



THE LAW FOR COMMON PEOPLE

SHIVANK, B.A.LL.B 2ND SEMESTER
INSTITUTE OF LAW, KURUKSHETRA UNIVERSITY
KURUKSHETRA, HARAYANA
E-MAIL- sharmashivank60@gmail.com

Law is the discipline and profession concerned with the customs, practices, and rules of the acts of a community that are recognized as binding by the community. Enforcement of all these multitudinous rules is viable through a controlling authority. Law has various relations with constitution, community and even with other social sciences. It is dominant in the legal ethics, legal knowledge, political parties, political system, administration of government and ideology.¹

As Robert T. Kiyosaki says “I would rather welcome change than cling to the past.”²The origin of Hindu law is believed to be divine. The key ideal before a Hindu has always been the achievement of the *moksha*, the attainment of salvation. Hindu law, over five thousand years has gone through phases. It is regarded that the origin of Hindu law is based on religious texts like the *Vedas*, the *Upnishads*, the *Geeta*, or any other Hindu scripture. A view emerging from these texts leads to the recognition of the law as *Dharma*. The term dharma can be loosely translated as “duty”. Many Hindu Jurists believe that Law is an enforceable part of Dharma. Thus, the *Law is Dharma*.³

But being in a modern world talking about a religious perspective only will not be correct. Nowadays, we are governed by modern laws of the society. John Austin’s law definition states “Law is the command of sovereign, backed up with a threatened sanction.”⁴Thus, this definition defines law as a set of rules to be followed by everyone, regardless of their stature. All such definitions show a thrust on sovereignty of the people as they are supreme. As per the view of Aristotle, “Law is the existing reality. They are entities which are related and subordinate to that general grammar of being, applicable in its principles to the prime substance as well as to all of the other, inferior substances.”⁵; thus, Plato, Aristotle and Christian philosophy focused on the reality of our living and somehow a divine view is also reflected here.



So, supposing we are studying in a class and teacher slaps us. Then, is there any right or anything which we need to know? Honestly, a teacher can slap a student but only for good faith. Beating or slapping a student only for small mistakes like incomplete work etc. is absurd. As per Section 88 of Indian Penal Code 1860, “Nothing, which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.”⁶ This means that a teacher can only slap a student if it is for good faith. A teacher cannot slap us for unreasonable basis. Nowadays, there are many corporal punishments given to children. This includes punishments like beating from ruler, standing punishments, running or any physical punishment. Section 2 (24) of the Juvenile Justice (Care and Protection) Act, 2015 defines corporal punishment as “corporal punishment” means the subjecting of a child by any person to physical punishment that involves the deliberate infliction of pain as retribution for an offence, or for the purpose of disciplining or reforming the child.⁷ But Section 47 of the Education Act, 1987 prohibits corporal punishment in schools and for state funded pupils in independent schools. Use of force to punish a child as opposed to limited force needed to protect a child from harming himself or others will be no defence to an action for assault and battery.⁸ Section 82 of the Juvenile Justice Act (Care and Protection) 2015, deals with the provision of corporal punishment. And it states that any person in charge of or employed in a childcare institution, who subjects a child to corporal punishment to discipline the child, shall be liable, on the primary conviction, to a fine of ten thousand rupees and for each subsequent offence, shall be responsible for imprisonment which can be three months or fine or with both. If an individual is convicted of corporal punishment, then he shall even be responsible for dismissal from the service.⁹ Also, the law will debar from working directly with children. Self-defence rights Sec.96-106 also apply to students also.



Furthermore, when a policeman stops your vehicle, as per section 130 of Motor Vehicles Act, 1988 which says; Duty to produce licence and certificate of registration- The driver of a motor vehicle in any public place shall, on demand by any police officer in uniform, produce his licence for examination. As it says you are required to only produce the licence not to handover. It can be in online form also. According to Section 129 of the Motor Vehicle Act, 1988, a person is exempted from wearing protective headgear (helmet) if that person is a Sikh wearing a turban while driving, or if that person is unable to wear protective headgear (helmet) due to any surgery above his neck.¹⁰ Moreover, as per recent amendment dated 2nd Nov 2018 of Rule 139 of the CMVR, 1989 - Production of licence and certificate of registration - 'The driver or a conductor of a motor vehicle shall produce certificates in physical or electronic form certificate of registration, insurance, fitness and permit, the driving licence, certificate for pollution under check and any other relevant documents on demand by any police officer in uniform or any other officer authorised by the State Government in this behalf, and if any or all of the documents are not in his possession, he shall produce in person an extract or extracts of the documents duly attested by any police officer or by any other officer or send it to the officer who demanded the documents by registered post within 15 days from the date of demand'. Therefore, no policeman can be defiant in accepting your documents if they can be produced within 15 days.¹¹ The information regarding the same is provided under a Right to Information (RTI) filed by advocate Pawan Parikh. In the information provided by the police department, it has been clearly stated that taking out the key of any two or four-wheeler is wrong. No policeman, irrespective of any rank, has the power to do this.

As per the Consumer Protection Act, 2019, Central Consumer Protection Authority has been formed in which the vendor cannot refuse to accept back the faulty products that do not meet the guided specifications. It also eliminates the slogans like “no refund, no substitution” by the vendors. Lastly, penalty can also be imposed depending on the suffrage of the consumer.¹² As per the new rules of Department of Consumer Affairs, the mark of BIS (Bureau Of Indian Standards) on precious metals like gold is necessary to avoid any confusion provided under Section 14 Chapter 3 of BIS Act, 2016.¹³



Where there are e-commerce/business, as per the Competition and Consumer Protection Commission, all the e-commerce/business must have the cancellation and refund policy. So, any business which does not come under this is not verified.¹⁴

To curb the black money in the economy, government has also introduced the limit of accepting the cash in one day in single transaction. As per section 269ST of Income Tax Act 1961, “No person shall receive an amount of two lakh rupees or more(a) in aggregate from a person in a day; or(b) in respect of a single transaction; or(c)in respect of transactions relating to one event or occasion from a person.” Therefore, no person should accept the amount of Rs.2 Lakh in a single day with single transaction. Even you should never accept the same in instalments. You can do such payments through cheques.¹⁵

References:

- 1.The Editors of Encyclopaedia Britannica <https://www.britannica.com/topic/law> (Last visited on 7 April 2023)
- 2.Robert T. Kiyosaki, Rich Dad Poor Dad P-105 (Plata Publishing,LLC,USA,1st edn.,1997)
3. Patrick Olivelle and Donald R. Davis, The Oxford History Of Hinduism: Hindu Law: A New History of Dharmasastra P-217 (Oxford University Press, 198 Madison Avenue, USA, 1st edn.,2018)
4. Liam Murphy, What Makes Law: An Introduction To The Philosophy Of Law P-26 (Cambridge University Press, USA, 2014)
5. Michael Lobban, A Treatise Of Legal Philosophy And General Jurisprudence: A History Of The Philosophy Of Law In The Common Law World,1600-1900 VOL-7 P-35 (Springer Dordrecht Heidelberg,Manhattan,Newyork,2007)
6. The Indian Penal Code,1860 P-21 (Professional Book Publishers, Delhi,2023)



7. India Code Digital Repository Of All Central And State Acts [a2016-2.pdf \(indiacode.nic.in\)](#)P-8 (Last visited 29 March 2023)
8. Corporal Punishment: Violation of Child Rights in Schools by Prof.Maadabhushi SridharLL.M., M.C. J., Ph.D.- Nalsar University of Law, Hyderabadavailable at <https://www.legalservicesindia.com/articles/punish.htm> (Last visited 20 March 2023)
9. India Code Digital Repository Of All Central And State Acts [a2016-2.pdf \(indiacode.nic.in\)](#) P-39 (Last visited 29 March 2023)
10. Motor Vehicles Act,1988
https://www.mahapolice.gov.in/uploads/acts_rules/TheMotorVehicleAct,1988.pdf P-42 (Last visited on 1 April 2023)
11. Ministry of Road Transport and Highways, Central Motor Vehicles Rule 1989
<https://morth.nic.in/sites/default/files/CMVR-chapter6.pdf> P-2 (Last Visited on 6 April 2023)
12. The Consumer Protection Act, 2019 P-21 (Law and Justice Publishing Co., Delhi,2023)
13. Department of Consumer Affairs, BIS Rules 2018 <https://consumeraffairs.nic.in/acts-and-rules/bureau-of-indian-standards/the-bureau-of-indian-standards-act-2016> (Last visited on 13 April 2023)
14. Competition and Consumer Protection Commission [Consumer Rights - Faulty Goods - CCPC](#) (Last visited 7 April 2023)
15. Income Tax Department Government of India
<https://incometaxindia.gov.in/pages/acts/income-tax-act.aspx>(Last visited on 12 April 2023)