



A TALK FOR PARENTS · CHILDREN WITH DOWN SYNDROME

Protecting Our Children

Legal Rights & Practical Solutions in India

Abuse & Safety Property & Inheritance School Admission

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Three worries — three sets of tools

01



Protection Against Abuse

Recognising vulnerability, the criminal law that shields your child, and exactly how to report and prosecute.

02



Property & Inheritance

Their right to own and inherit, and how a trust, a will and guardianship keep assets safe for life.

03



School Admission

The right to inclusive education, and your escalation ladder when a school says no.



FIRST, THE FOUNDATION: None of these rights fully unlock without a disability certificate and UDID card. That is step one for every family — we start there.

The legal toolkit that already exists for your child

Indian law treats your child as a full rights-holder

Down syndrome is an **intellectual disability** — a recognised, specified disability. Certified at 40% or more, it is a “**benchmark disability**”, which unlocks the strongest protections: free education, reservations, and enhanced criminal safeguards.

Two statutes do most of the work — and they work together:



RPwD Act, 2016 The rights-based charter — equality, protection, education, capacity.



National Trust Act, 1999 Welfare & legal guardianship for intellectual disability, at district level.



Step one for every family



Disability certificate. From a notified government hospital medical board — records the type and percentage.



UDID card. The single national ID (swavlambancard.gov.in) used to claim every benefit.



Get the % right. 40%+ = benchmark disability, which is what most rights require.



Keep certified copies. School, bank, court and guardianship all ask for them — keep a folder ready.



01

Protection Against Abuse

*The safety net exists — vulnerability, the criminal law that shields your child,
and how to act.*

The issue: heightened, often hidden, vulnerability



Physical & emotional

Hitting, confinement, humiliation, threats — sometimes disguised as “discipline” or “care”.



Sexual abuse

Far higher risk; offenders exploit trust, dependence and communication barriers.



Financial abuse

Property, pension or benefits siphoned by relatives, caregivers or “helpers”.



Neglect

Withholding food, medicine, mobility aids or basic care by those in charge.

Why it stays hidden: dependence on the abuser, difficulty reporting, and disbelief of the victim. The law now answers each of these directly.

The law — your child's shield



RPwD Act, 2016 — Ss. 6 & 7

Protection from cruelty, and from all abuse, violence & exploitation. S.7(2): anyone may report to the Executive Magistrate, who can order protection or safe custody.



RPwD Act — S. 92 (Atrocities)

Insult, assault, sexual exploitation, denial of food, injury: 6 months–5 years jail + fine. Ss. 84–85: Special Courts & Special Public Prosecutors per district.



POCSO Act, 2012

Any sexual offence against a child taking advantage of disability is “aggravated” — 20 years to life. Court presumes guilt (S.29); reporting is mandatory.



BNS 2023 & PWDV Act 2005

General offences of hurt, assault, wrongful confinement & rape apply fully; domestic violence law protects girls & women at home.



Section 92 in plain words

It is a distinct crime to:

- publicly insult or intimidate
- assault or outrage modesty
- deny food or fluids to one in your care
- sexually exploit a child or woman
- injure a limb, sense or aid device
- force pregnancy termination

— a person with disability, punishable with jail + fine.

What the courts have held



Patan Jamal Vali v. State of A.P.

Supreme Court, 2021

A disabled survivor's testimony carries EQUAL weight — it cannot be treated as weak merely because of disability. Courts must make the process accessible and shed stereotypes.



Madras High Court, 2026

POCSO, intellectually disabled child

Life sentence upheld. Minor inconsistencies and delay in reporting do not defeat a credible case; the S.29 presumption stands. Disability of the victim aggravates the offence.



Suchita Srivastava v. Chandigarh

Supreme Court, 2009

Bodily autonomy affirmed: a woman with intellectual disability cannot be forced into termination or sterilisation. Her consent and dignity must be respected.

What you can do — prevent, then act



Prevent & prepare

- Teach body-safety in your child's own way — safe vs. unsafe touch, “no”, and who to tell.
- Widen the trusted circle so no one adult has total, unwatched control.
- Vet and never fully isolate caregivers; drop in unannounced.
- Appoint a legal guardian so a trusted adult can act & report on your child's behalf.



If abuse is suspected — act

- Preserve evidence — don't bathe/wash; seek medical care; keep messages & records.
- File an FIR (cognizable) or report to the Executive Magistrate under S.7(2). Call 1098 (Childline) / 112.
- Insist charges include S.92 RPwD + POCSO, a Special Court & a special educator/interpreter.
- Escalate to the State Commissioner for PwD and the National Trust's Local Level Committee.

Keep on the fridge: 112 (Police) · 1098 (Childline) · your District Legal Services Authority for free legal aid.



02

Property & Inheritance

Clear rights and long-term protection — so what is theirs stays theirs, for life.

Start here: your child CAN own and inherit



The real worry

- Relatives quietly treat the child's share as “manageable”.
- The child may not be able to manage money or sign documents alone.
- Property or benefits get grabbed once parents are gone.
- Family disputes erupt over who “looks after” the child.



But the law is clear



Disability is NO bar to inheritance. Hindu Succession Act, S.28 — no one is disqualified from inheriting on the ground of any disease, defect or disability.



Equal legal capacity. RPwD Act, S.13 — persons with disability have the right to own, inherit and control property equally with others.



Support, not removal of rights. S.14 favours limited guardianship & supported decision-making — help your child decide, don't erase their say.

Tool 1 — Legal guardianship (National Trust route)

The practical, district-level way to give a trusted adult legal authority over your child's person, property, or both — even after the child turns 18.



Who applies

A parent, a relative, or a registered organisation — to the Local Level Committee (LLC) in your district, chaired by the District Magistrate/Collector.



What it covers

Guardianship of the person, of the property, or both (Ss. 14–16). The LLC fixes the guardian's duties and obligations.



The safeguard

S.17 — if a guardian abuses, neglects or misappropriates, the LLC can remove and replace them, and demand accounts.



How to file

Apply in Form A with the disability certificate, ID, and photos; nominal fee. Prefer guardianship scoped to real need, per RPwD S.14.

Tool 2 — The trust + the will (the heart of the plan)



Special-needs / “special child” trust

Under the Indian Trusts Act, 1882

- You (settlor) place assets with trustees for your child (beneficiary).
- Make it discretionary — trustees release funds for care; the child isn’t exposed to mismanagement or grabbing.
- Mix your trustees: a trusted relative + an independent/professional trustee for continuity.
- It outlives you — the plan keeps running when you no longer can.



The will + letter of intent

Direct your child’s share INTO the trust

- Don’t leave assets outright to the child — bequeath them to the trust for the child’s benefit.
- Name a testamentary guardian and successor caregivers in the will.
- Register the will; keep it clear to prevent family disputes later.
- Add a Letter of Intent: routines, likes, medical needs, who to trust — your voice on paper.

Tool 3 — The financial scaffolding around it



Insurance for the child

Niramaya health cover (National Trust) + Ayushman Bharat PM-JAY; a family floater with no exclusion for the condition.



Insurance on the parents

Term/endowment cover with the TRUST as beneficiary — funds the corpus the day it's needed most.



Tax relief

S.80DD — deduction to you for maintenance & specified insurance/annuity for a disabled dependent. S.80U — deduction to the certified person.



Nominee ≠ owner

A nominee only receives & holds; ownership follows the will/succession. Don't rely on nominations alone to protect the child.



03

School Admission

Inclusive education is a legal right, not a favour — and you have a ladder to enforce it.

The issue: how denial actually looks



Outright refusal

“We’re not equipped for such children” — a flat no at the admission desk.



Quiet discontinuation

The child is admitted, then eased out for “not coping”, without real support.



Extra fees / conditions

Demands for a paid shadow, a donation, or a medical “fitness” hurdle.



No accommodation

Refusing an IEP, scribe, extra time, or an aide — then blaming the child.

Remember: the law calls refusing reasonable accommodation a form of discrimination — even when “admission” was technically granted.

The law — the right to inclusive education



Constitution — Art. 21A Free & compulsory education is a fundamental right (with Arts. 14, 15, 21 — equality & dignity).



RTE Act, 2009 Every child's right to free & compulsory education; children with disabilities are expressly included.



RPwD Act — Ss. 16 & 17 Schools must admit without discrimination and provide reasonable accommodation, accessibility, aids, an IEP & trained support.



RPwD Act — Ss. 31 & 32 FREE education for a child with benchmark disability, ages 6–18; and 5% reservation in higher education.



Policy — NEP 2020 & Samagra Shiksha Inclusive education mandate; funded support for CwSN and RCI-certified special educators.

What the courts have held



Rajneesh Kumar Pandey v. Union of India

Supreme Court, 2021

Inclusive education is a binding obligation, not optional. The Centre must ensure special educators and proper pupil–teacher ratios; only trained special educators can teach children with special needs.



Aadriti Pathak v. G.D. Goenka School

Delhi High Court

A child with mild autism ordered readmitted within two weeks. Pushing a child out for failing to accommodate them is the school's default — and amounts to discrimination under the RPwD Act.



Vikash Kumar v. UPSC

Supreme Court, 2021

Reasonable accommodation (e.g. a scribe, extra time) is part of substantive equality — and cannot be denied on narrow technicalities. Denial of accommodation is discrimination.

If a school says no — your escalation ladder

1

Put it in writing

Request admission/accommodation by email or registered letter, citing RPwD Ss.16 & 31. Insist any refusal be given in writing (they rarely will — so record the oral refusal yourself).

2

State Commissioner for PwD

Complain under RPwD S.80 — a quasi-judicial authority that can summon the school and recommend admission. Free and effective.

3

Education authorities

Parallel complaint to the District/Block Education Officer under the RTE grievance system; and to NCPCR / State Commission for child rights.

4

Writ petition — High Court

Under Art. 226, a fast and powerful remedy (as in Aadriti Pathak). Courts have ordered admission/readmission in weeks.

Accommodations you are entitled to ask for



**Individualised
Education Plan (IEP)**



**A shadow teacher /
classroom aide**



**A scribe / reader in
exams**



Extra time in exams



**Exemption from 2nd /
3rd language**



**Accessible campus &
flexible curriculum**

Boards allow these too. CBSE, ICSE and State boards publish accommodation rules for candidates with disabilities — apply in advance with the UDID/certificate for scribe, extra time and exemptions.

Your action checklist — one page to take home



Safety



Get the UDID / disability certificate



Teach body-safety; widen the trusted circle



Vet caregivers; never full isolation



Save 112 · 1098 · DLSA; know S.92 + POCSO



Assets



Set up a discretionary special-needs trust



Make a will directing the share INTO the trust



Apply for LLC guardianship (person/property)



Niramaya + term cover; use 80DD / 80U



School



Apply citing RPwD Ss.16 & 31 (free to 18)



Get every refusal on record, in writing



Escalate: S.80 Commissioner → EO → writ



Ask for IEP, aide, scribe, extra time, exemptions



04

Questions Parents Ask

Three situations you may actually face — and exactly what to do, in order.

Your child (aged 8–12) says someone hurt them

1

Stay calm — listen, believe, don't interrogate

React gently; your child reads your face. Say “I believe you, you're safe, it's not your fault.” Don't cross-question or ask leading questions — let them tell it their way. Note their words.

2

Make them safe — and preserve evidence

Separate the child from the suspected person at once. Seek medical care. If a recent sexual assault, do NOT bathe, wash or change clothes — go straight to a hospital and keep clothing.

3

Report — this is a POCSO + RPwD matter

The child is under 18 → POCSO; disability makes it AGGRAVATED. File an FIR (cognizable); reporting is mandatory. Call 1098 (Childline) or 112. You may also move the Executive Magistrate under RPwD S.7(2).

4

Protect your child's voice in the process

Insist on a special educator / interpreter when the statement is recorded, at a place your child is comfortable. The S.29 presumption and Patan Jamal Vali mean your child WILL be heard and believed.

5

Get support — legal, financial, emotional

Free legal aid + victim compensation via the District Legal Services Authority; counselling for the child; and a parallel complaint to the State Commissioner for PwD.

When the abuser is inside the family



Break the isolation & document

Never leave the child alone with the suspected person. Quietly keep a dated record — incidents, injuries, missing money. Tell one trusted adult outside the household.



Use protection orders

The DV Act 2005 gives protection & residence orders within the home. RPwD S.7(2) lets the Executive Magistrate order safe custody / removal. FIR + POCSO if a child.



Strip their legal power

If the abuser is (or wants to be) guardian, National Trust Act S.17 lets the Local Level Committee REMOVE them for abuse, neglect or misappropriation — and demand accounts.



Ring-fence the money

Move assets into a discretionary trust with an INDEPENDENT co-trustee so no single relative controls the funds. Revisit nominations & POAs. Financial abuse is an S.92 atrocity.

You don't have to choose between family and safety. The law lets you remove the risk — the person, their power, their access to the money — without your child losing their home or support.

Their rights — and how to know and defend them



Six rights the law guarantees

- Equality & dignity — Arts. 14/15/21; RPwD S.3.
- Own, inherit & decide (with support) — RPwD Ss.13–14; HSA S.28.
- Free education 6–18 + accommodation — RPwD Ss.16/31; Art. 21A.
- Protection from abuse & atrocities — RPwD Ss.6/7/92; POCSO.
- Guardianship & supported living — National Trust Act 1999.
- Benefits & reservation — UDID, schemes, jobs, 80DD/80U.



How to know & defend them

- Get the UDID / disability certificate — it is the master key that unlocks every right.
- Learn your two core statutes — the RPwD Act 2016 and the National Trust Act 1999.
- Keep a rights file — certificate, IDs, medical, school & bank papers in one place.
- Know the enforcement doors — State/Chief Commissioner (S.80), DLSA, High Court (Art. 226).
- Track schemes at the Divyangjan dept. & swavlambancard.gov.in.
- When in doubt — get it in writing, and consult an advocate early.

You are not doing this alone



Emergencies: 112 (Police) · 1098 (Childline)



Free legal aid: District Legal Services Authority (DLSA)



Rights enforcement: State / Chief Commissioner for Persons with Disabilities (RPwD S.80)



Guardianship & schemes: National Trust — Local Level Committee (your District Collectorate)



Policy & benefits: Dept. of Empowerment of PwD (Divyangjan) · swavlambancard.gov.in

A last word

The law already sees your child as a full citizen with full rights. Our job — yours and mine — is simply to use the tools, early and on paper. Do that, and the protection outlasts any one of us.