Empowering Women Infected and Affected by HIV on Property Ownership and Legal Literacy

Fundamental Rights
Indian constitution guarantees Fundamental rights, which are the basic human rights of all the citizens. Such as

1. Right to Equality
2. Right to Freedom
3. Right against Exploitation
4. Right to freedom of religion
5. Cultural and Educational rights and
6. Right to Constitutional remedies

Violation of any of the fundamental rights is justiciable in the court of law
1. Right to Equality

Every individual is entitled to equal protection of law
No individual can be discriminated against based on
caste, religion, sex, and place of birth.
Untouchability is abolished and its practice a
punishable offence
All individuals will be given equal opportunities in
terms of public sector employment and government
has the right to reserve a few seats for
SC/ST/BC/differently-abled persons.

**Example:** Jaya worked in a Public sector company on a
contract basis. She was being evaluated for confirmation to a
permanent position. In order to get confirmation of her post,
Jaya was asked to undergo medical examination to prove that
she was physically fit for the job. During her medical test, she
also tested positive for HIV. Once the company came to know
her HIV status, it terminated her from services, even though
she was qualified for a permanent position.

*Can Jaya be terminated from her job based on her HIV status? If Jaya
had been working in a private sector company, can she seek legal
action for being terminated based on HIV status?*
2. Right to Freedom

1. **Under this right, everyone has the freedom to (a) practice any profession and (b) express their opinion**

   **Example:** Rani, working in an organization as a women rights educator, wants to create awareness on legal issues such as property rights and domestic violence act in rural and tribal areas. The local police come to know about Rani’s activity and feel threatened that women in the village will hereafter will become very empowered and start demanding their rights. Hence, they order Rani not to come to the village and create awareness on legal rights to women.

   *Can the police prohibit Rani from creating awareness about legal issues?*

2. **Under this right, everyone has the (C) freedom to form unions and associations**

   **Example:** A Public Sector company had 200 employees on its payroll. Some of the employees felt they should form an employees' union to advocate for staff welfare measures. To discuss the issue, all the employees gathered at a common place. The manager of the company saw them gathered in discussion as a group, and objected, saying that employees cannot assemble at a common place and discuss about forming unions or associations.

   *Can employees assemble at a common place? Can anyone form unions and associations?*
3. Right to freedom guarantees everyone the freedom to (d) move freely within the country and (e) reside anywhere in India.

**Example:** Sangeetha and Ramesh were married and residing in a city. Both of them were working as daily wage labourers at the construction site. Two years after their marriage, Ramesh fell sick, and tested positive for HIV. Later Sangeetha was also diagnosed as HIV positive. Their status became known to everyone residing in the same area. As per the guidelines of the city municipality housing scheme, HIV positive people were to be given separate accommodation. Sangeetha and Ramesh were therefore asked to vacate their house.

*Can the City Municipality ask them to vacate their house?*
Right to Freedom (Cont'd)

In addition to this, certain rights are guaranteed to citizens arrested and detained in jail. This includes:

- the arrested person should appear in front of the magistrate within 24 hours
- if a woman has to be interrogated, she has to be interrogated at her house
- an arrested woman should always be accompanied by female police staff
- if he/she cannot afford a lawyer, they can ask for free legal aid

No individual shall be deprived of his/her life and personal liberty

The state will provide free and compulsory education to all the children between 6 to 14 years of age

Self incrimination - no individual can be compelled to be a witness against himself/herself

Double jeopardy - an individual cannot be punished more than once for the same offence
24hrs
3. Right Against Exploitation

Prohibits the trafficking of human beings

Trafficked human beings cannot be forced into labour

Children below 14 years of age should not be employed in any factory, mine, or engage in any other hazardous employment

**Example:** Sheela, studying in seventh standard, belonged to a poor family. Though she was good at studies, she had to discontinue her studies and help her mother to earn a living. She was employed in a factory manufacturing firecrackers. Such an employment is extremely hazardous in nature. Even though she wanted to quit her employment and pursue studies, she was prevented from doing so since her family was indebted to the owners and they refused to release her.

*Can a child below 14 years of age take up employment?*

*What can be done to rescue Sheela?*
FUNDAMENTAL RIGHTS
4. Right to Freedom of Religion

Everyone has freedom to practice their own religion
Every religion has the right to establish religious trusts and educational institutions.
However, no one can be compelled to receive religious education against his/her wishes

Example: Mary and Sheela are neighbors residing in the same village since childhood. Both of them were studying in the same school. Sheela used to attend religious prayers along with Mary in church quite often. Sheela developed interest in becoming a Christian.

*Can Sheela convert to Christianity?*
5. Cultural and Educational Rights

Every individual has the right to conserve their distinct language, script and culture.

The state will not discriminate against anyone while providing financial aid to the educational institutions run by minorities.

**Example:** A minority community had set up a college to promote its unique language and culture. The government denied aid to this college on this ground that they specifically promoted minority culture.

*What should the administration of the college do? Is this justifiable in the court of law?*
Right to Constitutional Remedies

This right provides legal remedies for the above five rights (if they are violated) by the government. For enforcement of these fundamental rights, individuals can approach the High Court or the Supreme Court. Under this right, the Supreme Court or the High Court can issue directions such as:

1. To produce a person in court
2. To direct a government body to carry out/prohibit a particular act
3. Quash an action of the government body
4. Question the authority of a public functionary
   Prohibit a court from enquiring into a matter due to lack of jurisdiction.
RIGHT TO CONSTITUTIONAL REMEDIES
Procedure for Registering a Complaint

1. Go to the police station under the jurisdiction where the offence or crime has taken place.

2. Inform the officer in charge at the police station of the incident and explain everything in detail. If you have given an oral statement, then the officer shall write it down and give it to you for your signature.

3. Before signing on the complaint sheet, read it thoroughly and verify that all the details given by you are written correctly. Then sign or put your thumb impression on it.

4. After receiving your complaint, and based on the type of offence, the First Information Report (FIR) is written by the police. Otherwise, your complaint will be entered in Community Service Register (CSR). If it is a cognizable offence, then they will file an FIR.

5. Before leaving the police station, take a copy of the FIR. It is your right to get a copy of the FIR, free of cost.

6. Demand to know the Crime number.

7. If the in-charge officer refuses to register your case, then approach the concerned Superintendent of Police (SP) and bring your complaint to their notice.

8. You can also file a private complaint before the court.