

Face Equality International (FEI) Research Project

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India

No.	Question		Answer
1.	<p>a. Do people with facial disfigurements (marks, scars, etc.) have any legal protection against discrimination?</p> <p>b. Which law relates or mentions the legal protections?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>a. Yes, there is legal protection for certain facial disfigurements enshrined under Indian Law, if those people are regarded as disabled people.</p> <p>b. In 2007, India signed and ratified the UN Convention on the Rights of Persons with Disabilities (UNCRPD).</p> <p>In 2016, the Rights of Persons with Disabilities Act was enacted which reflects the provisions of the UNCRPD and it came into force in April 2017. It replaced the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.</p> <p>In 2017, the Rights of Persons with Disabilities Rules were introduced to set out the administrative rules for implementation of the Act. India has not signed up to the Optional Protocol to the UNCRPD, which establishes a separate complaint mechanism to the UN treaty body. Instead, individuals can use mechanisms available nationally and locally to enforce legal protections available to them.</p> <p>Full text of the Act in English: https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act%2C_2016.pdf Full text of the Rules in English: https://www.indiacode.nic.in/handle/123456789/1362/simple-search?query=Rights%20of%20Persons%20with%20Disabilities%20Rules,%202017&searchradio=rules</p>
2.	a. What is this country's legal definition of disability?		a. According to the Persons with Disabilities (PWD) Act, 2016, section 2, (r) "person with benchmark disability" means a person with not less than forty per cent. of a specified disability where specified disability has not been defined in measurable terms and includes a person with

	<p>b. When do people with a facial disfigurement fit within that definition?</p> <p>c. How does being excluded from that definition affect the protection of their rights?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>disability where specified disability has been defined in measurable terms, as certified by the certifying authority and (s) “person with disability” means a person with long term physical, mental, intellectual or sensory impairment which, in interaction with barriers, hinders his full and effective participation in society equally with others.</p> <p>b. The disability must be listed as a qualifying category in the PWD. There are 21 types of disabilities covered under PWD. The definition of disability explicitly includes individuals that have been cured from a disease or are still suffering from a disease. We list below the diseases that may affect the face and cause facial disfigurements, such as (a) locomotor disability that affects the nervous system and causes loss of sensation and paresis in the eye and eye-lid but with no manifest deformity or extreme physical deformity; (b) cerebral palsy, (c) muscular dystrophy, and (d) acid attack victims.</p>
3.	<p>Are there aspects of disability and/or disfigurement law that ensure a legal right to healthcare, education or employment?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<p>Statutory rights of disabled people include:</p> <ul style="list-style-type: none"> (i) Right to equality, life with dignity and respect for his or her integrity equally with others (ii) Central government and/or local authorities shall take measures to ensure that women and children with disabilities enjoy their rights equally with others. All children with disabilities have the right to freely express their views on all matters affecting them and that, for this, support will be provided to keep in view their age and disability. (iii) The appropriate government level (i.e., central or local) shall endeavour that persons with disabilities are not forced to live in any particular designated living arrangements for disabled people and are given access to a range of inhouse, residential and other community support services, including personal assistance necessary to support living with due regard to age and gender. (iv) The government shall take measures to prevent torture, cruel, inhuman or degrading treatment and ensure that no person with disability shall be a subject of any research without his or her free and informed consent. (v) Victims of violence, abuse or exploitation shall be rescued, protected and rehabilitated. The government is also obligated to create awareness of the provisions and make it available to the public. For example, the government has introduced a Central Victim Compensation Fund (CVCF) scheme, with an initial corpus of Rs 200 crores, to enable support of victims of rape, acid attacks, human trafficking and women killed or injured in the cross border firing. According to the (CVCF), the compensation part of the rehabilitation of victims of violence including rape is governed by provision of Section 357A of the Code of Criminal Procedure which states that every State Government in co-ordination with the Central Government shall prepare a scheme for providing funds for the purpose of compensation

			<p>to the victims of crime. Source available at: https://vikaspedia.in/social-welfare/social-security/central-victim-compensation-fund-scheme(cvcf)</p> <p>(vi) The National and State Disaster Management Authorities shall ensure the inclusion of persons with disabilities in its disaster management activities for their safety and protection.</p> <p>(vii) No child with disability shall be separated from his or her parents on the grounds of disability except on an order of a competent court, if required, in the best interest of the child.</p> <p>(viii) Appropriate government shall ensure that persons with disabilities have access to appropriate information regarding reproduction and family planning and that no person with any disability is subjected to any medical procedure which leads to infertility without his or her free and informed consent.</p> <p>(ix) The Election Commission of India and the State Election Commissions shall ensure that all polling stations are accessible to persons with disabilities and all materials related to the electoral process are easily understandable by and accessible to them.</p> <p>(x) Persons with disabilities have the right to access any court or anybody with judicial or quasi-judicial or investigative powers without discrimination and steps will be taken to provide suitable measures to support persons with disabilities, especially those living without a family and those requiring high support to exercise legal rights.</p> <p>(xi) The appropriate government shall ensure that persons with disabilities enjoy equal legal rights on an equal basis with others in all aspects of life and have the right to equal recognition everywhere with any other person before the law.</p> <p>(xii) If any designated authority finds that a person with disability, who had been provided adequate and appropriate support, is unable to take legally binding decisions, then they may be provided with the further support of a limited guardian to take legally binding decisions on their behalf in consultation with such person, in such manner, as may be prescribed by the state government.</p> <p>(xiii) The appropriate government shall designate one or more authorities to mobilize the community and create social awareness to support persons with disabilities in the exercise of their legal capacity.</p> <ul style="list-style-type: none"> • Disabled people who believe their legal rights have been violated can lodge complaints to the Office of the Chief Commissioner for Persons with Disabilities (Divyangjan). The complaints should include their disability certificates and supporting documents. The Department of Empowerment of Persons with Disabilities, Government of India has introduced the provision of a Unique Disability ID (UDID) card for disabled people. The medical boards of respective states and districts issue a disability certificate. To obtain the disability certificate:
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4.	<p>a. How effective are the legal protections? Please describe evidence available of the effect of the legal protections.</p> <p>b. What are deficiencies or areas for improvement in these legal protection measures as they apply and affect people with facial disfigurement?</p> <p>c. What evidence exists to prove that the information and resources guaranteed by law are actually available to disabled persons?</p>		<p>As evidence of the legal protections past orders of the Chief Commissioner for Persons with Disabilities for every month beginning from January 2014 until October 2023 can be reviewed on the website of the Office of Chief Commissioner for Persons with Disabilities. There are also detailed annual reports of offences, penalties and other measures with regard to persons with disabilities (http://www.ccdisabilities.nic.in/annual-reports).</p>