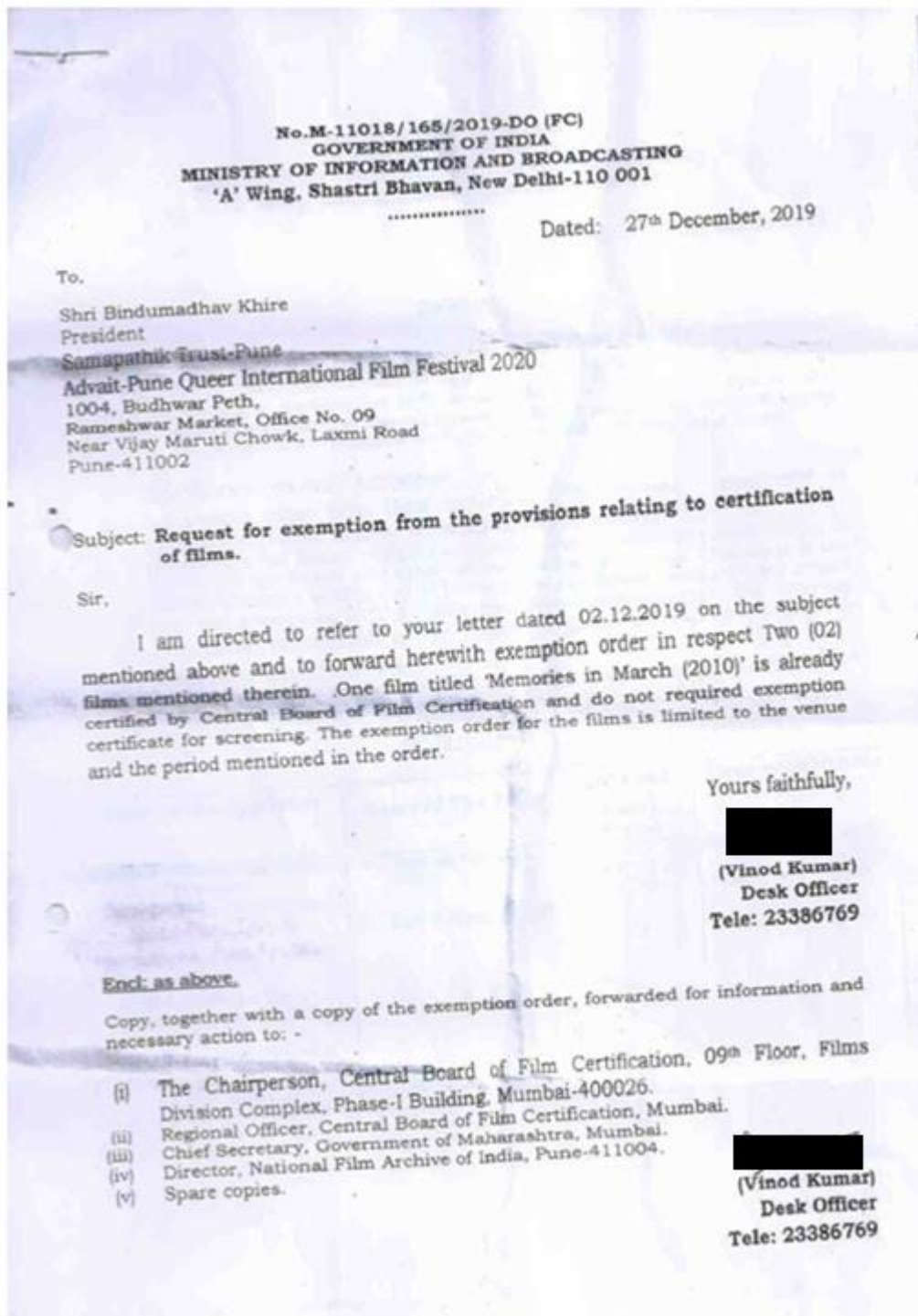
---

**10. PREVIOUS PERMISSION LETTER Granted by I&B Ministry for the Film Festival (if any)**

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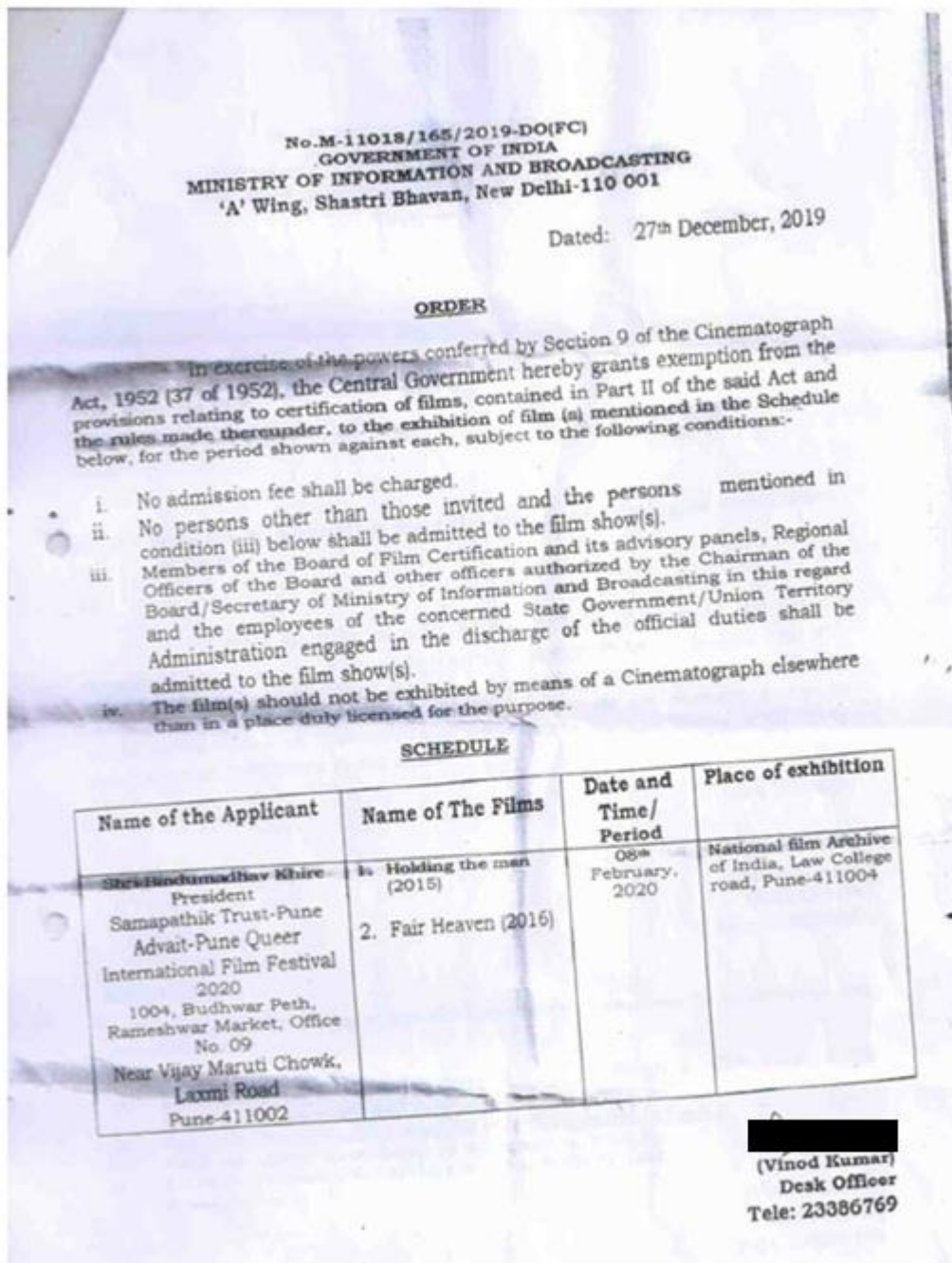
**11. ORGANIZATION DOCUMENTS**

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Page 1

Illustrative Exemption Letter Received from I&B For ADVAIT Pune Queer International Film Festival 2020



Page 2

Illustrative Exemption Letter Received from I&B For ADVAIT Pune Queer International Film Festival 2020



**SPECIFIC TO MAHARASHTRA**

## 38. POLICE PERMISSION FOR ANNUAL LGBTIQA PRIDE WALK

*Ashish "This will be the first Pride Walk in our city. My gay friends and I are so excited."*

Ashish, a gay youth, had been to an LGBTQIA Pride Walk arranged by Samapathik Trust (Pune) and, taking inspiration from it, wants to organize a Pride Walk in his city. Since this was the first time he was planning one, he did not know the police procedure for obtaining permission and approached the Trust to understand the process.

**Note:** For giving permissions for events etc., in Maharashtra, The Bombay Police Act, 1951 and its rules apply. The following process of obtaining permission for the Pride Walk is based on the Pride Walks organized by *Samapathik* Trust, in Pune, in 2018. Note that the rules/process may change from time to time and may differ from city to city.

### ISSUES

#### Route

The first step is to identify the route. A few tips for identifying the route are given below:

- The route should be on a road where more people will be able to see the Walk. Permission may be denied on certain routes, e.g., highways, streets that are too crowded, or roads where construction is on-going
- The Walk should not be against the flow of traffic, i.e., it should not pass thru a No-entry road
- The Walk should ideally be between 1.5 km to 3 km
- If the route passes through a silent zone, then loud-speakers/band will not be allowed in that zone
- Once the route is identified, draw a map denoting the route, names of roads, landmarks, starting point, end point and arrows on the map indicating the route from starting point to the end point.

#### Jurisdiction

If the area through which the Pride Walk starts-proceeds-ends falls under the jurisdiction of one police station, then, generally, the No-Objection-Certificate (NOC) (*Na-harkatPramanpatra*) has to be obtained from the DCP office of that Zone.

If the area through which the Walk starts-proceeds-ends falls under the jurisdiction of two police stations under a single DCP Zone, then generally, the NOC has to be obtained from the DCP of that Zone.

If the Pride Walk passes through different DCP Zones, contact the DCP Zone office from whose jurisdiction the Pride Walk starts to get information where the application is to be submitted.

After NOC is received, it is generally, the police station from whose jurisdiction the Pride Walk starts that gives permission for the Pride Walk.

#### Date and Time

Identify a couple of tentative days for the Pride Walk. There will be occasions when there may be political or other rallies/processions on that route/in that jurisdiction that have already been scheduled on the same day. Hence, the police may request you to change the date. It is best if you have a couple of alternate days identified beforehand.

Decide whether the Pride Walk will be in the morning, afternoon, or evening. Fix the start and end time of the Walk.



**Example 1:** *Mumbai Pride Walks are in the evening on a Sunday so that a maximum number of people can attend the Pride Walk.*

**Example 2:** *Pune Pride Walks are in the morning on a Sunday so that participants from other cities like Mumbai can come to Pune early in the morning, participate in the Pride Walk and go back to their home town in the evening.*

## STEPS

**1. Police NOC:** Traffic management is handled by Traffic police, and law and order is handled by the staff of police station/s, chwokys. So, as a first step, a NOC has to be obtained from DCP Traffic.

**2. Police Permission:** Permission Letter (*Parvangipatra*) for the Pride Walk is to be obtained from the police station/DCP office.

## Application

The application for the Pride Walk should be submitted **at least 30 to 40 days before the scheduled Pride Walk** to the DCP Traffic police having jurisdiction.

The application should contain the following information:

- Name/Post of the authority to whom the application is being made
- Details of the applicant
- Date and time (from-to) of the planned Pride Walk
- Information about the event
- Expected number of participants
- Number of volunteers for crowd and traffic management (attach a separate sheet with their full names and contact numbers)
- The theme of the Pride Walk (if any)
- Whether placards, posters will be used, pamphlets will be distributed
- Whether slogans will be given; whether megaphones would be used
- Terms and conditions for the Pride Walk. e.g., we will give slogans, carry placards/posters; it will be a peaceful march; we will not carry weapons, we will not burst crackers, we will not litter the sidewalk, etc.
- Whether vehicles/floats will be used in the walk
- Grand-Marshall invited for the Pride Walk (if any)
- Mention that police protection is required
- Mention if you plan to have a band or *dhol-tasha* team in the Pride Walk  
If you plan to have a DJ (on a vehicle), you may have to make a separate application- giving details of the band, sound system details, the sound system agency, their contact number, etc.
- The map of the route
- A ₹5.00 Court Fee stamp affixed to the application.



The Traffic branch verifies whether there are any obstructions/problems with the use of the venue/route (e.g., ongoing construction, etc.), date/times, etc. (another rally scheduled, etc.) and submits a report to the DCP Traffic Police along with the applicant's statement and volunteer list.

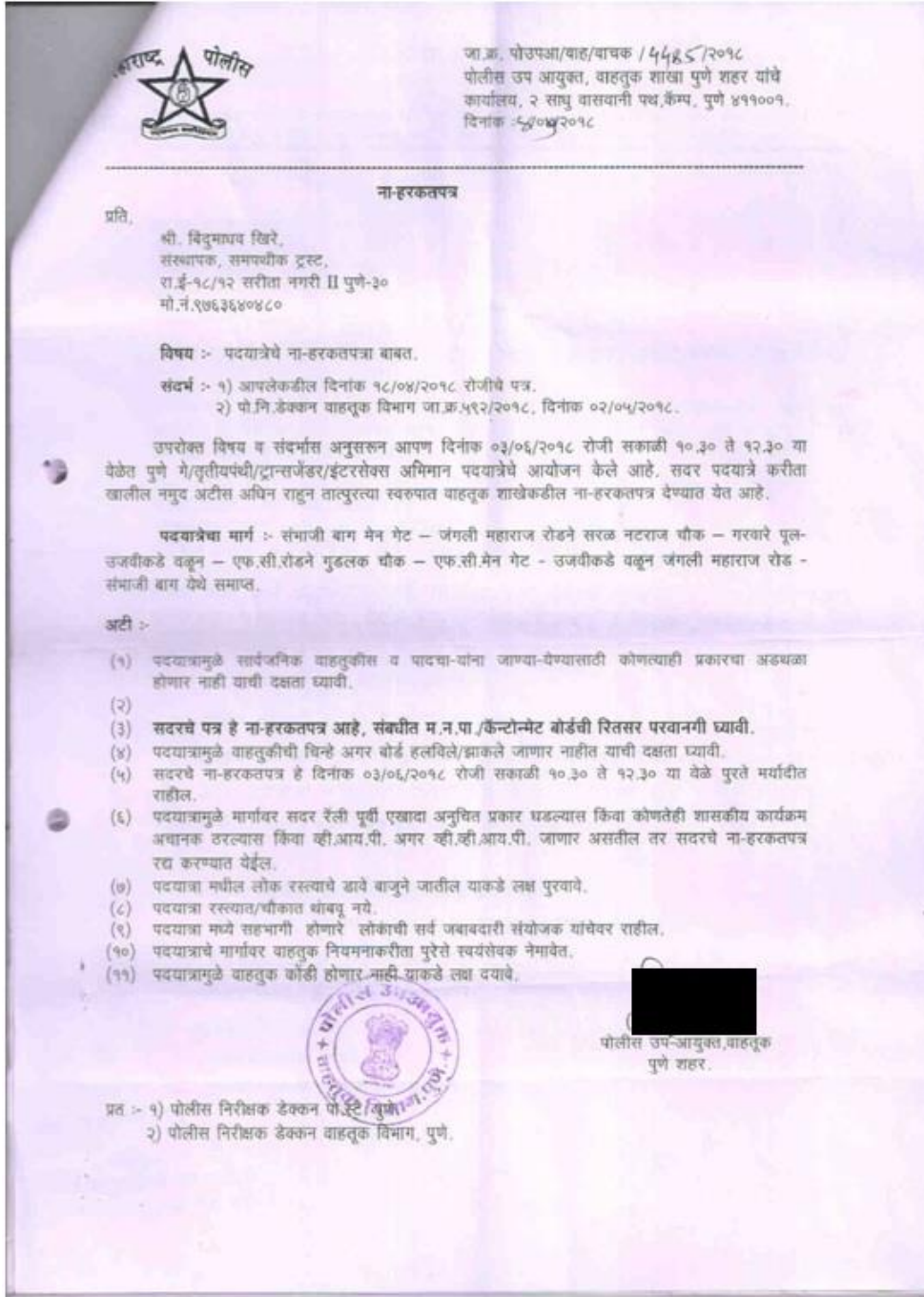
If a favorable report is sent, the DCP Traffic Police about ten days before the scheduled Pride Walk, issues a NOC for the Pride Walk.

### **Obtaining Police Permission**

A copy of the NOC is to be kept for your records, and the original NOC is to be submitted to the police station in-charge from whose jurisdiction the Pride Walk will start, along with a letter requesting permission for the Pride Walk. While inwarding the NOC and letter, take acknowledgement on a copy of the inwarded letter.

In a couple of days, the police issue the permission letter (*parvangipatra*) with terms and conditions on which the permission is being granted. The permission letter is generally given about 3-5 days before the Pride Walk. Note that the police reserve the right to cancel the permission at any time.e.g., The Chief Minister schedulesan unexpected visit, in that jurisdiction, on the same day.

**Note:**After the Pride Walk, as a mark of gratitude to the police for their co-operation and support, submit a letter of thanks to the DCP Traffic Police, Traffic Police Chowky, Police Station, Police Chowkys involved in the exercise.



Illustrative NOC letter by police for Samapathik Trusts' Pune Annual LGBTIQA Pride Walk (Year 2018)

कार्यक्रम परवानगी

जावक क्रमांक ३८६९ /२०१८  
डेक्कन पोलीस स्टेशन पुणे  
दिनांक:- २९/०५/२०१८

प्रति,  
मा. बिंदू माधव खिरे, संस्थापक अध्यक्ष,  
समपथिक ट्रस्ट, रा.ई-१८/१२ सरिता नगरी II, पुणे ३० मो.नं.९७६३६४०४८०

विषय:- दि.०३/०६/२०१८ रोजी पुणे मे /तृतीयपंथी /ट्रान्सजेंडर /इंटरसेक्स अभिवादन रॅलीची परवानगी बाबत -

संदर्भ:- आपला दि.१६/०५/२०१८ रोजीचा अर्ज -


मुंबई पोलीस कायदा सन-१९५१ कलम ३६ अन्वये आपणास दि.०३/०६/२०१८ रोजी सकाळी १०/३० ते १२/३० वा.पर्यंत पुणे मे /तृतीयपंथी /ट्रान्सजेंडर /इंटरसेक्स अभिवादन रॅलीची परवानगी खालील अटी व शर्तीवर परवानगी देण्यात येत आहे.

- १) वाहतुक शाखेचे नाहरकत प्रमाणपत्र घेण्यात यावे
- २) अभिवादन रॅलीचे दरम्यान दोन धर्मांमध्ये जातीय तणाव निर्माण होईल किंवा कोणाच्या धार्मिक भावना दुखावल्या जातील किंवा राष्ट्राची प्रतिष्ठा किंवा सन्मान धिन्हा यांचा अवमान होईल किंवा अशा प्रकारचे हातमाव करणे किंवा तत्सम प्रकार करू नये किंवा घोषणा देवू नये.
- ३) अभिवादन रॅलीचे दरम्यान कोणताही अपघात होणार नाही याची खबरदारी घ्यावी
- ४) अभिवादन रॅलीमुळे संबंधित भागात गडबड गोंधळ, गोंगाटा, ध्वनीप्रदुषण निर्माण होणार नाही याची दक्षता घ्यावी. कोणाचीही तक्रार आल्यास आपली परवानगी रद्द केली जाईल. मा.सर्वोच्च न्यायालयाचे ध्वनी प्रदुषणाबाबत घालून दिलेले नियम व अटी यांचे पालन करावे.
- ५) अभिवादन रॅलीचे दरम्यान धित्रीकरणे येऊ नये. या जाणा-या नागरीकांना अडथळा होणार नाही याची दक्षता घ्यावी.
- ६) अभिवादन रॅलीचे दरम्यान सुरक्षेच्या दृष्टीने पुरेशी खबरदारी घ्यावी.
- ७) अभिवादन रॅलीचे दिलेली वेळेतच आपला कार्यक्रम संपवण्यात यावा
- ८) अभिवादन रॅलीचे दरम्यान लोकांची गर्दी होणार नाही याची दक्षता घ्यावी.
- ९) अभिवादन रॅलीत पोलीसानी दिलेल्या सुचनांचे पालन करावे.
- १०) अध्यात्मक अभिवादन रॅलीचा मार्ग बदलल्यास प्रसंगी रॅलीची परवानगी रद्द करण्याचे अधिकार पोलीसांना राहतील.
- ११) अभिवादन रॅलीत फ्लॅशमॉब करण्यास बंदी घालण्यात आली आहे.

रॅलीचा मार्ग - रॅलीची सुरवात संभाजी उदयान गेट - जंगलीमहाराज रोडने - नटराज चौक - डेक्कन पी एम टी बस स्टॉप - गरवारे ब्रीज - गुडलक चौक - एफ सी कॉलेज गेट -उजवीकडे वळून १२०२ शिरोळे रोडने सरळ संभाजी उदयान येथे समाप्त.

दरील अटींआ व शर्तींआ मंग केल्यास अथवा अभिवादन रॅली मार्ग बदलल्यास सदरचा परवाना रद्द समजला जाईल व आपल्या विरुद्ध प्रचलीत कायदान्वये कायदेशीर कारवाई करण्यात येईल याची नोंद घ्यावी.

दि.२९/०५/२०१८ रोजी माझ्या सही व शिक्क्यानिशी परवानगी देण्यात आली आहे.

 [Redacted Signature]

वरिष्ठ पोलीस निरीक्षक  
डेक्कन पोलीस स्टेशन पुणे

Illustrative Police station permission for *Samapathik* Trusts' Pune Annual LGBTIQA Pride Walk (Year 2018)



### 39. POLICE/LOCAL BODY PERMISSION FOR EVENT WITH A STAGE/PANDAL

*MITRA GROUP "This is the first public Covid-19 awareness event we are planning in our city. How do we go about getting permission for a stage/pandal?"*

*Mitra*, a recently formed LGBTIQA group, in Pune, wants to organize a public event for Covid-19 awareness. They plan to erect a small stage/pandal by the roadside and use megaphone to give slogans/information on Covid-19. The event would last a couple of hours.

Since this is the first time they are planning to organize such an event, they approached Bindu Queer Rights Foundation to explain the procedure for obtaining permissions for the event.

**Note:** For giving permissions for pandal/stage events etc., in Maharashtra, The Bombay Police Act, 1951, its rules and rules of the local body (e.g. Municipal Corporation) apply. The following process of obtaining permissions for the pandal/event is based on a Covid-19 awareness event organized in Pune, in 2021, by Bindu Queer Rights Foundation. Note that the rules/process may change from time to time and may differ from city to city.

#### ISSUES

##### Venue

The first step is to select the venue for the event. A few tips on the selection of the venue are given below:

- The venue of the stage/pandal should be such as not to cause traffic congestion
- The stage/pandal should be small enough not to cause traffic congestion
- If possible, erect the stage/pandal on the footpath
- Municipal Corporations/police may lay down rules from time to time as to the maximum size of the stage/pandals allowed, taking into consideration the width of the road on which the stage/pandal is being erected
- Permission may be denied on certain routes, e.g., highways, very crowded streets, or roads where construction is ongoing.
- Digging of holes on the road or footpath for the stage/pandal is not allowed.

##### Jurisdiction

Identify the DCP Traffic police having jurisdiction of the venue where the stage/pandal will be erected.

##### Date and Time

Fix the date and time for the event. *Mitragroup* is planning the event on 01/04/2021, and the event will be organized between 3 pm to 4 pm.

#### STEPS

**1. Police NOC:** Obtain a No Objection Certificate (NOC) (*Na-Harkat Pramanpatra*) from the DCP Traffic for the event/stage/pandal.

**2. Police Permission:** The permission letter (*Parvangipatra*) for the event/stage/pandal is to be obtained from the Traffic police branch under whose jurisdiction the event/stage/pandal is being planned.

**3. Permission from the Municipal Corporation (or the relevant local body):** You are using public space to erect the stage/pandal. The permission from the Municipal Corporation ensures that their



Encroachment Branch does not confiscate your material and impose a fine on you for erecting the stage/pandal, in public place, without their permission.

### **Application**

The application for the stage/pandal/event should be submitted at least 30 days before the scheduled event to the DCP Traffic having jurisdiction in which you will be erecting the stage/pandal for the event.

The application should contain the following information:

- Name/Post of the authority to whom the application is being made
- Details of the applicant
- Date and time (from-to) of your planned event
- Information about the event
- Expected number of participants
- Number of volunteers (attach a separate sheet with their full names and contact numbers)
- Mention the exact place where the stage/pandal will be erected. Attach a map of the precise location of the stage/pandal along with the application
- Size of the pandal – width, length, height
- Whether placards, posters will be used, pamphlets will be distributed
- Whether slogans will be given; whether megaphones would be used
- Terms and conditions for the event. e.g., we will give slogans, display placards/posters, distribute pamphlets, we will not litter the place, etc.

### **Obtaining NOC from DCP Traffic**

When in warding the application, take acknowledgement of submission on a copy of your application. The DCP Traffic sends the application and a written request to the Traffic branch having jurisdiction in which the stage/pandal/event is being planned, for their report.

The applicant has to visit the Traffic branch, and as per his/her/their and Traffic police convenience, the police accompany the applicant to the venue where the stage/pandal is to be erected. The police inspect the place and the exact location of the stage/pandal to satisfy themselves that the venue will not cause traffic congestion. If they are of the opinion that the location is inconvenient, they may ask you to choose a different location.

Once the location is finalized, the applicant's statement is recorded by the Traffic police. The applicant should carry the following information/documents when they give the statement: contact number, email id, original Aadhar Card and a self-attested copy of Aadhar Card. The Traffic branch then submits a report to the DCP Traffic office, along with the applicant's statement and volunteer list.

If a favorable report has been sent, the DCP Traffic will issue a NOC for the stage/pandal/event.

### **Obtaining Permission from Traffic Police**

A copy of the NOC is to be kept for your record. The original NOC is to be submitted to the Traffic branch of police in whose jurisdiction the stage/pandal/event is to be held. In a couple of days, the Traffic police will issue the permission letter (*parvangipatra*) along with terms and conditions on which the permission is being granted. Note that the police reserve the right to cancel the permission at any time. e.g., a day before the event, strict lockdown is declared for controlling Covid-19 pandemic.








## **PART VII: APPENDICES**

**APPENDIX A: The Indian Psychiatric Society's (IPS) Position Statement on Same-sex Attraction, Orientation, Behaviour, and Life style. March 2016.**



## INDIAN PSYCHIATRIC SOCIETY

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**The Indian Psychiatric Society's Position Statement on same-sex attraction, orientation, behaviour and life style**

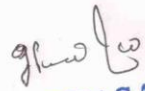
Modern medicine and psychiatry, since the 1970's, have abandoned pathologizing same-sex orientation and behavior.<sup>1</sup> The World Health Organization accepts same-sex orientation as a normal variant of human sexuality.<sup>2</sup> The United Nations Human Rights Council values Lesbian Gay Bisexual and Transgender (LGBT) rights.<sup>3</sup>

India's Supreme Court recently issued a ruling against human rights by reinstating a law that bans gay sex by restoring Section 377 of the Indian Penal Code.<sup>4</sup> The prevalent circumstances and recent controversies in India suggests the need for clarity and hence this position statement.

The Indian Psychiatric Society recognises the universality of same-sex expression, across cultures. It holds the position that homosexual orientation per se does not imply any objective psychological dysfunction or impairments in judgement, stability and vocational capabilities.<sup>5</sup> The Indian Psychiatric Society considers same-sex attraction, orientation and behaviour as normal variants of human sexuality.<sup>5</sup> It recognises the multi-factorial causation of human sexuality, orientation, behaviour and lifestyles. It acknowledges the lack of scientific efficacy of treatments, which attempt to change sexual orientation and highlights the harm and adverse effects of such therapies.<sup>5</sup>

The Indian Psychiatric Society acknowledges social stigma and consequent discrimination of people with same-sex orientation.<sup>5-6</sup> It recognises that the difficulties they face are a significant cause for their distress and calls for the provision of adequate mental health support.<sup>5-6</sup>

The Indian Psychiatric Society supports the need to de-criminalise same-sex orientation and behaviour and to recognise LGBT rights to include human, civil and political rights.<sup>6</sup> It supports efforts at seeking the repeal of Section 377 IPC as the 19<sup>th</sup> century law has no place in a 21<sup>st</sup> century democracy. It supports the legal recognition of same-sex relationships, civil unions and marriage, adoption and parenting.<sup>6</sup> It also supports anti-bullying legislation, anti-discrimination student, employment and housing laws, immigration equality, equal age of consent law and hate crime laws providing enhanced criminal penalties for prejudice-motivated violence against LGBT people.<sup>6</sup> The Indian Psychiatric Society supports government efforts and encourages Parliament to leave a lasting legacy of progress by repealing Section 377 IPC.

  
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 INDIAN PSYCHIATRIC SOCIETY  
 (PTO)

7<sup>th</sup> Mar 2016



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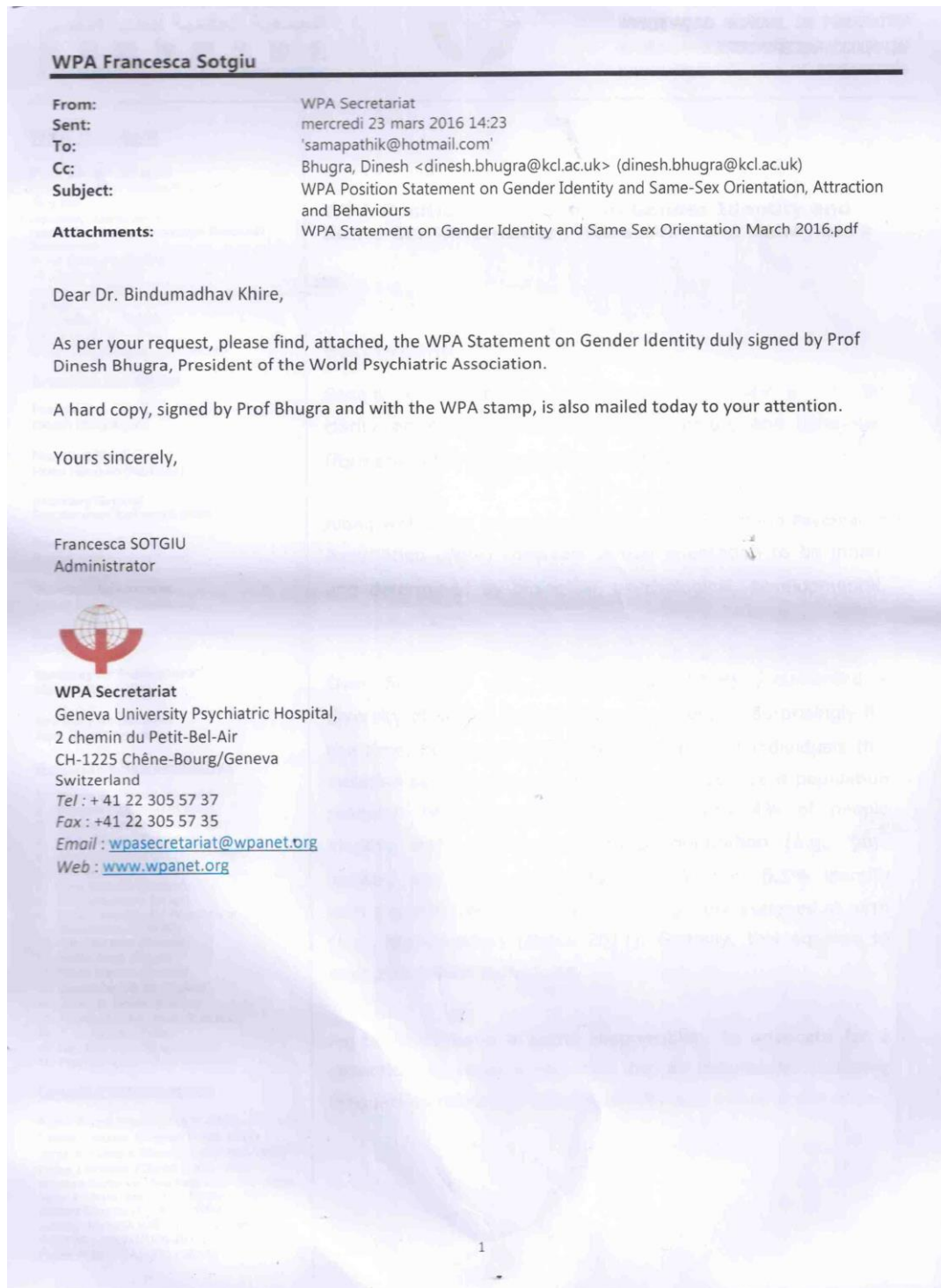
*Once you label me, you negate me ~ Soren Kierkegaard*

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**APPENDIX B: The World Psychiatric Association's (WPA) Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours. March 2016.**





WORLD PSYCHIATRIC ASSOCIATION  
الجمعية العالمية للطب النفسي  
世界精神病学协会  
ASSOCIATION MONDIALE DE PSYCHIATRIE



WELTVERBAND FÜR PSYCHIATRIE  
ASSOCIAÇÃO MUNDIAL DE PSIQUIATRIA  
ВСЕМИРНАЯ ПСИХИАТРИЧЕСКАЯ АССОЦИАЦИЯ  
ASOCIACIÓN MUNDIAL DE PSIQUIATRÍA

---

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**WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours**

**Background**

Recent controversies in many countries suggest a need for clarity on same-sex orientation, attraction, and behaviour (formerly referred to as homosexuality).

Along with other international organisations, World Psychiatric Association (WPA) considers sexual orientation to be innate and determined by biological, psychological, developmental, and social factors.

Over 50 years ago, Kinsey et al (1948) documented a diversity of sexual behaviours among people. Surprisingly for the time, he described that for over 10% of individuals this included same-sex sexual behaviours. Subsequent population research has demonstrated approximately 4% of people identify with a same-sex sexual orientation (e.g., gay, lesbian, and bisexual orientations). Another 0.5% identify with a gender identity other than the gender assigned at birth (e.g., transgender) (Gates 2011). Globally, this equates to over 250 million individuals.

Psychiatrists have a social responsibility to advocate for a reduction in social inequalities for all individuals, including inequalities related to gender identity and sexual orientation.

Despite an unfortunate history of perpetuating stigma and discrimination, it has been decades since modern medicine abandoned pathologising same-sex orientation and behaviour (APA 1980) The World Health Organization (WHO) accepts same-sex orientation as a normal variant of human sexuality (WHO 1992). The United Nations Human Rights Council (2012) values Lesbian Gay Bisexual and Transgender (LGBT) rights. In two major diagnostic and classification systems (International Classification of Diseases (ICD-10) and DSM-5), same sex sexual orientation, attraction, and behaviour and gender identity are not seen as pathologies (WHO 1993, APA 2013).

There is considerable research evidence to suggest that sexual behaviours and sexual fluidity depend upon a number of factors (Ventriglio et al 2016). Furthermore, it has been shown conclusively that LGBT individuals show higher than expected rates of psychiatric disorders (Levounis et al 2012, Kalra et al 2015), and once their rights and equality are recognised these rates start to drop (Gonzales 2014, Hatzenbuehler et al 2009, 2012, Padula et al 2015)

People with diverse sexual orientations and gender identities may have grounds for exploring therapeutic options to help them live more comfortably, reduce distress, cope with structural discrimination, and develop a greater degree of acceptance of their sexual orientation or gender identity. Such principles apply to any individual who experiences distress relating to an aspect of their identity, including heterosexual individuals.

WPA believes strongly in evidence-based treatment. There is no sound scientific evidence that innate sexual orientation can be changed. Furthermore, so-called treatments of homosexuality can create a setting in which prejudice and discrimination flourish, and they can be potentially harmful (Rao and Jacob 2012). The provision of any intervention purporting to "treat" something that is not a disorder is wholly unethical.

#### **Action**

1. The World Psychiatric Association (WPA) holds the view that lesbian, gay, bisexual, and transgender individuals are and should be regarded as valued members of society, who have exactly the same rights and responsibilities as all



other citizens. This includes equal access to healthcare and the rights and responsibilities that go along with living in a civilised society.

2. WPA recognises the universality of same-sex expression, across cultures. It holds the position that a same-sex sexual orientation per se does not imply objective psychological dysfunction or impairment in judgement, stability, or vocational capabilities.

3. WPA considers same-sex attraction, orientation, and behaviour as normal variants of human sexuality. It recognises the multi-factorial causation of human sexuality, orientation, behaviour, and lifestyle. It acknowledges the lack of scientific efficacy of treatments that attempt to change sexual orientation and highlights the harm and adverse effects of such "therapies".

4. WPA acknowledges the social stigma and consequent discrimination of people with same-sex sexual orientation and transgender gender identity. It recognises that the difficulties they face are a significant cause of their distress and calls for the provision of adequate mental health support.

5. WPA supports the need to de-criminalise same-sex sexual orientation and behaviour and transgender gender identity, and to recognise LGBT rights to include human, civil, and political rights. It also supports anti-bullying legislation; anti-discrimination student, employment, and housing laws; immigration equality; equal age of consent laws; and hate crime laws providing enhanced criminal penalties for prejudice-motivated violence against LGBT people.

6. WPA emphasises the need for research on and the development of evidence-based medical and social interventions that support the mental health of lesbian, gay, bisexual, and transgender individuals

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The writing group was led by Professor Dinesh Bhugra and constituted Drs Kristen Eckstrand (USA), Petros Levounis (USA), Anindya Kar (India), Kenneth R Javate (Philippines)

Geneva, March 2016

Dinesh Bhugra

President

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Ref: **WPA Position Statement on Gender Identity and Same-Sex Orientation, Attraction, and Behaviours/ March 2016**

5



**APPENDIX C: SHORT LIST OF ORGANIZATIONS/GROUPS**

**DELHI**

Organization Name: **The Naz Foundation (India) Trust**  
Location: Delhi / Region Covered: Delhi  
Email: [info@nazindia.org](mailto:info@nazindia.org)  
Delhi Contact Numbers: +91 11 41325042 / +91 11 40793157/58  
Target Population: LGBTIQA

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**GUJARAT**

Organization Name: **Lakshya Trust**  
Location: Vadodara, Surat and Rajkot strong presence / Region Covered: Gujarat  
Email: [sylvestermerchant@gmail.com](mailto:sylvestermerchant@gmail.com) / [lakshya121@rediffmail.com](mailto:lakshya121@rediffmail.com)  
Contact Person: Sylvester Merchant. Contact Number: 9825311997  
Website: <http://www.lakshya-trust.org>  
FB: <https://www.facebook.com/lakshya.trust.754>  
Target Population: LGBTQI

Group Name: **Vikalp** (Women's Group)  
Location: Vadodara, Gujarat / Region Covered: Gujarat  
Email: [vikalp womensgroup@gmail.com](mailto:vikalp womensgroup@gmail.com)  
Contact Person: Indira Pathak. Contact Number: 9879725969  
Website: <https://vikalp womensgroup.wordpress.com/>  
Facebook: <https://www.facebook.com/VikalpVadodara>  
Target Population: Marginalized sections of women, including female sex workers, trans masculine people with their partners, lesbian, bisexual women and trans women.

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**HARYANA**

Organization: **Pahal Foundation**  
Location: Haryana  
Region Covered: Haryana  
Email: [pahal\\_foundation@yahoo.com](mailto:pahal_foundation@yahoo.com)  
Contact Person: Maksoom Ali. Contact Number: 9899982669  
Facebook: <https://www.facebook.com/pahalfoundation17>  
Target Population: MSM/TG/Hijra

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**KARNATAKA**

Organisation Name: **Parivartan Trust**  
Location: Bengaluru/ Region Covered: Karnataka  
Helpline Number: +91 7204519960  
Email Id: [parivartantrustblr@gmail.com](mailto:parivartantrustblr@gmail.com)  
Target Population: Sexuality/Gender Minorities

**KERALA**

Organization Name: **Queerythm**  
Location: Trivandrum/ Region Covered: Kerala  
Email id: queerythm@gmail.com  
Helpline number: 9745545559/9747811406  
Target Population: LGBTIQA

---

**MAHARASHTRA**

Group Name: **Abhimaan**  
Location: Kolhapur/ Region Covered: Kolhapur district  
Email: abhimaan.kolhapur@gmail.com  
Contact Person: Vishal Pinjani. Contact Number: 9922295522  
Facebook Page: abhimaan.kolhapur  
Target Population: LGBTIQA

Organization Name: **Bindu Queer Rights Foundation**  
Location: Pune / Region Covered: Maharashtra  
Email: bindumadhav.khire@gmail.com  
Contact person: BindumadhavKhire / Contact cell: 9763640480  
Target Population: LGBTIQA community

Organization Name: **ChildLine**  
Helpline No: 1098 / Region Covered: All of India  
Target Population: Children

Organization Name: **Lokniti Mandal**  
Location: Aurangabad / Region Covered: Aurangabad district  
Contact Name: Shrikant Umrikar. Contact Number: 9422878575  
Target Population: LGBTIQA

Organization Name: **Muskaan**  
Location: Pune / Region Covered: Pune city  
Email address: muskaanforchildprotection@gmail.com  
Contact for Help: Muskaan Helpline- 9689062202 / 9112299784 / 85  
Website address: www.foundationforchildprotection.in  
Target Population: The organization works on the issue of Child Sexual Abuse

Organization Name: **Niramaya Arogya Dham**  
Location: Solapur / Region Covered: Solapur and Akkalkot  
Email: kinikar.seema@yahoo.co.in / nadt2msm799@gmail.com  
Contact Name: Seema  
Target Population: Gay/MSM/TG, Female Sex Workers

Group Name: **SamalingiBhavavishwa**  
Location: Ahmed Nagar / Region Covered: Ahmed Nagar District  
Email id: nikhilsamarth123@gmail.com  
Contact Person: Nikhil Samarth / Contact Cell: 8459353796  
Facebook Group link: <https://www.facebook.com/groups/1313941978975160/>  
Target Population: LGBTIQA

Organization Name: **Samarpan Trust**  
Location: Amravati / Region Covered: Amravati District  
Email: samarpantrust.ti@gmail.com  
Contact person: Hemant V Toksha / Contact cell - 9673411500  
Target Population: MSM, TG

Organization Name: **Sarathi Trust**  
Location: Nagpur / Region Covered: Nagpur District  
Email: sarathitrust\_2005@yahoo.co.in  
Contact person: Anand Chandrani / Contact cell - 9325632795  
Website: www.sarathitrust.org  
FB: <https://www.facebook.com/anand.chandrani>  
Target Population: LGBTQHI

Individual Name: **Shobhna S Kumar**  
Location: Mumbai / Region Covered: India  
Contact Number: 9821730721  
Target Population: Lesbians, Bisexual women and Transmen

Organization Name: **The Humsafar Trust**  
Location: Santacruz (East), Mumbai-400 055/ Region Covered: India  
Email: info@humsafar.org or help@humsafar.org  
Phone Number: 022 - 2667 3800 (Monday to Friday. 12.30 pm to 6.30 pm)  
Contact Person: Tinesh Chopade (Advocacy Manager) / Contact Cell: +91 9730360168  
Website: <http://www.humsafar.org>  
Target Population: LGBTIQA

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### **MANIPUR**

Organization Name: Ya\_All  
Location: Imphal, Manipur / Region Covered: North East India  
Contact Email: yaall.manipur@gmail.com  
Contact Number: +916009032883 / Sadam Hanjabam (Founder and Chief Functionary)  
Target Population: LGBTIQA, young people living with HIV, young people living with psychosocial disabilities and orphans

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### **ODISHA**

Group Name: Mito Trust  
Location: Mayurbhanj District / Region Covered: Odisha  
Email: meetombj@gmail.com  
Contact Person: Tapan Kumar Behera, Abhijit Kumar Das / Contact Cell: 7008287006, 7978663665  
FBPage: MITO TRUST  
Target population- LGBTIQA+ Community

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### **PUNJAB**

Organization Name: **Mansa Foundation Welfare Society**  
Location: Ludhiana / Region Covered: Punjab  
Email: [pehchan.mansa@gmail.com](mailto:pehchan.mansa@gmail.com)  
Contact Person: Madan Lal Swami / Contact cell- +91 9569330422  
FB: <https://www.facebook.com/mansa.foundationfzr>  
Target Population: LGBTQ and Hijra community.

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### **TAMIL NADU**

Organization Name: **Solidarity and Action Against The HIV Infection in India (SAATHII)**  
Location: Chennai / Region Covered: Support services provided through Chennai, Bhubaneswar, Imphal and Delhi offices.  
Helpline no: +91 9958895350 Helpline: [helpline@saathii.org](mailto:helpline@saathii.org) Information: [info@saathii.org](mailto:info@saathii.org)  
Target Population: LGBTIQA

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### **UTTAR PRADESH**

Organization Name: **Farhan Foundation**  
Location: Lucknow / Region Covered: Uttar Pradesh  
Email: [farhan.foundation84@gmail.com](mailto:farhan.foundation84@gmail.com)  
Contact Person: Farhan Khan. Contact Number: 7505573167  
Target Population: MSM/TG/Hijra

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### **WEST BENGAL**

Organization Name: **DumDumSwikriti Society**  
Location: DumDum / Region Covered: West Bengal  
Email: [swikriti2003@hotmail.com](mailto:swikriti2003@hotmail.com)  
Contact Persons: [SunsantaPramanik](#) / Contact Cell: 9547488054 and [SantanuGiri](#), Contact Cell: 9831743608  
Facebook Page: [swikritiswikriti](#)  
Target population: LGBTHIQ+ community

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Group name: **Karna-Subarna Welfare Society**  
Location: Murshidabad / Region Covered: West Bengal  
Email: [kws\\_samity@rediffmail.com](mailto:kws_samity@rediffmail.com)  
Contact Person: [MatiurRahaman](#) / Contact Cell: (+91) 9434856496  
Website: <http://www.ksws.in>  
FB: <https://www.facebook.com/karnasubarnawelfaresociety/>  
Target population: Poor peasants, women and children & other downtrodden persons from SC/ST/OBC/Muslim Community/Sexually Marginalized Community.

Group Name: **MaldaPorichoy Society**  
Location: Malda / Region Covered: Malda  
Contact Name: [Debi Acharya](#) / Contact Number: 8637356940  
Target Population: LGBTIQA

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**APPENDIX D: MAHARASHTRA POLICE CONTACTS**

**Email ids of Commissioner of Police**

SR. NO.	DESIGNATION	EMAIL-ID
1	CP, AMRAVATI	cp.amravati@mahapolice.gov.in
2	CP, AURANGABAD	cp.aurangabad@mahapolice.gov.in
3	CP, BRIHAN MUMBAI	cp.mumbai@mahapolice.gov.in
4	CP, NAGPUR	cp.nagpur@mahapolice.gov.in
5	CP, NASHIK	cp.nashik@mahapolice.gov.in
6	CP, NAVI MUMBAI	cp.navimumbai@mahapolice.gov.in
7	CP, PUNE	cp.pune@mahapolice.gov.in
8	CP, SOLAPUR	cp.solapur@mahapolice.gov.in
9	CP, THANE	cp.thane@mahapolice.gov.in
10	CP, RAILWAYS MUMBAI	cp.railways.mumbai@mahapolice.gov.in
11	CP, PIMPRI-CHINCHWAD	cp.pepc-mh@gov.in
12	CP, MIRA BHAYANDAR, VASAI-VIRAR	cp.mb-vv@mahapolice.gov.in

**Email ids of Superintendent of Police**

<b>SR. NO.</b>	<b>DESIGNATION</b>	<b>EMAIL-ID</b>
1	SP, AHMEDNAGAR	<a href="mailto:sp.ahmednagar@mahapolice.gov.in">sp.ahmednagar@mahapolice.gov.in</a>
2	SP, AKOLA	<a href="mailto:sp.akola@mahapolice.gov.in">sp.akola@mahapolice.gov.in</a>
3	SP, AMARAVATI R	<a href="mailto:sp.amravati.r@mahapolice.gov.in">sp.amravati.r@mahapolice.gov.in</a>
4	SP, AURANGABAD R	<a href="mailto:sp.aurangabad.r@mahapolice.gov.in">sp.aurangabad.r@mahapolice.gov.in</a>
5	SP, BEED	<a href="mailto:sp.beed@mahapolice.gov.in">sp.beed@mahapolice.gov.in</a>
6	SP, BHANDARA	<a href="mailto:sp.bhandara@mahapolice.gov.in">sp.bhandara@mahapolice.gov.in</a>
7	SP, BULDHANA	<a href="mailto:sp.buldhana@mahapolice.gov.in">sp.buldhana@mahapolice.gov.in</a>
8	SP, CHANDRAPUR	<a href="mailto:sp.chandrapur@mahapolice.gov.in">sp.chandrapur@mahapolice.gov.in</a>
9	SP, DHULE	<a href="mailto:sp.dhule@mahapolice.gov.in">sp.dhule@mahapolice.gov.in</a>
10	SP, GADCHIROLI	<a href="mailto:sp.gadchiroli@mahapolice.gov.in">sp.gadchiroli@mahapolice.gov.in</a>
11	SP, GONDIA	<a href="mailto:sp.gondia@mahapolice.gov.in">sp.gondia@mahapolice.gov.in</a>
12	SP, HINGOLI	<a href="mailto:sp.hingoli@mahapolice.gov.in">sp.hingoli@mahapolice.gov.in</a>
13	SP, JALGAON	<a href="mailto:sp.jalgaon@mahapolice.gov.in">sp.jalgaon@mahapolice.gov.in</a>
14	SP, JALNA	<a href="mailto:sp.jalna@mahapolice.gov.in">sp.jalna@mahapolice.gov.in</a>
15	SP, KOLHAPUR	<a href="mailto:sp.kolhapur@mahapolice.gov.in">sp.kolhapur@mahapolice.gov.in</a>
16	SP, LATUR	<a href="mailto:sp.latur@mahapolice.gov.in">sp.latur@mahapolice.gov.in</a>
17	SP, NAGPUR R	<a href="mailto:sp.nagpur.r@mahapolice.gov.in">sp.nagpur.r@mahapolice.gov.in</a>
18	SP, NANDED	<a href="mailto:sp.nanded@mahapolice.gov.in">sp.nanded@mahapolice.gov.in</a>
19	SP, NANDURBAR	<a href="mailto:sp.nandurbar@mahapolice.gov.in">sp.nandurbar@mahapolice.gov.in</a>
20	SP, NASHIK R	<a href="mailto:sp.nashik.r@mahapolice.gov.in">sp.nashik.r@mahapolice.gov.in</a>
21	SP, OSMANABAD	<a href="mailto:sp.osmanabad@mahapolice.gov.in">sp.osmanabad@mahapolice.gov.in</a>
22	SP, PARBHANI	<a href="mailto:sp.parbhani@mahapolice.gov.in">sp.parbhani@mahapolice.gov.in</a>
23	SP, PUNE R	<a href="mailto:sp.pune.r@mahapolice.gov.in">sp.pune.r@mahapolice.gov.in</a>
24	SP, PALGHAR	<a href="mailto:sp.palghar@mahapolice.gov.in">sp.palghar@mahapolice.gov.in</a>
25	SP, RAIGAD	<a href="mailto:sp.raigad@mahapolice.gov.in">sp.raigad@mahapolice.gov.in</a>
26	SP, RATNAGIRI	<a href="mailto:sp.ratnagiri@mahapolice.gov.in">sp.ratnagiri@mahapolice.gov.in</a>
27	SP, SANGLI	<a href="mailto:sp.sangli@mahapolice.gov.in">sp.sangli@mahapolice.gov.in</a>
28	SP, SATARA	<a href="mailto:sp.satara@mahapolice.gov.in">sp.satara@mahapolice.gov.in</a>
29	SP, SINDHUDURG	<a href="mailto:sp.sindhudurg@mahapolice.gov.in">sp.sindhudurg@mahapolice.gov.in</a>
30	SP, SOLAPUR R	<a href="mailto:sp.solapur.r@mahapolice.gov.in">sp.solapur.r@mahapolice.gov.in</a>
31	SP, THANE R	<a href="mailto:sp.thane.r@mahapolice.gov.in">sp.thane.r@mahapolice.gov.in</a>
32	SP, WARDHA	<a href="mailto:sp.wardha@mahapolice.gov.in">sp.wardha@mahapolice.gov.in</a>
33	SP, WASHIM	<a href="mailto:sp.washim@mahapolice.gov.in">sp.washim@mahapolice.gov.in</a>
34	SP, YAVATMAL	<a href="mailto:sp.yavatmal@mahapolice.gov.in">sp.yavatmal@mahapolice.gov.in</a>
35	SP, RAILWAYS NAGPUR	<a href="mailto:sp.railways.nagpur@mahapolice.gov.in">sp.railways.nagpur@mahapolice.gov.in</a>
36	SP, RAILWAYS PUNE	<a href="mailto:sp.railways.pune@mahapolice.gov.in">sp.railways.pune@mahapolice.gov.in</a>
37	SP, RAILWAY AURANGABAD	<a href="mailto:sp.railway-abad@mahapolice.gov.in">sp.railway-abad@mahapolice.gov.in</a>





## APPENDIX E: ABOUT THE AUTHOR

BindumadhavKhire, born on June 21, 1968, in Pune, is a Gay activist working since 2000, in Pune (India), for the betterment of LGBTIQA community. He has done his B.E. in Computer Science and has a degree in Law (LLB.)

Bindumadhav retired from his IT career at the age of 35 and founded *SamapathikTrust*, in 2002, in Pune. He is the Director of *Bindu Queer Rights Foundation*.

Bindumadhav has written books, plays and film scripts in Marathi. He is a resource person for LGBTIQA workshops. He is the Director of the annual *Advait*- Pune Queer International Film Festival and *Mooknayak*- the annual Marathi LGBTIQA Literary Festival.

### Books in Marathi authored by Bindumadhav:

1. *Partner*. Self-published, Pune. 2004. (Fiction novella)
2. *HIV/AIDS, LaingikShikshan, Laingikata, Helpline Margadarshika*(Running a Helpline on HIV/AIDS, Sex Education, Sexuality). *SamapathikTrust*, Pune. 2007.
3. *Indradhanu: Samalaingikatechevividhranga*(Rainbow: Different colours of Homosexuality). *SamapathikTrust*, Pune. 2008.
4. *ManaviLaingikata- ekprathamikolakh*(Introduction to Human Sexuality). *SamapathikTrust*, Pune. 2011.
5. *Intersex- ekprathamikolakh*(Introduction to Intersex). *SamapathikTrust*, Pune. 2015.

### Books in Marathi edited by Bindumadhav:

1. *Antaranga*– Anthology of true stories of Gays and Lesbians. *SamapathikTrust*, Pune. 2013.
2. *Saptaranga*- Anthology of true stories of Tertiarypanthis and Transgenders. *SamapathikTrust*, Pune. 2013.
3. *ManachiyeGunti*- Anthology of true stories of parents of Gays and Lesbians. *SamapathikTrust*, Pune. 2013. (Beautiful People; an English translation of *ManachiyeGunti*. *SamapathikTrust*, Pune. 2016.)

### Other Works:

1. Chapter: Male Sex Work. Author: BindumadhavKhire. Book: *Prostitution and Beyond*. Edited by Rohini Sahani, V. Kalyan Shankar. Hemant Apte. Sage Publication. 2008.
2. Marathi translation of *Sanchaar*Media Guide (A recommended language manual for improved reporting on sexual minorities in India). The *Humsafar* Trust. 2015. Ver. 1.0.
3. Chapter: Layers of the Urban. Author: BindumadhavKhire. Book: *Queer Potli. Memories, Imaginations and Re-Imaginations of Urban Queer Spaces in India*. Edited by Pawan Dhall. QueerInk Publication. 2019.
4. Manual: Basics of LGBTIQ Inclusion in Hospitals. 2019. Ver. 1.0.

### Editor:

1. *Samapathik Diwali Ank*(Annual magazine in Marathi, on LGBTIQA issues) (2019 and 2020)

### Marathi Feature Film Scripts registered with Screenwriters Association (SWA):

1. *Ankur Clinic* (2019)
2. *Lonely Hearts Dinner* (2019)

### Marathi Plays:

*Purshottam*(2014), *Jaswand*(2015), *Freddy* (2016), *TakalaJaun*(2018), *Phera*(2018).



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