

# Legal Rights of Layman or Common Man

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**Abstract:** Law for layman: When we talk about the rights of layman, this question is aimed towards how to deal with government officials, first of all it is important to understand our rights, government officials' duties towards us and then what remedies are available under law for all these purposes. This is essential from the perspective of every citizen, because it would determine what we can do when our rights have been infringed by any other.

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## I. INTRODUCTION

**Fundamental Rights:** Every citizen should know the scope of fundamental rights which are provided to us in the Indian Constitution. I am setting out the fundamental rights together with certain principles below: -

1. **Equal protection of Law:** -Article-14 of the Indian Constitution mandates one of the most important provisions of the constitution that the state shall not deny to any person equal protection before law. Every citizen should be treated as equal and all provisions of law will be imposed on them as same.
2. **Protection against discrimination by the basis of religion, race, caste etc.:-** Article-15 of the Indian Constitution provides that the state shall not discriminate against any citizen on the ground of his religion, race, caste, sex, place of birth or any of them and no person shall be prevented from accessing public places of these grounds.
3. **Protection against discrimination in public employment:** - Article-16 of the Indian Constitution provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.
4. **Freedom of speech to expressing:-** Article-19 of the Indian Constitution provides to its citizen, freedom of speech and expression. It is the most basic of all freedoms granted to the citizen of India by the Indian Constitution. It allows us to freely express our ideas and thoughts socially or publically, through any medium such as print, visual and voice.
5. **Protection against certain acts:-** Article-20 of the Indian Constitution mandates (i) A person will be charged with an offence, only if such offence violates the law at the time of commission of the

Offence and (ii) No person shall be prosecuted and punished for the same offence more than once.

6. **Right of life as personal liberty:-** Article-21 of the Indian Constitution enshrines the right to life. Primarily this ensures that any imprisonment or custody by the police or other state agencies, is must be comply strictly in accordance with law. The interpretation of the 'right to life' has been extended by the Supreme Court to include the right to livelihood. The right to a safe environment and the right to privacy as being necessary corollaries of the right to life.
7. **Right of elementary education:-** Article-21A of the Indian Constitution, which has been relatively recently added to it, mandates that the state must provide free and compulsory education to children of the age of 6 to 14 years.
8. **Protection against arrest and preventive detention:-** Article-22 of the Indian Constitution provides (i)Every person who is arrested must be informed of the grounds for such arrest and shall not be denied his right to consult and to be defended by a legal practitioner of his choice. (ii) Person who is arrested and detained in custody shall be produced within 24 hours before the nearest magistrate within jurisdiction. This is in consonance with Article-21 of the Indian Constitution as it aims at ensuring that persons subject to arrest and imprisonment are guaranteed certain rights to ensure fair representation.
9. **Protection against human trafficking and forced labour:-** Article-23 of the Indian Constitution prohibits human trafficking and forced labour. Article-24 provides that children, who are below the age of 14, shall not work at factories or mines or any other hazardous places of employment.

10. Right of freedom of religion: - Article-25 of the Indian Constitution provides all its citizen are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion. Similarly Article-26 of the Indian Constitution provides that persons are free to manage their religions affairs.

11. Criminal Procedure Code, 1973: -The primary goal of a criminal justice system is undoubtedly the protection of individual life, liberty, and property. The modern criminal law is supposed to represent the ambitions and norms of the society as well as to punish and reform the criminals but it overlooks the victim. The criminal justice system in our country is based on the premise that 'hundred guilty men should be let free, but one innocent man should not be punished'. The prior purposes of criminal law are Deterrence, Retribution and Protection. Reformation & Rehabilitation are the silent purposes to improve the hues of society. Every citizen must know certain provisions in relation to arrest and imprisonments and basic rights of being heard which are set out therein to be better able to protect themselves. Certain salient points that every citizen should always bear in mind are: -

Section 41: - The police may arrest without warrant only for cognizable offences or where he is discovered with certain weapons or implements of house-breaking, who is an escape or obstructs the police from doing its duty. There can be no legal arrest if there is no information or reasonable suspicion that the person has been involved in a cognizable offence or commits offence.

Section 46 of Cr P C: -This envisages modes of arrest i.e. submission to custody, touching the body physically or confining the body. Arrest is restraint on personal liberty. Unless there is submission to custody, by words or by conduct, arrest can be made by actual contact.

Magistrates have the power to arrest apart from the police. Where a woman is to be arrested, unless the police officer is a female, the police officer shall not touch the person or the woman for making an arrest and arrest would be presumed on her submission to custody on oral intimation and where such exceptional circumstances exists the woman police officer shall by making a written report obtain the prior permission of the Judicial Magistrate of the first class within whose jurisdiction the offence is committed or the arrest is to be made.

Section 49 of Cr P C -This provides that there should be no more restraint than is justly necessary to prevent escape. A person arrested should be informed of the reasons of his arrest and his ability to apply for bail.

Section 50(1) Cr P C: - It provides, "every police officer or other person arresting any person without a warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest. Person arrested should be brought before the court of the nearest jurisdiction, without any unreasonable delay.

Section 50(2) of CrPC: - It provides that any person arrested without warrant shall be immediately informed of the grounds of his arrest, and if the arrest is made in a bailable case, the person shall be informed of his right to be released on bails. Section 50 is mandatory and carries out the mandate of Article 22(1) of the Constitution of India.

The only Confession to be binding has to be made before a Magistrate. Confession before a police authority has not approved.

12. Right to Information Act, 2005: -This act specifically provides that all citizens have a right to information. Means any material in any form including records, documents, memos, e-mails, opinions, advices, press release, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law.

Public authorities are required to maintain adequate records and publish information in relation to its officials and employees and functions. The applicants are not required to provide reasons for seeking such information. The information is to be provided to within 90 days or rejected with reasons.

13. Indian Penal Code: -

Any section in IPC which is against the constitution would be declared null and void which depicts the importance of constitution over IPC.

Laws of natural justice to be followed: -

-No one can be compelled to testify against himself.

-No one can be hand cuffed in public.

-No arrest can be made at the midnight hours.

14. Prevention of Corruption Act, 1988: - This act makes it an offence for a public servant to accept or obtain or attempt to obtain from any person for himself or for any other person, any gratification whatever for doing or forbearing to do any act in his official capacity. Even taking gratification to influence a public servant by personal

influence or illegal means is an offence and is punishable under the Act.

15. Other relevant Laws: - This section is to provide information of laws that prescribe duties or obligations for citizens to ensure that inadvertently, citizens are not guilty of any legal violations or barred from exercising their claims: -

Tax obligation: - A portion of your salary can be exempt from tax. A part of house rent allowances (component of salary) is exempted under section 10(13A) if you are staying in a rented accommodation. There are other such exemptions for conveyance, medical allowance, leave, travel allowance etc. Additionally, there are deductions allowed under section 80C to section 80U of Income Tax Act, 1961 allowed from your total income. Commonly known deductions are: -

Tax saving investments (PPF, EPF, ELSS, NSC, Life insurance premium, home loan's principal amount's repayment etc.) under section 80C of Income Tax Act, 1961.

Health Insurance policy's premium under section 80D of Income Tax Act, 1961.

Payment of Interest of Education loans under section 80E of Income Tax Act, 1961.

Payment of Interest of a housing loan under section 24 of Income Tax Act, 1961.

16. The Motor Vehicles Act: - No traffic violation laws for non-motorised vehicles: -

Though it has been clarified that a golf cart is not allowed on the road but there aren't any penalties against non-motor vehicles like a cycles or rickshaws, since they don't fall under definitions the Motor Vehicles Act.

Women can lodge complaints through emails: -

Guidelines issued by the Delhi Police, has entitled women to the privilege of registering any complaint via email or even through post against the crime held against her, if she can't go to the police station.

Live-in relationships are not illegal: -

Though it is frowned upon in our country, but as long as both the adult persons are ready to stay together, live-in relationships are not illegal in India now. Moreover, live-in relationships are considered to be 'equal to marriage' if certain conditions are met, few of which are pooling of financial and domestic arrangements, entrusting the responsibility, sexual relationship, bearing children, socialization in public and intention, conduct of the parties, etc. This is done to protect women under the Domestic Violence Act. Also, children born out of live-in

relationships have the right to inherit their parent's property under Indian Succession Act, 1956.

Political parties can solicit your vehicle during elections: - At the time of election, any political party can solicit your car or bike for campaigning purposes after deciding an amicable settlement with you. Also, parties cannot offer free rides to and fro from poll booths.

If you have been fined once in the day, you may be excused after that: - Riding around without a helmet or driving a car without seat belt can land you into trouble, but once you are fined for it, the challan slip can get you out of being fined for the same day till midnight. Yes, but this is not an encouragement to break the law for enjoyment. Always Be safe while driving on the road.

A seller cannot go beyond the MRP: -

MRP is the Maximum Retail Price of a product to buy. As consumers, you have the right to bargain for a price below that. But, a seller cannot go beyond the MRP to sell his goods.

A police officer is always on duty: -

17. The Police Act, 1861 clearly states that police officers are always on duty. If he or she witnesses an act of crime or if an incident is brought to their knowledge they can't say "I am not on duty" even if they aren't in uniform. Of course, they are entitled to some rest because of the hard work that they put in to their work.

18. The Consumer Protection Act: -

This Act establishes a legal framework to safeguard the rights and interests and to accord socio-economic justice to the citizens of India. The Consumer Protection Act has flexible legal framework, wider jurisdiction, and low fees for the procedure to get justice. One can find in this legislation a mixture of principles of torts and contracts.

19. The Contract act: - A third party beneficiary, in the law of contracts, is a person who may have the right to sue on a contract, despite not having originally been a party to the contract. This right arises where the third party is the intended beneficiary of the contract, as opposed to an incidental beneficiary. It vests when the third party relies on or assents to the relationship, and gives the third party the right to sue either the promisor or the promisee of the contract, depending on the circumstances under which the relationship was created. In order for a third party beneficiary to have any rights under the contract, he must be an intended beneficiary, as opposed to an incidental beneficiary. The burden is on the third party to plead and prove that he was indeed an intended beneficiary.

An incidental beneficiary is a party who stands to benefit from the execution of the contract, although that was not the intent of either contracting party. For example, if party X, hires party Y, to renovate his house, and insists that Y use a particular house painter—party Z, because that house painter has an excellent reputation, then the house painter is an incidental beneficiary. Neither X nor Y is entering into the contract with the particular intent to benefit Z. X simply wants his house properly renovated; Y simply wants to be paid to do the renovation. If the contract is breached by either party in a way that results in Z never being hired for the job, Z nevertheless has no rights to recover anything under the contract.

Association of persons carrying on business: -Limited Liability Partnership is like a Traditional Partnership Firm but with Limited Liability. It has become a preferred choice of businessmen who, earlier used to register as partnership firms. It blends the benefits of a Traditional Firm (less regulations, more control), and that of a corporate entity (Limited Liability of the partners).

A LLP must have at least 2 Designated Partners and has NO Minimum Capital Requirement. It is the most suitable organization for Traditional Businesses.

## 20. Limitation Act, 1963: -

S. 5 also is a principle of exception – which allows filing (appeal & applications (other than O.21) after the expiry of Prescribed Period – if sufficient cause is shown. The phrase ‘sufficient cause’ has to be interpreted liberally, keeping in mind at all times that a litigant normally does not stand to benefit from delay – on the contrary there is always a chance of his losing his right altogether. Hence an interpretation that advances substantial justice has to be accorded. Courts have to show utmost consideration to a suitor unless malafide or negligence is attributable to him.

S.6/7/8 – together represent a well-knit legislative scheme wherein – limitation period is excluded during period when litigant could not have sued on account of minority/insanity/idiocy. However such disability should be present at the time from which the period of limitation is to be reckoned. Subsequent disability/inability would not stop the continuous running of time (S.9). However strict application of this rule would have done injustice to other party, insofar as their rights would be uncertain for long periods of time. To counter this – full period of limitation to be accorded after disability ceases is elongated to a maximum of 3 years. This strikes a perfect

balance of conflicting interests of the disabled and the other party.

The Principle of Continuous running of time is suspended only in one situation where – the hand to give & receive is the same i.e. to prevent conflict of interest and duty. This is envisaged in S.9 Proviso – wherein during the time a debtor holds the letter of administration of his creditor, the period of limitation for recovery of debt stands suspended.

S.10 – envisages the principle of no limitation in matters of trust expressly created for specific purposes. In common parlance a trustee is not immune from legal proceedings with respect to any suit relating to property in his hands as a trustee, by any length of time.

21. Family laws: - Section 32 of the Advocate’s Act clearly mentions, the court may allow any person to appear before it even if he is not an advocate. Therefore, one gets the statutory right to defend one’s own case through Advocate Act in India. This rule is subject to certain exceptions.

Article 19 of the Constitution of India guarantees certain freedoms to the citizens of this country which includes right to practice any profession or to carry on any occupation, trade or business. It, therefore, naturally follows that the right to practice law, which is a profession, is a fundamental right that is conferred upon all citizens of this country.

Therefore, it can be said that the person has right to appear in any court in India. There are exceptions based on general rules that are only regulatory in nature and the main purpose is to impose reasonable restrictions in the interest of general public.

## II. CONCLUSION

Legal rights of layman or law for layman should be promoted by the Govt. so that the common men get aware by them and protect themselves from injustice. It is important to understand our rights, government officials’ duties towards us and then what remedies are available under law for all these purposes. This is essential from the perspective of every citizen, because it would determine what we can do when our rights have been infringed by any other.

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