

The SARAL Manual / A plain language drafting manual for better laws

VIDHI | Centre for
Legal Policy



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an independent, non-
commissioned piece
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an independent
think-tank doing
legal research to help
make
better laws.

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Executive Summary

- Legal documents generally, and laws in particular, are written in a peculiar legal form which has come to be known as ‘legalese’. Legalese is characterized by the use of archaic terms, legal jargon, and convoluted grammatical construction. The use of legalese in writing statutes has the effect of making the law inaccessible to most of its users, *i.e.*, the average person.
- Complicated legal drafting alienates the average person from the law. It makes the meaning of the law incomprehensible and creates a scenario where the average person can only interact with the law through a lawyer, who mediates this interaction. The law, as such, is not written for the people.
- A growing international consensus has emerged to address the issue of the use of legalese in drafting laws. These efforts, dubbed the Plain Language Movement (“PLM”), have seen success in various jurisdictions. However, the existing PLM initiatives lack the following:
 - An India-centric understanding of plain language, especially in the context of the Indian legal system and India’s demographic makeup; and
 - A system of overarching principles which underlies the specific drafting practices endorsed by those movements.
- In 2017, the Vidhi Centre for Legal Policy published its **Manual on Plain Language Drafting**. This manual provided an India-specific approach for plain language legislative drafting. This SARAL Manual is an update to the Vidhi Manual on Plain Language Drafting and continues Vidhi’s engagement with the idea of drafting simple and effective laws. The SARAL manual builds on the work of the 2017 manual and is intended to compile learnings from the past five years to develop a more comprehensive, holistic approach towards legal drafting.
- This manual develops a system of principles for plain language drafting, particularly in the context of Indian legislation. The four tenets which underline this exercise can be described as follows:
 - **Simple:** Drafting laws that use modern standard English and avoid obscure terms and extensive vocabulary.
 - **Accessible:** Creating practices and tools that allow all types of readers access to the texts of laws/legal documents.
 - **Rational:** Drafting laws that are structurally coherent, linguistically/logically consistent, and provide certainty in application.
 - **Actionable:** Drafting laws with components that allow ease of use for the citizens and ease of implementation for the State.
- The structure of the report may be divided into the following parts:
 - The first part introduces the context of the PLM and outlines **the need for SARAL principles**.
 - The second part gives **the SARAL principles** specific characterizations with illustrations to show how each principle may be used for drafting simple laws.
 - The third part provides a “**SARAL Checklist**”, with action points to be considered by drafters.
 - The fourth part provides an example of the SARAL principles in practice, demonstrated through a **redraft of the Right of Children to Free and Compulsory Education Act, 2009**.
- With the manual at its core, we intend to engage a broad set of stakeholders to advance the notion of plain language drafting in India and stimulate a conversation around ways in which laws can be simplified, ultimately ensuring accessibility for the populace of the country. **The SARAL Initiative** will be a hub for coordinating action among lawyers, students, academic institutions, governments, and professionals for this purpose.

Table of contents

I. The case for SARAL	6
II. The SARAL Principles	11
Simple drafting	12
Measures for Simple Drafting	20
Accessible drafting.....	21
Measures for Accessible Drafting	30
Rational drafting.....	31
Measures for Rational Drafting	39
Actionable drafting.....	40
Measures for Actionable Drafting	47
III. The SARAL Checklist	48
Implementing SARAL	49
IV. Redrafting The Right of Children to Free and Compulsory Education Act, 2009	50
Conclusion and way forward	67

I. The case for SARAL

The problem with legislative drafting

Laws are written in a peculiar language, often filled with jargon, archaic terminology, and convoluted grammar – a language that has come to be known as ‘legalese’.¹ The law regulates nearly every aspect of personal and societal existence. This makes it crucial that laws are easy to understand and act upon – not just for lawyers, but also for individuals, businesses, and society at large. This is not just a question of convenience. The ability of all who are affected by a law to be able to ascertain its meaning and effect is a core tenet of the rule of law.² The broad concept of ‘access to justice’ has been identified as a fundamental right by the Supreme Court of India and is guaranteed to all citizens under Article 14 and Article 21 of the Constitution of India.³ Two relevant components of this concept, from the lens of the plain language movement, are legal awareness and literacy. For any citizen who wishes to act on a law; let it be housed in legislation, a rule, a regulation, a contract, a legal notice or even a parking ticket; the first essential is for them to understand their rights and obligations and the ways to claim them. Despite this, inaccessible legalese continues to dominate all forms of legal documents – from statutes, rules, regulations, and executive orders to private instruments like consumer contracts and commercial agreements.

While recognition of the need to draft simple and accessible legal documents has gained momentum over the last few decades, there exists a multitude of factors deterring drafters and practicing lawyers from adopting this language. These factors are present across the board in different jurisdictions, though some distinctions in drafting approaches and interpretive cultures exist in legal systems depending on their origin being in civil law, common law, or other legal systems. Despite the differences in socio-legal cultures, governance structures and history across different periods of time, legal writing has retained its formalistic nature everywhere.⁴

Given that formalistic legal writing has persisted for centuries, lawyers feel the need to conform to these conventions of writing. The resistance to reformative drafting practices, especially in countries with a colonial past, may be attributable to the use of boilerplate clauses drawn from laws in the United Kingdom; which were in turn riddled with French and Latin terms, to preserve the meaning and nature of the law that they were borrowing from; which in many instances was Roman Law. Replication of tried and tested clauses was also preferred by drafters to avoid litigation that may stem from a bill.⁵ They continued to follow traditional drafting practices such as making each clause only one sentence long, no matter the complexity of the subject matter, to save time and conflict that may arise in changing these practices.

Judicial pronouncements, which serve as an important reference point for lawyers, reinforce the same drafting style. For instance, a judgement of the Himachal Pradesh High Court was called into question by the Supreme Court for being incomprehensible.⁶ It was noted that such judgements are a disservice to the cause of ensuring accessible and understandable justice. The lack of readability of judgements prevents litigants from understanding the fate of their cases and sets a poor precedent for lower courts that are bound by them. The causes for the existence of legalese are many, some of which are detailed further in this manual. However, there is an emerging consensus that a shift away from legalese is essential to make the law accessible, certain, and comprehensible.⁷ Several jurisdictions have undertaken initiatives to develop a plain language approach to

¹ Peter Butt, ‘Legalese versus plain language’, *Amicus Curie* 35, 28 (2001)

² Tom Bingham, *The Rule of Law*, 10 (2010)

³ *Anita Khushwaha v. Pushap Sadhan*, 2016 8 SCC 509.

⁴ Christopher Williams, ‘Changing with the times: The evolution of plain language in the legal sphere’, *Alicante Journal of English Studies* 28 (2015)

⁵ Peter Butt & Richard Castle, *Modern Legal Drafting: A Guide to Using Clearer Language*, Cambridge University Press, (2001)

⁶ DH Web Desk, ‘Had to use Tiger Balm after reading it, says Supreme Court Justice MR Shah on complicated HC judgement’, *The Deccan Herald*, (March 12, 2021)

⁷ Christopher Williams, ‘Changing with the times: The evolution of plain language in the legal sphere’, *Alicante Journal of English Studies* 28, (2015)

legislative drafting – collectively referred to as the ‘Plain Language Movement’ (“**PLM**”). A study of these initiatives demonstrates the importance of developing a guide for legislative drafters – who play the role of fixing the intent and policy objectives of the legislature into the final form for communicating the law.⁸

The Plain Language Movement

While there are several definitions of plain language, Joseph Kimble has described it as: “*Plain language has to do with clear and effective communication – nothing more or less*”.⁹ At its core, plain language combines content and format to create documents that can be understood by anybody.¹⁰ Plain language is intended to be precise and direct, in comparison to traditional legal drafting, with a particular emphasis on using grammar, sentence construction and structure to enable the average person to navigate a legal document effectively. The existence of legalese, and the consequent inaccessibility of the law, were highlighted as urgent problems in several jurisdictions in the 1970s.¹¹ There was an emerging consensus that the law must be written in a manner that the ordinary person can understand it. This movement, which initially emerged in the context of consumer contracts, has grown to become a foundational pillar of contemporary legislative drafting across jurisdictions.

Evolution of the Plain Language Movement

- **United States**

The beginning of the plain English movement in the United States can be traced back to 1975 when the Citi Bank of New York introduced a plain language promissory note. Consequently, the country’s first plain language law came into being, requiring contracts of \$50,000 or less, “primarily for personal, family or household purposes” to be written in a clear and coherent manner using words with common and everyday meanings, and to be appropriately divided and arranged into sections.¹² In 1978, Executive Orders were issued by President Jimmy Carter to make government regulations “cost-effective and easy-to-understand by those who were required to comply with them”, which were however rescinded later in the 1980s. President Clinton, in 1998, signed a Memorandum on Plain Language in Government Writing. In the early 2000s, the Securities and Exchange Commission of the United States developed a Plain English Handbook. In 2010, the Plain Language Act was enacted with the purpose of improving accountability and effectiveness of federal agencies to the public by promoting clear government communication which the public can understand and use.

- **United Kingdom**

The United Kingdom set up the Tax Law Rewrite Project in 1996 as an attempt to redraft the entire tax legislation of the United Kingdom in a more consistent and understandable manner. While the entire project took over 14 years, it is claimed to have had a ‘domino effect’ on legislative drafting in the United Kingdom. The drafting techniques employed in this project have made their way to the drafting manuals of the Office of Parliamentary Counsel in the UK and are an integral part of legislative drafting in the United Kingdom.¹³

- **Australia**

Australia and New Zealand have made significant gains in the direction of adopting plain language legislative drafting.¹⁴ In Australia, major law firms are committed to plain language and have evolved their practice to incorporate plain language in accordance with clients’ needs, even providing plain drafting services. Even parliamentary drafters in most jurisdictions in Australia actively adopt a plain language approach, starting with the New South Wales Local Government Act 1993.¹⁵ The Queensland Workplace Relations Act 1997 requires

⁸ David C. Elliott, ‘Model Plain-Language Act’ *Scribes Journal of Legal Writing*, 3 (1992)

⁹ Joseph Kimble, ‘Answering the critics of plain language’, *The Scribes Journal of Legal Writing*, 51 (1994)

¹⁰ Augustin Mico, ‘Drafting and plain language’, *Commonwealth Law Bulletin*, 39 (2013)

¹¹ Christopher Williams, ‘Changing with the times: The evolution of plain language in the legal sphere’, *Alicante Journal of English Studies* 28, (2015)

¹² Carl Felsenfeld, ‘Plain English Movement in the United States’, *Canadian Business Law Journal*, 6 (1981)

¹³ Augustin Mico, ‘Drafting and plain language’, *Commonwealth Law Bulletin*, 39 (2013)

¹⁴ Augustin Mico, ‘Drafting and plain language’, *Commonwealth Law Bulletin* 39 (2013)

¹⁵ Local Government Act, 1993

written decisions of the Queensland Industrial Relations Commission to be “in plain English” and “structured in a way that makes a decision as easy to understand as the subject matter allows”.¹⁶

- **India**

The Drafting of Law in Plain Language Bill was proposed in the Lok Sabha in 2018 with an objective to mandate drafting of Government Bills and Acts in plain, clear, and concise language.¹⁷ Under the Bill, plain language has been defined as language which is easy to read and comprehend by laypersons and experts alike. The Bill calls for clarity and simplicity in legal drafting through the avoidance of Latin legal maxims, foreign vocabulary, and other archaic jargon when simple English alternatives are available.

In 2020, the then Chief Justice of the Supreme Court, Justice Sharad A. Bobde issued a notice to the government based on a petition which called for plain English drafting of laws, government orders and notifications to make the same more digestible for the public. With an object of furthering access to justice, the Supreme Court has also taken the initiative of using AI tools to translate judicial documents into 9 vernacular languages so that non-English speaking litigants have greater clarity on the proceedings of their cases.

Till date, no formal document in India mandates plain language drafting of legal documents.

Existing Plain Language Drafting Instruments

A brief outline of plain language drafting approaches which have been adopted in some jurisdictions is provided in the table below:

Country	Instrument	Description
United States of America	Plain Writing Act, 2010 and Federal Plain Language Guidelines	The Plain Writing Act in the United States establishes a formal structure of administrative processes for facilitation of plain language drafting in the country. ¹⁸ The Plain Writing Act lays down a framework to ensure that the Federal Agencies take significant and effective steps in the direction of writing plainly. ¹⁹ What ‘plain writing’ entails is outlined in the Federal Plain Language Guidelines under the Act. These guidelines are intended to help agencies draft in a manner that helps their users: (i) find what they need, (ii) understand what they find, and (iii) use what they find to meet their needs. ²⁰
Australia	Office of Parliamentary Counsel Drafting Manual	The Office of Parliamentary Counsel Drafting Manual in Australia is also primarily set in the form of directions for drafting. ²¹ The Australian Office of Parliamentary Counsel also has a Manual dedicated to ‘Reducing Complexity in Legislation’ which is written in the form of a paper that discusses the causes of complex legislation and the ways in which instructors and drafters can avoid or reduce complexity. These manuals suggest indicative points applicable to different aspects of legislative drafting. They cover technical aspects of drafting but do not delve into conceptual elements especially in respect of plain drafting.
Hong Kong	Law Drafting Division Legislative Drafting Guide	The Law Drafting Division of the Department of Justice has developed a legislative drafting guide for Hong Kong which elaborates on styles and techniques that reflect the practices currently employed by the Law Drafting Division for legislative drafting. ²²
European Union	Inter-institutional agreement on common guidelines for the quality of drafting of community legislation	The European Union Agreement lays down general principles to be followed for drafting and contains guidelines specific to different parts of legislation. ²³ The general principles contained in clauses 1-6 of the Agreement help the Party States in adhering to the directions contained in the later part of the agreement.

¹⁶ Workplace Relations Act, 1997, s. 348

¹⁷ The Drafting of Law in Plain Language Bill, 2018, Bill No. 236 of 2018, as introduced in the Lok Sabha.

¹⁸ Public Law 111-274, Plain Writing Act of 2010 (United States of America)

¹⁹ Public Law 111-274, Plain Writing Act of 2010 (United States of America), s 4(b) and s 5

²⁰ Federal Plain Language Guidelines 2011, Introduction (United States of America)

²¹ Office of Parliamentary Counsel Drafting Manual 2019 (Australia)

²² Drafting Legislation in Hong Kong: A Guide to Styles and Practices 2012 (Hong Kong)

²³ Interinstitutional Agreement of 22 December 1998 on common guidelines for the quality of drafting of Community Legislation (European Union)

Germany	Manual for drafting legislation	The manual is geared towards practical application; however, it clarifies that the process of drafting is at times invariably linked to fundamental legal issues, including the legislative process. ²⁴ The manual then expands on some of the legislative issues to define the scope of the manual. It lays down considerations for pre-legislative drafting scrutiny that a drafter must undertake.
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Shortcomings of existing plain drafting guidelines and manuals

Drafting manuals across the world are structured in a way that provides actionable pointers that, if acted on, will enable a drafter to draft laws in a more accessible and plain manner. The Manuals point out common errors that add complexity to a piece of legal drafting and alternate measures to fix them.

While these actionable pointers are highly welcome and enhance clarity on the concept of plain writing, they suffer from two crucial lacunae:

- A formulation focusing on actionable pointers may sometimes lead to losing sight of the purposes of the activity and the underlying principle being addressed through the said actionable pointer. Consequently, while several jurisdictions have developed drafting manuals, these are often a series of prescriptions about legislative style. A more comprehensive analysis of the principles underlying the prescriptions is often missing from such manuals.
- These actionable pointers primarily address complexity in the language of drafting, while legislative drafting may benefit from a comprehensive overhaul. This must be an exercise that engages with the process of legislative drafting, not just in relation to the form of the law, but also its substance. Laws, when written simply, must also be implementable and effective. This requires engagement with limited, narrow aspects of the substance of laws, such as the need to provide certainty by guiding subjective discretion or establishing clear timelines for procedures. This form of engagement is lacking in existing plain language approaches.

It is not possible for any drafting manual to address every apparent scenario of complexity in a legal document and therefore, these actionable pointers fall short in generating a plain understandable document that helps each member of its target audience. Thus, there is a need for the formulation of a set of overarching principles that a drafter can refer to when actionable pointers suffer from omission or oversight.

There continue to be several criticisms of plain language drafting. For instance, amongst the most common arguments levied at plain language drafting is that it takes away from the precision of the law.²⁵ Similarly, it is often alleged that the inherent complexity of the law, and of the subjects regulated by the law, requires a drafting approach which can accommodate complexity.²⁶ These critiques have been engaged with by proponents of plain language drafting, who point out that plain language has the potential to be equally, if not more precise, than traditional legal language, and a lack of precision under a plain language approach cannot hide behind the jargon that pervades traditional legal language.

Further, even if the criticisms are legitimate, the imperative of writing the law in a way that the ordinary person can understand has a deeper, democratic significance. The project of plain language is not just a movement of aesthetics, but in fact, a movement to democratize the institution of the law. This can only happen when the law is written for the people, in a language that they understand.

In India, recent Bills such as the Digital Data Protection Bill, 2022, introduced in the Parliament showcase a move towards simpler legislative drafting. However, the provisions of the Digital Data Protection Bill have been criticized for being imprecise and vague.²⁷ While these attempts and statements are laudable as first steps in the direction of plain drafting, there is a need for formal holistic guidelines on which legal drafting exercises may be based. In the absence of such guidelines, unguided efforts at plain and accessible drafting result in creating more ambiguities in the drafting and implementation of laws.

²⁴ Manual for Drafting Legislation 2008 (Germany)

²⁵ Joseph Kimble, 'A Curious Criticism of Plain Language', *Legal Communication & Rhetoric: JALWD*, 13 (2016)

²⁶ Joshua D. Blank & Leigh Ososky, 'Simplexity: Plain Language and the Tax Law', *EMORY Law Journal*, 66 (2017)

²⁷ Sukanya Shantha, 'Vague Wording, Unguided Powers': Experts on New Draft Digital Data Protection Bill', *The Wire*, (19 November 2022) <<https://thewire.in/tech/experts-comment-on-new-data-protection-bill>> accessed on 27 February 2023

Need for the SARAL Manual

Legislative drafting suffers from an institutional and historical tradition of inaccessible drafting. In countries like India, this tradition emerged not only from the law being a largely elite profession, but also from the colonial model of governance that did not place any emphasis on ensuring that the law is accessible to the common man.²⁸ This form of drafting entrenches the idea that interaction with the law must be mediated through the elite professional class of lawyers. In India, despite 75 years of independence, laws continue to be drafted in the same manner as they were in the colonial legal system. In doing so, they continue to alienate the common person from meaningfully interacting and engaging with the law and legal institutions.

The role of the legislative drafter in India must be reconceptualized. Drafters must look beyond the technical and conventional practices that define contemporary legal drafting and adopt the broader responsibility of effectively communicating the law. This approach must be guided by a principled set of guidelines. The issue of accessibility of law in India is complicated further by the fact that most people who access the judicial system have received a basic education and do not receive any training to navigate legal jargon. Additionally, although legislations drafted in English are translated to the local languages, the supporting literature for the use and practice of laws often remains limited to English, which is not the primary language for most of the population. Owing to this context, the plain language movement has gained sufficient momentum over the last few years.

In response to the issue of legalese, in 2016, Nyaaya, under the aegis of the Vidhi Centre for Legal Policy (“**Vidhi**”), started cataloguing central and state laws which closely affected the rights of the citizens and translating the important laws from complex legal language to simple layman’s language. As an open access digital resource, Nyaaya continues to provide simple, actionable, reliable, and accessible legal information in multiple formats, thereby empowering citizens and enabling greater access to justice. In 2017, Vidhi published a report titled ‘**Manual on Plain Language Drafting**’ to address the issue of the continued use of archaic practices. The Manual published in 2017 provides the basis for a new framework for evaluating common Indian drafting practices. Using this framework, it suggested guidelines for both structuring a Bill and for the kind of language that is to be used.

Vidhi’s plain language drafting initiative, which seeks to make Simple, Accessible, Rational, Actionable Legal Documents (“**SARAL**”) is one more step in this direction. The prime objective of the SARAL initiative is to ensure better clarity and precision in the drafting of legal documents in India, as a bridge between citizens and the documents that govern them. It is envisaged that when legal documents are drafted in plain English, they will become more accessible to citizens, better acquaint them with their rights and obligations, as well as ease their journey for access to justice. The SARAL Manual builds on the Vidhi Plain Language Drafting Manual released in 2017. This manual seeks to elaborate on the principles of SARAL and what they entail in terms of legal drafting. The Manual suggests guidelines for drafting Simple, Accessible, Rational, Actionable laws. The principles may also be utilized as an instrument agnostic guideline to reform the nature of other legal documents in the future.

It is envisaged that the application of these principles will encourage a shift in drafting laws without legalese and encourage the adoption of relatively simpler drafting conventions. We ultimately hope that these drafting conventions make laws easily accessible, comprehensible, and readable for both members of the legal fraternity and laypersons alike.

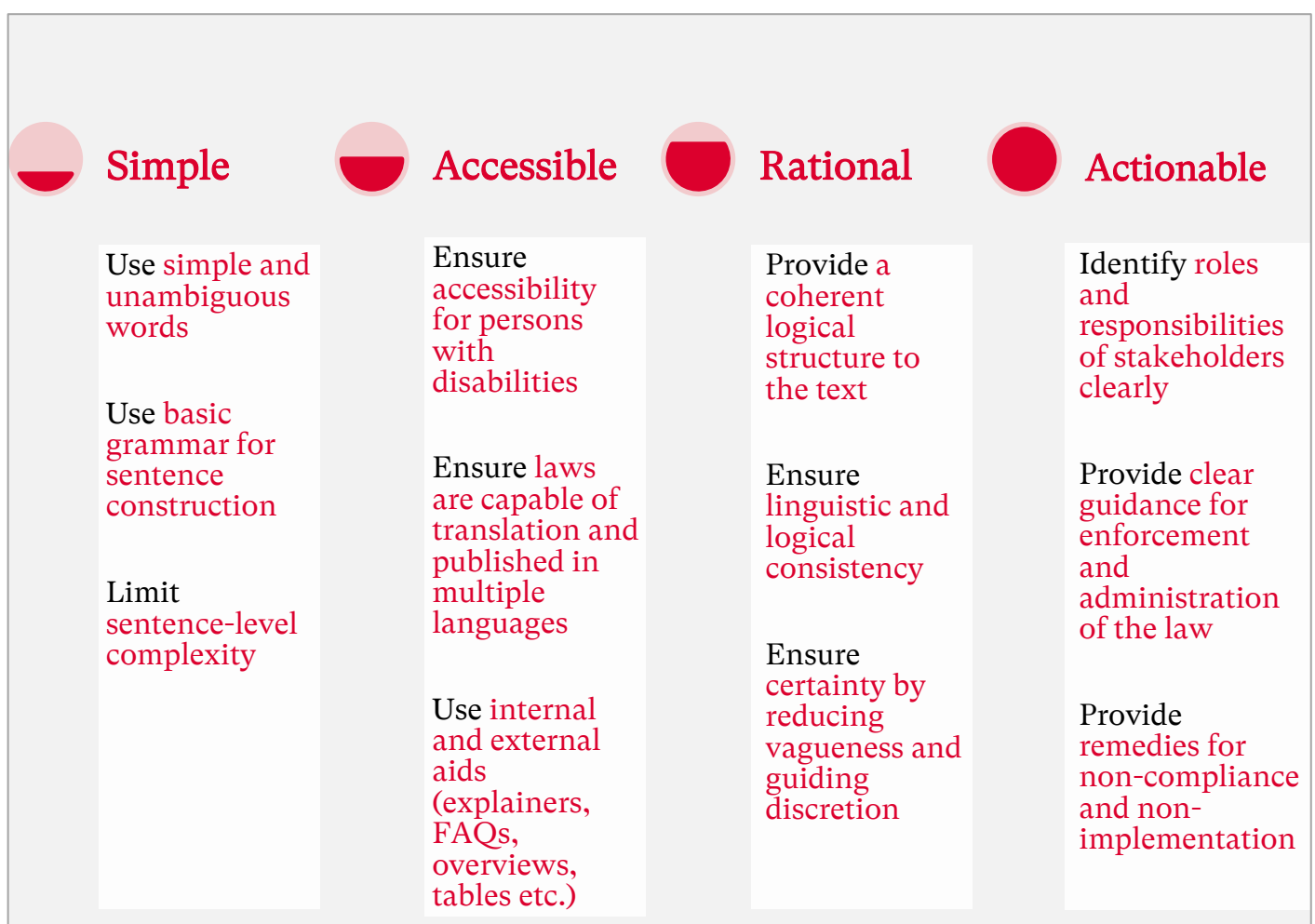
²⁸ Arghya Sengupta, ‘Write laws for Bharat’, Times of India, (January 7, 2022)

II. The SARAL Principles

SARAL is a system of principles which are intended to provide guidance to legislative drafters to develop legal documents which are simple, accessible, rational, and actionable. These four values form the basis of a set of more specific guidelines which can assist decision making for drafters.

The application of SARAL principles is envisaged through the use of the SARAL Checklist, which is explained later in this manual. This checklist is drawn from plain language guidelines adopted in various jurisdictions and has been reformulated in the specific legal context of Indian law.

This part of the manual goes on to outline, for every value, a set of core principles and measures. Core principles represent broader guidance for drafters and identify issues at a conceptual level; the measures for every value constitute the SARAL checklist, as a more practical tool. The diagram below outlines the four values and the core principles of each value.



The following sections explain each of the values, principles, and measures, along with specific illustrations using provisions from various Indian laws.

Simple drafting

Simple drafting is drafting which:

- Uses simple and unambiguous words
- Uses basic grammar
- Limits sentence-level complexity

1. Use simple and unambiguous words.

- **Limiting foreign language maxims and archaic legal jargon**

Words and phrases that are archaic and not in use anymore, are either completely avoidable or replaceable with a modern alternative. Similarly, legal jargon which includes foreign words and Latin phrases are not understandable without training in either the foreign language or the field of law. These phrases can be replaced with their simpler modern English counterparts. Vague words and phrases such as, 'as soon as possible', 'proper', 'as it may deem fit' must be supported with qualifiers to lend a concrete idea to the provision.

Some commonly used foreign words and phrases and their replacements are highlighted below:

Foreign maxim	Simple language
Inter se	Between themselves
Inter alia	Amongst other things
Bona fide	In good faith
Mala fide	In bad faith
Inter vivos	Between living persons
Mutatis Mutandis	Apply with necessary modifications
Ab initio	From the beginning
De facto	In fact
Ipsa facto	By the mere fact

- **Limiting the use of words with inconsistent meanings**

The word "shall" is used liberally in Indian legal writing, while depending on the context its meaning can refer to will, must, may, should or is entitled to.²⁹ This creates interpretational difficulties and causes immense confusion when shall is used repeatedly in a document with a different meaning in each context.³⁰

²⁹ Jyoti Sagar, 'Shall Shocked' (*BW Legal World*, 4 June 2021) < <http://bwlegalworld.businessworld.in/article/-Shall-Shocked/04-06-2021-391933/> accessed 21 February 2023

³⁰ Jyoti Sagar, 'Shall Shocked' (*BW Legal World*, 4 June 2021) < <http://bwlegalworld.businessworld.in/article/-Shall-Shocked/04-06-2021-391933/> accessed 21 February 2023

Illustration 1: Section 3 of the Street Vendors Act, 2014:

Commonly drafted provision	SARAL drafting
<p>“3. Survey of street vendors and protection from eviction or relocation. –</p> <p>(1) The Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years.</p> <p>(2) The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm conforming to two and half per cent. of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones.</p> <p>(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors.”</p>	<p>3. Survey of street vendors and protection from eviction or relocation. –</p> <p>(1) The Town Vending Committee must conduct a survey of all existing street vendors as specified in the scheme within the area under its jurisdiction.</p> <p>(2) A subsequent survey should be carried out at least once in every five years.</p> <p>(3) The Town Vending Committee must ensure that all existing street vendors identified in the survey, are accommodated in the vending zones.</p> <p>(4) The accommodation under section 3(3) will be subject to the limit of two and half per cent of the population of the ward or zone or town or city, determined in accordance with the plan for street vending and the holding capacity of the vending zones.</p> <p>(5) No street vendor will be evicted or relocated till the survey specified under section 3(1) has been completed and the certificate of vending is issued to all street vendors.”</p>
<p>Explanation:</p> <ol style="list-style-type: none"> 1. The first ‘shall’ can be replaced with ‘must’. 2. The second ‘shall’ can be replaced with ‘should’. 3. The third ‘shall’ can be replaced with ‘must’. 4. The fourth ‘shall’ can be replaced with ‘will’. <p>In a single provision there are three different meanings of the word ‘shall’ out of the four times the word is used. The mandatory, discretionary, or declaratory nature of the provision is not clear due to these multiple meanings.</p>	

Thus, it is time to retire the modal verb and use clearer alternatives to directly indicate the effect that is intended. It may therefore be worthwhile to replace the word ‘shall’ as under:

Commonly used phrase	Replacement	Purpose
Shall	Must	For mandatory provisions, is required to
	Must not	For prohibitory provisions, is required not to
	May	For discretionary provisions, has discretion to
	May not	For disallowance provisions, does not have permission to
	Will	For operation of law, or futurity and obligations

	Should	For directory provisions, denoting a preference
Shall be/ Shall have	Is / Are / Have / Has	For declaratory provisions

- **Avoid Shotgunning**

Shotgunning refers to the practice of using multiple words that refer to the same meaning. Lawyers, in an attempt at precision, often use a flurry of words such that one of the words would hit the target and cover every eventuality intended.³¹ A simple technique suggested to avoid shotgunning, is to scourge your mind for one word that may replace all the words being used.³² Where the use of a single word might result in ambiguity, one serviceable term may be used and then defined.³³

Illustration 2: S. 11(1)(a) of the Prevention of Cruelty to Animals Act, 1960

Existing provision	SARAL drafting
11. Treating animals cruelly.— (1) If any person— (a) beats, kicks, over-rides, over-drives, over-loads, tortures or otherwise treats any animal so as to subject it to unnecessary pain or suffering or causes or, being the owner permits, any animal to be so treated;	“(1) If any person— (a) abuses any animal or causes or, being the owner permits, any animal to be so abused.” For the purposes of this clause, “abuse” means to beat, kick, over-ride, over-drive, over-load, torture or otherwise treat any animal so as to subject it to unnecessary pain or suffering.
Explanation: The use of multiple words is addressed through the use of a definition, which encapsulates the different verbs being used in the main provision. This reduces the length of the main provision and enhances comprehensibility.	

- **Avoid using hidden form of verbs**

Converting verbs into nouns (nominalization) has the effect of taking the focus away from the verb and increasing the length of the sentence. The verb, when converted into a noun needs another verb to support it and to make sense of the sentence. Hidden verbs must be uncovered and replaced by their original verb form.

Illustration 3: S. 6(2) of the Right to Information Act, 2005

Existing provision	SARAL drafting
(2) An applicant making request for information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.	(2) An applicant requesting information shall not be required to give any reason for requesting the information or any other personal details except those that may be necessary for contacting him.

³¹ Robert Wydick, *Plain English for Lawyers*, (5th edition, 2005) p. 61-62

³² Robert Wydick, *Plain English for Lawyers*, (5th edition, 2005) p. 61-62

³³ Robert Wydick, *Plain English for Lawyers*, (5th edition, 2005) p. 61-62

Explanation:

- The use of the hidden verb in the original provision results in the use of superfluous language in the provision. This is remedied in the plain drafting version.

- **Choosing simple substitutes for complicated phrases**

The use of legalese has resulted in certain phrases becoming a part of the drafting lexicon, even where simpler alternatives exist. These complicated phrases have in some cases, over time, acquired the character of ‘terms of art’ which are commonly relied upon during legal drafting. However, the use of these phrases not just reduces the clarity of the language used in laws, but also leads to more convoluted sentence structure. Drafters should look for simple substitutes for these phrases, where available.

The below table, for instance, lists some commonly used complicated phrases and their simple substitutes:

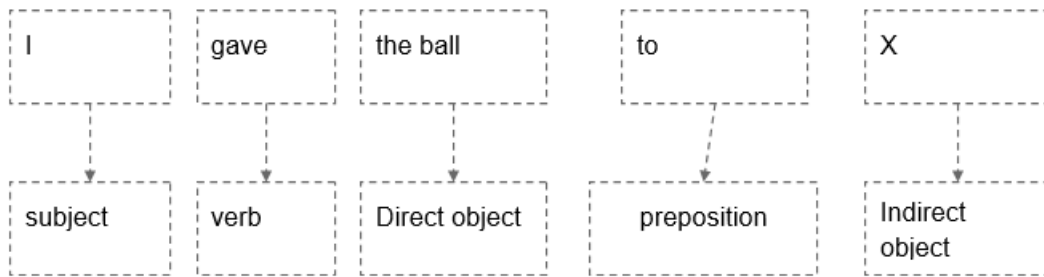
Complex phrase	Simple substitute
For the purpose of	For
Having experience in dealing with	Experienced in
As per the provisions of	As per
In the event that	If
In the manner contemplated in	According to
Is other than	Is not
Arising out of	From
After the expiry of a period of	After
The party shall not be permitted to rely on	The party cannot rely on

2. Use **basic grammar for sentence construction.**

- **Following central principles of sentence construction in English Grammar**

English Grammar categorizes sentences into four categories: simple sentences, compound sentences, complex sentences, and complex coordinate sentences. Each of these types follows the basic structure of **Subject**→**Verb**→**Object**. This structure may vary in different languages such as Hindi. A simple sentence is composed of a subject and a verb and an object or modifier and in most cases, one independent clause (a complete sentence in itself).

A compound sentence contains at least two independent clauses connected by a comma, a conjunction (and, because etc.) or a semicolon. A complex sentence contains one independent clause and one or more dependent clauses (clauses that are not complete sentences within themselves). Complex compound sentences contain two or more independent clauses and one or more dependent clauses. An object can be direct or indirect. A direct object is the entity that directly receives the action or effect of the verb and answers the question, ‘what’ or ‘whom’. An indirect object accompanies the direct object and answers the questions ‘to what’, ‘to whom’, ‘for whom’, ‘for what’, ‘of what’, ‘of whom’. For e.g., the sentence ‘I gave the ball to X’ can be represented as:



Legalese tends to ignore these basic sentence construction principles, in an attempt to address various eventualities that may be affected by the provision being drafted. This ends up making the language convoluted and difficult to read. An attempt at simple drafting would try to stick to these basic principles of sentence structure in English grammar.

Commonly drafted provision	SARAL Drafting:
A claim, which in the case of negligent misconduct shall not exceed Rs. 500, and in the case of intentional misconduct shall not exceed Rs. 1000, may be filed with the Office of the Administrator by any injured party.	(1) Any injured party may file a claim with the Office of the Administrator. (2) A claim must not exceed Rs. 500 for negligent misconduct and Rs. 1000 for intentional misconduct.
Explanation: The verbs 'may' and 'filed'; the direct object, 'claim'; the indirect object 'Office of the Administrator'; and the subject 'injured party' are moved close together. Qualifiers are moved to a separate sentence.	

- **Prefer Active Voice over Passive Voice**

A sentence written in active voice focuses on the actor and action while a sentence written in passive voice focuses on the object that receives the action. For instance, the sentence "The ball is thrown by X" can be constructed as "X throws the ball".

In the above example, the attention of the reader is immediately brought to the actor i.e., X. This brings clarity with respect to who the action may be attributed to and makes the sentence smaller at the same time. The identity of the actor may be hidden in passive voice. In the above example, a shortened form of the sentence in passive voice (also known as truncated passive) may be used to further fog the sentence and hide the actor completely by saying, "the ball was kicked."

Illustration 4: S. 39(2) of the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015

Existing provision	SARAL drafting
It shall be lawful for the Assessing Officer, or the Government, to have recourse to any such law or suit, notwithstanding that the tax arrears are being recovered from the assessee by any mode specified in this Chapter.	The Assessing Officer, or the Government, may have recourse to any such law or suit, even if the tax arrears are being recovered from the assessee by a mode specified in this Chapter.
Explanation: The use of active voice has the effect of highlighting the relevant actors in this clause, as well as enhancing comprehensibility.	

However, in certain circumstances it is preferable to use the passive voice, especially when the actor is ‘the law’ or is immaterial. For instance, in the clause “If you do not pay the royalty on your mineral production, the lease will be terminated”, the actor is immaterial. In this example, the lease is being terminated by operation of law, presumably through contract. Therefore, it may be suitable to retain the passive voice for such a clause. However, the drafter must carefully consider the requirements of every clause, and as a matter of general rule, should prefer the active voice over the passive voice.

- **Careful use of punctuation**

Traditional common law legal drafting has been wary of the liberal use of punctuation, due to its limited use in interpretation.³⁴ The lack of punctuation, as a result, a lot of times, creates confusion, and creates the risk of changing the meaning of a sentence and consequently, a provision. The case of the Irish nationalist, Sir Robert Casement, who was famously “hanged on a comma” is an illustration on the importance of punctuation in drafting.³⁵ In Indian law, punctuation has been often taken into consideration by courts while interpreting a legislation.³⁶ Even outside of the courtroom, placement of punctuation makes it easier for non-lawyer readers to understand the intention of the law. A simply drafted document should not leave the reader guessing the meaning or re-reading the document multiple times. Therefore, it becomes imperative that punctuation is chosen (or not chosen) and introduced carefully to convey the meaning intended by the drafter of a provision and how the sentence is expected to be read.

Some common punctuation marks and usage guidelines are provided below with examples. The guidelines mentioned below are identified based on similar principles/guidelines identified in *The Elements of Legal Style* by Bryan Garner:³⁷

Guidelines	Examples
	Commas
Use the serial comma (used in a series): in a list of more than two, the serial comma separates items, including the last from the next to the last.	<ul style="list-style-type: none"> • The plaintiffs, the defendants, and their counsels. • The judicial bench asked for separate reports on the collection of evidence, examination of witnesses, and production and evaluation of documents.
Supplement a dependent introductory phrase and separate it with a comma.	<ul style="list-style-type: none"> • In accepting insurance claims, the agency must satisfy itself of submission of adequate documentation. • During most of the late 1970s, the Corporate Section was the DGA's third largest.
Separate modifiers that modify the same noun with a comma, unless the modifiers modify the noun in different ways, or one modifier modifies the other.	<ul style="list-style-type: none"> • an ambitious, entrepreneurial woman • an Indian legal theorist
In compound sentences, use comma before second clause.	<ul style="list-style-type: none"> • India is a common-law country, and its judges are common-law judges. • The judge dismissed the application for injunction, but she allowed an appeal.
Avoid using comma to combine two sentences into one. Either separate them with a period or a semi-colon	<ul style="list-style-type: none"> • The rule fastens liability on the employer where the injury is sustained in the course of employment; otherwise, there is no liability.

³⁴ Urban A. Lavery, ‘Language of the Law’ *American Bar Association Journal* (1922) 8 (5): 269-74 <<https://www.jstor.org/stable/25710870>> accessed 21 February 2023

³⁵ The Guardian, ‘The man hanged because of a comma’ (*The Guardian*, 27 June 2019) <<https://www.theguardian.com/education/2019/jun/27/the-man-hanged-because-of-a-comma>> accessed 21 February 2023

³⁶ Ravi Kumar Sharma vs Union of India, 2019 SCC OnLine All 3631

³⁷ Bryan Garner, *The Elements of Legal Style* (2nd edition, 2002) p. 15-23

Apostrophe	
Use apostrophe to refer to possessives	<ul style="list-style-type: none"> • Ram's property • Bank's claim
Use apostrophes to make contractions where possible.	<ul style="list-style-type: none"> • Do not → don't • cannot → can't • will not → won't
Semi-colon	
Use semi-colon to separate parts of a sentence calling for a stronger break than a comma.	<ul style="list-style-type: none"> • The Industrial Revolution had not been merely a transition to new manufacturing processes; but it also ushered an era of great growth in technology.
Semi-colon is also used to separate items introduced after a colon.	<ul style="list-style-type: none"> • The certificate of vending shall be issued under any of the following categories, namely: (a) a stationary vendor; (b) a mobile vendor; or (c) any other category as may be specified in the scheme.
Miscellaneous	
Set-off incidental comments with paired marks of punctuation (parentheses, commas, semi-colons, or dashes)	<ul style="list-style-type: none"> • When interpolating incidental thoughts (a mannerism to keep in check), you have a choice. • When interpolating incidental thoughts, a mannerism to keep in check, you have a choice. • When interpolating incidental thoughts -- a mannerism to keep in check -- you have a choice.

3. Limit sentence-level complexity

- **Construction of short sentences**

The primary aim of simplifying language is to cater to the needs of the reader and make it clear and understandable. Unnecessarily long sentences put major barriers to the understandability of a sentence and consequently a provision and a legal document. These sentences contain ideas that the reader can only fully understand upon reaching the end of the sentence and not as they are reading the sentence,³⁸ sometimes even making re-reads necessary.

However, shorter sentences must not always be relied on as a metric for simplicity. In some cases, shortening a sentence may introduce ambiguity into the sentence and compromise clarity. Preference must be given to clarity, even if this may result in long sentences.³⁹ It is essential, therefore, to keep in mind that while sentences and provisions need to be short, they also need to be accessible, rational, and actionable and all the principles of SARAL drafting are catered to.

Illustration 5: S. 23 (4) of the Regional Centre of Biotechnology Act, 2016:

Commonly drafted provision	SARAL Drafting:
The Executive Director may, if he is of the opinion that immediate action is necessary on any matter, exercise any power conferred on any authority of the Regional Centre by	(1) The Executive Director may exercise any power conferred on any authority of the Regional Centre under this Act, if the Executive Director believes that

³⁸ Augustin Mico, 'Drafting and Plain Language' (2013) 39(3) Commonwealth Bulletin Law https://journals.scholarsportal.info/details/03050718/v39i0003/435_dapl.xml accessed 21 February 2023

³⁹ Augustin Mico, 'Drafting and Plain Language' (2013) 39(3) Commonwealth Bulletin Law https://journals.scholarsportal.info/details/03050718/v39i0003/435_dapl.xml accessed 21 February 2023

<p>or under this Act and shall report to such authority at its next meeting the action taken by him on such matter.</p>	<p>immediate action is necessary on any Matter.</p> <p>(2) The Executive Director must report the action taken on the matter to the authority under sub-regulation (1) at its next meeting.</p>
<p>Explanation: One long sentence has been broken down into two smaller sentences.</p>	

- **One clause, one idea**

One of the most efficient ways to introduce simplicity by way of shorter sentences is to limit each clause or sentence to one central idea. This could include moving exceptions and qualifiers into a separate clause or breaking the sentence down to its constitutive elements and introducing indentation or numbering or paragraphs. This could result in an overall longer provision but relating each sentence to a single central idea, makes it easier for the reader to absorb information in smaller chunks and one by one.

Illustration 6: One clause, one idea in Section 69A of the Information Technology Act, 2000:

Commonly drafted provision	SARAL drafting
<p>69A. Power to issue directions for blocking for public access of any information through any computer resource. -</p> <p>(1) Where the Central Government or any of its officers specially authorised by it in this behalf is satisfied that it is necessary or expedient so to do, in the interest of sovereignty and integrity of India, defence of India, security of the State, friendly relations with foreign States or public order or for preventing incitement to the commission of any cognizable offence relating to above, it may subject to the provisions of sub-section (2), for reasons to be recorded in writing, by order, direct any agency of the Government or intermediary to block for access by the public or cause to be blocked for access by the public any information generated, transmitted, received, stored or hosted in any computer resource</p>	<p>69A. Blocking of information. -</p> <p>(1) The Central Government may direct any of its agencies or an intermediary to block access by the public to any information transmitted, received, stored, or hosted in any computer resource.</p> <p>(2) The direction under sub-section (1) may be issued by the Central Government or any of its officers specially authorized by it in this behalf.</p> <p>(3) The direction under sub-section (1) shall be issued only where the Central Government, or its authorized officer, is satisfied that it is necessary or expedient to block any information in the interests of:</p> <ol style="list-style-type: none"> a. sovereignty and integrity of India; b. defence of India; c. security of the State; d. friendly relations with foreign States; e. public order; or f. preventing incitement to the commission of any cognizable offence relating to the above grounds <p>(4) The direction under sub-section (1) shall be subject to the provisions of sub-section (6)</p> <p>(5) The reasons for the issue of the direction</p>

	under sub-section (1) shall be recorded in writing.
Explanation: The compound clause 69A (1) is split to ensure that one sub-section deals with only one legislative idea. This has the effect of increasing clarity about the powers provided under this provision, without reducing the precision of the provision.	

Measures for Simple Drafting

- Make simple word choices.
- Limit to one legislative idea per clause
- Construct short sentences.
- Avoid shotgunning.
- Use active voice unless the actor is the law.
- Use punctuation carefully.
- Avoid using the noun form of a verb.
- Put main subject and verb in the beginning, without qualifiers, conditions, exceptions.
- Place modifying words close to the word they modify.
- Replace provisos with exceptions or a separate clause.

Accessible drafting

Accessible drafting provides the ability and opportunity to:

- Easily access the texts of laws/legal documents,
- Know and understand the content of these texts; and
- Understand the implication of the law for the user of the law.

The law presumes knowledge of the law on part of every resident of a jurisdiction. This highlights the systematic importance of ensuring accessibility to the law. The prerequisite for knowing one's rights and obligations under the law and acting on them is being able to access and understand the law.

Access to the law has multiple facets. The first is access to the text of the law itself. Not only may regular citizens not know what constitutes the law, but they may also not know how to gain access to the laws applicable to them. Dedicated repositories of laws that can be easily navigated and are frequently updated are thus crucial.

Linguistic and physical barriers further complicate the situation. For instance, the multiplicity of regional languages in India requires an increased focus on proper translation as many statutes are originally drafted in English. Physical barriers such as visual impairment make normal texts inaccessible for a section of the population. These factors need to be accorded due attention while laws, in all their forms and formats, are being drafted and disseminated.

Gaining access to the text is the first step. As the second step, people need to be able to properly understand the text of the law. There are various barriers to this. As earlier sections have explored, both the vocabulary and sentence structure in legal texts may be incomprehensible for regular citizens. Moreover, people are more likely to give ordinary meaning to words as they are unfamiliar with legal vocabulary and interpretation conventions. Simplicity, Rationality and Actionability are thus key features that can make the law accessible in reality. A reader-centric approach to drafting would be the pivot for this.

This section focuses on practices that can be adopted to make the law easily comprehensible for people and can also facilitate people's access to the text of the law.

1. Ensure accessibility for all, including persons with disabilities

Legal instruments should be made available in such forms and formats that they may be accessible without barriers to different groups of people. Legal documents are often not accessible for persons with disabilities, such as the visually impaired. Visual impairment includes blindness, low vision and colour blindness. The aim should be to promote accessibility in websites and public documents keeping in mind the requirements of the visually impaired. The proportion of accessible and usable public documents and websites that meet internationally recognised accessibility standards should be steadily enhanced. For persons with visual impairment, visual data is not accessible. Hence, they require audio-based and sensory solutions. Examples of some such solutions are refreshable braille displays, screen readers, and screen magnifiers.

- **Measures for improving access to law for persons with disabilities**

Laws must be published in machine-readable forms compatible with a wide range of technologies. For this, the drafter must ensure that documents comply with certain standards, such as:

- The form of the document should be compatible with audio-based solutions. This involves features such as:
 - Proper demarcation of headings.
 - Common, plain font with a text size of at least 12 points.
 - Line spacing of at least 1.5 within paragraphs, and paragraph spacing that is at least 1.5 times larger than the line spacing.
 - Text-based alternatives for any non-text content. For instance, a meaningful description should be included for any images in the document.
 - Formatting features such as lowercase letters, high contrast colors, ample white space, and justifying text to the left.

Certain programs, such as Microsoft Word, Excel and PowerPoint have inbuilt accessibility checks that can facilitate this process.

- Any law should be converted into and uploaded in machine-readable formats. This could include various formats such as HTML, PDF, XML and DOCX so that persons can access content in a form well-suited to their requirements. Specific care should be taken to upload machine-readable versions as opposed to scanned copies of a statute.
- Sensory solutions such as making braille versions of different legal texts available should be a priority. Once a law has been drafted, the nodal ministry/department must transcribe it into Braille as a priority. Specific personnel can be designated under relevant departments/ministries to ensure timely implementation of this measure. The Braille versions of the law must be made adequately circulated and made available alongside regular physical copies of laws. For instance, the Parliamentary library and relevant department/ministry offices must have Braille versions of the law.

A collection of similar measures may be compiled into a **style guide for legal documents**, which emphasizes accessibility of the document for persons with disabilities.

- **Uploading laws to accessible, navigable digital repositories**

India Code is a repository of all Central and State laws, including subordinate legislation notified under statutes. It provides easy, one-point access for persons looking for laws relating to a particular area. Once a law has been notified in the Official Gazette, the Legislative Department must upload an authoritative version of the law to the India Code website. For State laws, respective State Legislative Departments must forward authoritative versions of the law to the Central Legislative Department for uploading.

- **Uploading copies of laws on ministry/department websites:**

Dedicated websites for each department/ministry must have easily accessible copies of all relevant statutes, rules, regulations, and circulars. Once a particular law is notified in the Official Gazette, the concerned ministry/department must upload an authoritative version of the law to the department's/ministry's website.

- **Legally mandating availability of the text of law**

Laws have standard clauses mandating notification in the Official Gazette for the law to come into force. Some laws expand this requirement. They mandate that the statute and subordinate legislation under it must be displayed conspicuously in departments relevant to the operation of the law, or that a notification regarding the law's entry into force must be published in commonly used media like a widely circulated newspaper along with the Official Gazette.⁴⁰ A standard clause could be included in all laws mandating notice of publication of law in commonly used media, such as widely circulated newspapers and conspicuous display of the law in relevant departments.

⁴⁰ Rule 3 & Rule 6, Gujarat Agricultural Produce Markets Rules, 1965

2. Use accessibility aids to make the law easily comprehensible

1. Legal explainers/handbooks:

Even though simple drafting measures may be adopted, the substance of the law may remain difficult to understand for ordinary citizens for various reasons. The particular subject matter may be complex, or the law may be too voluminous, or establishing connections between different provisions may be difficult. Legal explainers/handbooks would help break down the law into simple terms for citizens.

Some private bodies have taken steps towards simplifying the law in the above manner. For instance, in 2016, Nyaaya started cataloguing Central and State laws which closely affect the rights of the citizens and translating important laws from complex legal language to simple language.⁴¹ Nyaaya's explainers provide reliable and accessible legal information in multiple formats.

To enhance ease of understanding, information in such explainers can be made more accessible in the following ways:

- Use of flowcharts and graphical elements such as tables to represent information such as multiple levels of governance, grievance redressal mechanisms, and miscellaneous procedures.
- Use of bullet points to delineate things such as various rights and duties, or multiple courses of action.
- Use of illustrations.
- Easily summarised action points.
- Use of a question-and-answer format, as seen in FAQ documents.

Illustration 7: The requirements for a valid legal Hindu marriage

Section 5 of the Hindu Marriage Act, 1955	Legal explainer version ⁴²
<p>Conditions for a Hindu marriage:-</p> <p>A marriage may be solemnized between any two Hindus, if the following conditions are fulfilled, namely:—</p> <p>(i) neither party has a spouse living at the time of the marriage;</p> <p>(ii) at the time of the marriage, neither party—</p> <p>(a) is incapable of giving a valid consent to it in consequence of unsoundness of mind; or</p> <p>(b) though capable of giving a valid consent, has been suffering from mental disorder of such a kind or to such an extent as to be unfit for marriage and the procreation of children; or</p> <p>(c) has been subject to recurrent attacks of insanity; (iii) the bridegroom has completed the age of 2 [twenty-one years] and the bride, the age of 3 [eighteen years] at the time of the marriage;</p> <p>(iv) the parties are not within the degrees of prohibited relationship unless the custom or usage governing each of them permits of a marriage between the two; (v) the parties are not sapindas of each other, unless the custom or usage governing each of them permits of a marriage between the two;</p>	<p>For a marriage to be legally recognized as a Hindu marriage, the following conditions must be met:</p> <ul style="list-style-type: none"> • The couple should be seen as Hindus by law. • The husband is over 21 and the wife is over 18 years of age when the wedding took place. • Both husband and wife are of sound mind. • Neither husband nor wife can be married at the time of marrying each other. • Husband and wife are not in a prohibited relationship. • Husband and wife are not sapindas of one another. <p>If any of these conditions are not met, then the law may not recognize your Hindu marriage as being legal, and in some cases, you might face punishment.</p>
<p>Explanation:</p> <ul style="list-style-type: none"> • Plain language is used to explain the law in a manner that is comprehensible to laypersons. • Clear bullet points are used to structure the information, enhancing its comprehensibility. 	

⁴¹ Aarefa Johari, 'Cutting the jargon: Here's a website that translates Indian laws into simple English' (*Scroll*, 09 November, 2016) <<https://scroll.in/article/820827/cutting-the-jargon-heres-a-website-that-translates-indian-laws-into-simple-english>> accessed 1 December 2022.

⁴² 'Legal Hindu Marriage' (*nyaaya*) <<https://nyaaya.org/legal-explainer/legal-hindu-marriage-2/>> accessed 21 February 2023

For procedural laws, employing the FAQ format may be an optimal way to simplify statutes, rules, and regulations for people. This could help address specific queries that people often have.

Illustration 8: Provision for refund under the Railway Passengers (Cancellation of Ticket and Refund of Fare) Rules, 2015

Original Provision	Legal Explainer Version								
<p>Refund on cancellation of unused reserved tickets.-</p> <p>(1) Subject to the provisions of these rules, if a confirmed ticket is presented by the passenger or his representative to a station master for cancellation, the refund of fare shall be made after deducting cancellation charges from the fare as follows:-</p> <p>(a) if the ticket is presented for cancellation more than forty-eight hours in advance of the scheduled departure of the train, a minimum per passenger cancellation charge shall be deducted at the flat rate of rupees two hundred and forty for air conditioned first class or executive class, rupees two hundred for air conditioned-II tier or first class, rupees one hundred and eighty for air conditioned III-tier or III-economy or air conditioned chair car, rupees one hundred and twenty for sleeper class and rupees sixty for second class;</p> <p>(b) if the ticket is presented for cancellation between forty-eight hours and upto twelve hours before the scheduled departure of the train, the cancellation charge shall be twenty-five per cent. of the fare subject to the minimum of the cancellation charge referred to in clause (a);</p> <p>(c) if the ticket is presented for cancellation within twelve hours before the scheduled departure of the train and upto four hours before the scheduled departure of the train irrespective of distance, the cancellation charge shall be fifty per cent. of the fare subject to the minimum of the cancellation charge referred to in clause (a);</p> <p>(d) the passenger may get the ticket cancelled from any Passenger Reservation System (PRS) counters or designated current counters;</p> <p>(2) No refund shall be granted on the confirmed ticket after four hours before the scheduled departure of the train.</p>	<p>Question: How can I get a refund for a reserved/confirmed ticket?</p> <p>Answer: To get a refund for a reserved/confirmed ticket, you have to cancel your ticket at least 4 hours before the scheduled departure of the train. The full amount will be refunded, after deducting a cancellation charge.</p> <p>This charge will depend on when you cancel your ticket:-</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Time</th> <th style="text-align: center;">Charge</th> </tr> </thead> <tbody> <tr> <td style="vertical-align: top;">More than 48 hours before the scheduled time of departure</td> <td style="vertical-align: top;">i) Rs. 240 per passenger, for air conditioned first class or executive class; ii) Rs. 20 for air conditioned-II tier or first class; iii) Rs. 180 for air conditioned III-tier or III-economy or air-conditioned chair car; iv) Rs. 120 for sleeper class; and v) Rs. 60 for second class.</td> </tr> <tr> <td style="vertical-align: top;">Between 48 hours and 12 hours before the scheduled departure of the train</td> <td style="vertical-align: top;">25% of the ticket fare or the amount mentioned in the first row, whichever is lower.</td> </tr> <tr> <td style="vertical-align: top;">Between 12 hours and 4 hours before the scheduled departure of the train</td> <td style="vertical-align: top;">50% of the ticket fare or the amount mentioned in the first row, whichever is lower.</td> </tr> </tbody> </table>	Time	Charge	More than 48 hours before the scheduled time of departure	i) Rs. 240 per passenger, for air conditioned first class or executive class; ii) Rs. 20 for air conditioned-II tier or first class; iii) Rs. 180 for air conditioned III-tier or III-economy or air-conditioned chair car; iv) Rs. 120 for sleeper class; and v) Rs. 60 for second class.	Between 48 hours and 12 hours before the scheduled departure of the train	25% of the ticket fare or the amount mentioned in the first row, whichever is lower.	Between 12 hours and 4 hours before the scheduled departure of the train	50% of the ticket fare or the amount mentioned in the first row, whichever is lower.
Time	Charge								
More than 48 hours before the scheduled time of departure	i) Rs. 240 per passenger, for air conditioned first class or executive class; ii) Rs. 20 for air conditioned-II tier or first class; iii) Rs. 180 for air conditioned III-tier or III-economy or air-conditioned chair car; iv) Rs. 120 for sleeper class; and v) Rs. 60 for second class.								
Between 48 hours and 12 hours before the scheduled departure of the train	25% of the ticket fare or the amount mentioned in the first row, whichever is lower.								
Between 12 hours and 4 hours before the scheduled departure of the train	50% of the ticket fare or the amount mentioned in the first row, whichever is lower.								
<p>Explanation:</p> <ul style="list-style-type: none"> Plain language is used to make the substance of the rule comprehensible to laypersons. A FAQ format is used to allow readers to identify the relevance of the rule to them. 									

- Clear bullet points are used to structure the information.
- A table is used to provide general structure to the information, enhancing its comprehensibility.

The process for the release of such explainers should be institutionalized. The nodal ministry/department must prepare an explainer for a law once it is drafted. These explainers must be released when the law is notified in the Official Gazette. One way to ensure wide reach could be their publication in commonly used media such as newspapers. Such explainers must also be uploaded to relevant department/ministry websites and made available at relevant places for ready reference. For instance, railway stations and the IRCTC website must provide access to legal explainers for railways related laws, such as the refund rules used in the previous illustration.

2. Use of interpretation aids in the law:

A) Short and precise headings

Headings should be used to convey the substance of each chapter and each section to the reader. The reader should be able to gather a schematic of the law from a perusal of the headings.

Illustration 9: Section 3 of the National Food Security Act, 2013

Existing provision	SARAL Drafting
<p>3. Right to receive foodgrains at subsidised prices by persons belonging to eligible households under Targeted Public Distribution System –</p> <p>(1) Every person belonging to priority households, identified under sub-section (1) of section 10, shall be entitled to receive five kilograms of foodgrains per person per month at subsidised prices specified in Schedule I from the State Government under the Targeted Public Distribution System.</p>	<p>3. Right to receive food grains at subsidised prices -</p> <p>(1) Every person belonging to priority households, identified under section 10(1) is entitled to receive five kilograms of food grains per person per month from the State Government under the Targeted Public Distribution System.</p> <p>(2) The food grains will be at the subsidised prices specified in Schedule I.</p>
<p>Explanation: The original heading reproduces the entire section. The heading has been shortened to specify just the right being recognised in the provision. The eligibility conditions for the right are contained in the provision and need not be included in the heading.</p>	

Further, headings should accurately convey the essence of the provision and should not be misleading.

Illustration 10: Section 21 of the Mines and Minerals (Development and Regulation) Act, 1957

Example of misleading heading
<p>21. Penalties.—</p> <p>(5) Whenever any person raises, without any lawful authority, any mineral from any land, the State Government may recover from such person the mineral so raised, or, where such mineral has already been disposed of, the price thereof, and may also recover from such person, rent, royalty or tax, as the case may be, for the period during which the land was occupied by such person without any lawful authority.</p>
<p>Explanation: While the heading conveys that the section is about penalties, Clause 5 deals with the issue of compensation. This is not reflected in the heading of the provision.</p>

B) Formulas and method statements

Using formulas to express a relation between various quantities is preferable since the use of words has the potential to render the clause lengthy and confusing.

For instance, Section 163-A34 of the Motor Vehicles Act, 1988 provides for the payment of compensation on a structured formula basis. The Act does not contain a formula for calculation of compensation and instead makes a reference to Schedule II of the Act. The Schedule contains only variables such as age, annual income, multiplier etc. to allow determination of compensation.

Illustration 11: Schedule II of the Motor Vehicles Act, 1988

Payment of compensation									
Annual Income		3000	4200	5400	6600	7800	9000	102000	11400
Age of Victim	Multiplier	Rupees in thousands							
Up to 15 years	15	60	84	108	132	156	180	204	228
Above 15 years but not exceeding 20 years	16	60	84	108	132	156	180	204	228
Above 20 years but not	17	54	75.6	97.2	118.8	140.4	162	183.6	205.2
Above 25 years but not exceeding 30 years	18	51	71.4	91.8	112.2	132.6	153	173.4	193.8

NOTE: The amount of compensation so arrived at in the case of fatal accident claims shall be reduced by 1/3rd in consideration of the expenses which the victim would have incurred towards maintaining himself had he been alive.

In this case, while the method for calculation of compensation can be logically inferred from the Schedule, an express mention of the formula is recommended since it removes ambiguity. The Supreme Court *in Sarla Verma & Ors. v Delhi Transport Corporation and Anr.*⁴³ prescribed the formula. This formula should have ideally been included in the concerned provision.

Illustration 12: Formula for calculation of compensation under section 168-A of the Motor Vehicles Act, 1988, laid down by the Supreme Court

For section 163-A, compensation is calculated as:

$$\frac{2}{3} * AI * M$$
Where,
AI= Annual income
M- Multiplier applicable to the age of the deceased

In some cases, a sequence of steps/instructions (method statement) may prove to be more effective. This may be the case where there are multiple or complex steps involved in a calculation. Each step must be clear and must be laid down in a chronological order in the same clause or the same section of the law. For instance, the table in Schedule I of the Land Acquisition Act, 2013 contains the method for calculating compensation for landowners.

C) Tables

A table is often a neat and clear way of setting out a number of cases with the rule that applies to each of them. Provisions that are data heavy may especially benefit from presentation in tabular format. For instance, the table in Schedule I of the Land Acquisition Act, 2013 contains the method for calculating compensation. It is also a good example of a method statement.

Illustration 13: Schedule I of the Land Acquisition Act, 2013

Method for calculating compensation for landowners			
S. No.	Component of compensation	Manner of determination of	Date of

⁴³ Sarla Verma v, Delhi Transport Corporation, (2009) 6 SCC 21.

	package in respect of land acquired under the Act	value	determination of value
1.	Market value of land	To be determined as provided under section 26	
2.	Factor by which the market value is to be multiplied in the case of rural areas	1.00 (One) to 2.00 (Two) based on the distance of project from urban area, as may be notified by the appropriate Government.	
3.	Factor by which the market value is to be multiplied in the case of urban areas	1 (One)	
4.	Value of assets attached to land or building	To be determined as provided under section 29.	

D) Marginal Notes

The legislation may include tools such as comprehensive marginal notes for ease of comprehension of the text.⁴⁴ The aim behind drafting the marginal note is to allow the reader to develop overall comprehension of the legislation without having to go through all provisions in detail. Instead of the current practice of repeating the short title of the provision, the note should succinctly describe the provisions and provide aid in the overall comprehension of the legislation.

Illustration 14: Marginal notes⁴⁵

Original Marginal Note	Relevant Section	Proposed Marginal Note
Powers and functions of Competent Authority on receipt of public interest disclosure.	(1) Subject to the provisions of this Act, the Competent Authority shall, on receipt of a public interest disclosure under section 4,— (a) ascertain from the complainant or the public servant whether he was the person or the public servant who made the disclosure or not; (b) conceal the identity of the complainant unless the complainant himself has revealed his identity to any other office or authority while making public interest disclosure or in his complaint or otherwise.	Concealment of complainant's identity
	(2) The Competent Authority shall, upon receipt of the complaint and concealing the identity of the complainant, or the public servant in the first instance, make discreet inquiry, in such manner and within such time as may be prescribed, to ascertain whether there is any basis for proceeding further to investigate the disclosure.	Conduct of discreet inquiry
	(3) If the Competent Authority, either as a result of the discreet inquiry, or on the basis of the disclosure itself without any inquiry, is of the opinion that the disclosure requires to be investigated, it shall seek comments or explanation or report from the Head of the Department of the organization or authority, board or corporation concerned or office concerned within such time as may be specified by it.	Comments of concerned authority

⁴⁴ Niharika Bapna, 'Plain Language Drafting: A Study of the Laws of India (2009-17)', *Statute Law Review*, 2018, Vol. XX, No. XX, 0-30.

⁴⁵ Niharika Bapna, 'Plain Language Drafting: A Study of the Laws of India (2009-17)', *Statute Law Review*, 2018, Vol. XX, No. XX, 0-30

E) Overview

An overview is a brief summary of an Act, part, chapter, group of sections or Schedule. Its purpose is to help the reader navigate through the legislation. The contents pages at the beginning of an Act or headings are often enough to give the reader an outline of what is to come. An overview that merely repeats the headings is unlikely to be helpful. Overviews can, however, be helpful when used appropriately.

In a large Act, the contents can be long (running to tens of pages). An overview may be a good way to provide a pithy summary. An overview can be more descriptive and can draw out themes and relationships between provisions. It can also explain how the new legislation fits into the legislative landscape, for instance by including signposts to other relevant provisions.

Illustration 15: Section 1 of the Banking Act, 2009 (United Kingdom)

Example of Overview Statement for a statute
<p>1. Overview</p> <p><u>(1) The purpose of the special resolution regime for banks is to address the situation where all or part of the business of a bank has encountered, or is likely to encounter, financial difficulties.</u></p> <p><u>(2) The special resolution regime consists of—</u></p> <ul style="list-style-type: none">(a) the five stabilisation options,(b) the bank insolvency procedure (provided by Part 2), and(c) the bank administration procedure (provided by Part 3). <p><u>(3) The five “stabilisation options” are—</u></p> <ul style="list-style-type: none">(a) transfer to a private sector purchaser (section 11),(b) transfer to a bridge bank (section 12),(ba) transfer to an asset management vehicle (section 12ZA),](c) the bail-in option (section 12A), and(d) transfer to temporary public ownership (section 13).] <p><u>(4) Each of the five stabilisation options is achieved through the exercise of one or more of the “stabilisation powers”, which are—</u></p> <ul style="list-style-type: none">(za) the resolution instrument powers (sections 12A(2) and 48U to 48W),(a) the share transfer powers (sections 15, 16, 26 to 31 and 85), and(b) the property transfer powers (sections 33, 41A and 42 to 46).(c) the third country instrument powers (sections 89H to 89J). <p><u>(5) Each of the following has a role in the operation of the special resolution regime—</u></p> <ul style="list-style-type: none">(a) the Bank of England,(b) the Treasury,(c) the Prudential Regulation Authority, and(d) the Financial Conduct Authority.
<p>Explanation:</p> <p>The overview summarises the contents of the statute effectively by:</p> <ul style="list-style-type: none">• Stating the purpose behind the law.• Stating the core features of the law and how they are connected.• Listing the relevant authorities for the implementation of the law.

Overviews may also be used in relation to specific parts and chapters of a law. An overview of a part that is divided into chapters may contain a brief description of those chapters. If other provisions outside the part are relevant to the operation of the part, the overview may also contain a signpost to those provisions. Similarly, overviews could be included for specific chapters under a law. These could include references to relevant provisions from other chapters.

Illustration 16: Section 35 of the Corporation Tax Act, 2010 (United Kingdom)

Example of overview for Part of Statute

35. Overview of Part

- (1) This Part provides corporation tax relief for—
 - (a) losses made in a trade (see Chapter 2 as well as the restrictions on relief in Chapter 3 relating to limited partnerships and limited liability partnerships),
 - (b) losses made in a UK property business or overseas property business (see Chapter 4),
 - (c) losses made on a disposal of certain shares (see Chapter 5), and
 - (d) losses made in certain miscellaneous transactions (see Chapter 6).
- (2) This Part also provides for the reduction of available relief if there is a write-off of government investment in a company (see Chapter 7).
- (3) For rules about the calculation of losses for the purposes of this Part, see—
 - (a) section 47 of CTA 2009 (losses of a trade calculated on same basis as profits), and
 - (b) section 210 of CTA 2009 (which applies section 47 of that Act, so that losses of a UK property business or overseas property business are calculated on the same basis as profits).
- (4) See also Part 17 of CTA 2009 for rules about how to calculate the losses of a company that is a partner in a partnership.

Explanation:

The overview effectively summarises the Part by:

- Stating the core features of the Part.
- Correlating provisions under the Part with relevant provisions under other Parts.

3. Ensure laws are promptly translated into official languages

In India, 121 languages are spoken by more than 10,000 people each.⁴⁶ Officially, the Constitution of India recognises 22 languages.⁴⁷ Further, under Article 345 of the Constitution, each State Government is given the discretion to adopt one or more languages spoken in that State to be used for official purposes of that State, through an appropriate statute. Some of the official languages recognised by the States are not included in the Schedule VIII of the Constitution. Central laws are drafted in English. To ensure wider accessibility, these laws must be translated into the official languages under the Constitution and also to other languages adopted by different States.

Currently, the Official Languages Wing of the Legislative Department of the Ministry of Law is tasked with translating laws into Schedule VIII Languages. Some major Central laws have been translated into Schedule VIII languages.⁴⁸ However, this list is restricted. The current process may not have yielded optimal results for reasons including low priority for translation of laws and a lack of manpower.

An alternate, efficacious approach could be to entrust respective nodal ministries/departments with the task of translation. Once a law has been drafted, the nodal ministry must produce translated versions of that law in the Schedule VIII languages. Over time, this list could be expanded to include other official languages recognized by the States. This process must be undertaken immediately after a draft version of the law has been prepared. For instance, if a draft version of a law has been published for public consultation, translated versions of that law

⁴⁶ Language: India, States and Union Territories, Census of India 2011 (Office of the Registrar General, India 2011) <https://censusindia.gov.in/nada/index.php/catalog/42458/download/46089/C-16_25062018.pdf> accessed 21 February 2023

⁴⁷ Schedule VIII, The Constitution of India, 1950

⁴⁸ 'Important Central Acts in Regional Languages' (Legislative Department, Government of India) <<https://legislative.gov.in/regional-language>> accessed 21 February 2023

should be made available too simultaneously. Each ministry/department must have dedicated personnel who carry out this translation. Technology can be leveraged to expedite the process of translation. Platforms such as Bhashini may be utilised to produce automated translated versions in Schedule VIII languages. These AI-generated translations may be verified/certified by the Official Languages Wing to guarantee their authoritative nature.

A final, translated version of the law must similarly be prepared once it has received the President's assent (in case of statutes) or been laid before the Parliament (in case of subordinate legislation, where applicable). This version must be forwarded to the Official Languages Wing for verification and certification. Translated, certified versions of the law must subsequently be published in the Official Gazette.

Measures for Accessible Drafting

- Prepare a machine-readable and accessible draft.
- Translate the law to all official languages prior to its coming into force.
- Publish and widely circulate legal explainers alongwith the law.
- Use a question-and-answer format, simple language, bullet points, flowcharts, and tables to break down information in explainers.
- Use headings to accurately convey the substance of a provision, chapter, or part of a law.
- Use marginal notes for clauses to outline the purpose, function, or effect of the clause.
- Use overviews to summarise the contents of the law in its entirety, or its parts, chapters and schedules.
- Where appropriate, use formulas, method statements, and tables.

Rational drafting

Rational legal drafting is drafting which is:

- **Coherent:** Creates a system of rules connected by a logically elaborated pattern for achieving the objects of the legislation
- **Consistent:** Expresses linguistic and logical consistency
- **Certain:** Avoids ambiguous phrases or unguided subjective assessments in the law

Laws must be drafted in a rational manner. This is generally understood to mean that laws must have a coherent structure and logical consistency. In the context of the law, the phrase 'rational' can have several meanings depending on the context in which it is used. For instance, law and economics scholars identify 'rationality' of a law with the economic efficiency of its allocative function.⁴⁹ In the context of legal drafting, however, there is a much narrower concept of 'rationality' that must guide drafters.

'Rationality', in the context of legal drafting, demands that the law forms "*a coherent system, a set of rules that are connected by some sort of logical relationship to each other*".⁵⁰ This idea is sometimes expressed as the coherence of the law. For instance, Roger Brownsword describes this as the idea of *coherentism*, which demands the creation of a "*system of rules that fit together in a consistent, logically elaborated pattern*".⁵¹

A statute is the encapsulation of legal (jural) and logical relationships between different legally recognised concepts.⁵² These relationships can be substantive, setting out the rights, duties, responsibilities, liabilities, and immunities of various actors, and can be procedural, where they specify the manner in which the substantive relationships will be realised. The drafter has the job of assembling these discrete concepts, relationships, and procedures into a logically consistent whole. In this sense, the drafter acts as an architect of the logical relationships in a statute. The idea of 'rationality' must guide this architecture.

1. Provide a coherent logical structure to the text

The principle of coherentism, in the context of the law, requires that rules are connected to each other in a logical manner, and individual rules in a statute collectively align to further the objectives of the law.⁵³ The drafter must look at the exercise of arranging these rules as an exercise in identifying, and setting out, the logic of the law.

Structure and arrangement of provisions

The structure of chapters and arrangement of provisions in a legislation are key elements of ensuring rational laws. The structure of a legislation should enable the principal message of the law to be communicated to an ordinary reader. This requires that the chapters are arranged in a logical order to reflect the intent, objectives and the legislative policy which is sought to be communicated.⁵⁴ For instance, legislations setting out substantive rights and obligations are often structured in a way where the establishment of administrative bodies precedes

⁴⁹ David Driesen and Robin Paul Malloy, 'Critiques of law and economics', *The Oxford Handbook of Law and Economics*, 300 (2017)

⁵⁰ E.L. Rubin, 'From Coherence to Effectiveness' in *Rethinking Legal Scholarship*, 310 (R. van Gestel et al eds., 2017)

⁵¹ Roger Brownsword, 'Law and technology: Two modes of disruption, three legal mindsets and the big picture of regulatory responsibilities', *Indian Journal of Law and Technology* 14 (2018)

⁵² E.L. Rubin, 'From Coherence to Effectiveness' in *Rethinking Legal Scholarship*, 310 (R. van Gestel et al eds., 2017)

⁵³ E.L. Rubin, 'From Coherence to Effectiveness' in *Rethinking Legal Scholarship*, 310 (R. van Gestel et al eds., 2017)

⁵⁴ Niharika Bapna, 'Plain Language Drafting: A Study of the Laws of India (2009-17)', *Statute Law Review*, 2018, Vol. XX, No. XX, 0-30.

the creation of substantive rights or responsibilities. This form of chapter-structure conveys the objectives of the law in an imprecise manner.

Illustration 17: Structure of the Bureau of Indian Standards Act, 2016

Existing Statute	SARAL drafting
<p>Bureau of Indian Standards Act, 2016</p> <ul style="list-style-type: none"> ● I: Preliminary ● II: Bureau of Indian Standards ● III: Indian Standards, Certification and License ● IV: Finance, Accounts and Audit ● V: Miscellaneous 	<p>Bureau of Indian Standards Act, 2016</p> <ul style="list-style-type: none"> ● I: Preliminary ● II: Indian Standards ● III: Certification and Licenses ● IV: Offences and Penalties ● V: Bureau of Indian Standards ● VI: Finance, Accounts and Audit of Bureau ● VII: Miscellaneous
<p>Explanation:</p> <ul style="list-style-type: none"> ● Chapters with substantive provisions should precede those with procedural provisions. ● Chapters with clauses which have universal application precede those with limited application. ● Chapters dealing with distinct subject areas are segregated into discrete chapters. 	

The structure of a law can be thought of at multiple levels. At the broadest level, this element relates to the division of the provisions in the law into chapters which reflect discrete parts of the law. The way in which different chapters, and the provisions within those chapters, are connected to each other, is reflected in the structure and arrangement of provisions in a law.

Particularly in the case of bulky legislations, the chapter-level structure is key to enable people to discern the law and identify the provisions of relevance to them.⁵⁵ As a matter of general principle, later chapters and provisions should build on earlier chapters/provisions, to enable a reader to navigate the document effectively. The chapter-level structure of a law must reflect “*cohesive divisions based on a logical sequence*”.⁵⁶ Chapters can be organised into parts to reflect these cohesive divisions more clearly, particularly in longer legislation.

Illustration 18: Guidelines on chapter-level structure

- | |
|---|
| <ul style="list-style-type: none"> ➤ Chapters with substantive clauses precede those with procedural clauses. ➤ Chapters with general clauses precede those with more specific clauses. ➤ Chapters with clauses which have universal application precede those with limited application. ➤ Chapters with important clauses precede those with less important clauses. ➤ Chapters with frequently used clauses precede those with less used clauses. ➤ Chapters on obligations precede those on sanctions. ➤ Chapters are neatly and cohesively segregated to minimize overlaps and prevent combining different types of provisions in the same chapter. |
|---|

⁵⁵ Niharika Bapna, 'Plain Language Drafting: A Study of the Laws of India (2009–17)', *Statute Law Review*, 2018, Vol. XX, No. XX, 0–30.

⁵⁶ Niharika Bapna, 'Plain Language Drafting: A Study of the Laws of India (2009–17)', *Statute Law Review*, 2018, Vol. XX, No. XX, 0–30.

Illustration 19: Structure of Food Safety and Standards Act, 2006

Existing Statute	SARAL drafting
<p>Food Safety and Standards Act, 2006</p> <ul style="list-style-type: none"> ● I: Preliminary ● II: Food Safety and Standards Authority of India ● III: General Principles of Food Safety ● IV: General Provisions as to Articles of Food ● V: Provisions relating to Import ● VI: Special Responsibilities as to Food Safety ● VII: Enforcement of the Act ● VIII: Analysis of Food ● IX: Offences and Penalties ● X: Adjudication and Food Safety Appellate Tribunal ● XI: Finance, Accounts, Audit and Report ● XII: Miscellaneous 	<p>Food Safety and Standards Act, 2006</p> <ul style="list-style-type: none"> ● I: Preliminary <p><u>Part A: Food Safety Standards</u></p> <ul style="list-style-type: none"> ● II: General Principles of Food Safety ● III: General Provisions as to Articles of Food ● IV: Special Responsibilities as to Food Safety ● V: Provisions relating to Import <p><u>Part B: Enforcement and Sanctions</u></p> <ul style="list-style-type: none"> ● VI: Enforcement of the Act ● VII: Analysis of Food ● VIII: Offences and Penalties ● IX: Adjudication and Food Safety Appellate Tribunal <p><u>Part C: Food Safety and Standards Authority of India</u></p> <ul style="list-style-type: none"> ● X: Food Safety and Standards Authority of India ● XI: Finance, Accounts, Audit and Report of FSSAI ● XII: Miscellaneous
<p>Explanation:</p> <ul style="list-style-type: none"> ● Chapters with substantive clauses should precede those with procedural clauses. ● Chapters with general clauses precede those with specific clauses. ● Chapters with clauses which have universal application precede those with limited application. ● Chapters on Obligations precede those on Sanctions. 	

Within a chapter, the structure of provisions depends on the type of provisions in the chapter.

- In a chapter dealing with **substantive rights and obligations**, general or broad proclamations of a substantive right/duty should be identified first, which may be followed by specific standards applicable to different classes of entities in relation to the provision, and finally, the exceptions to, or modifications of the broader right/duty should be identified.
- In the case of **procedural provisions**, these provisions should be arranged in a chronological order. The branching logic of procedural flows under a legislation should be reflected in the arrangement of provisions, which should be capable of being displayed through a flowchart or connected flowcharts.⁵⁷
- For **administrative provisions**, the constitution of administrative/executive bodies must be mentioned first, followed by their composition, powers, and functions, and finally, the mechanisms for action available to such administrative bodies should be outlined.

⁵⁷ Scott McLachlan and Lisa Webley, 'Visualisation of law and legal process: An opportunity missed', *Information Visualisation* 20, 192 (2021)

Ensure a coherent internal structure for provisions

Statutes often mention the objectives of the statute in the preamble, or the statement of objects and reasons. However, these objectives are expressed as broad, non-actionable statements. At several instances in a law where decision making and discretion are intended to be guided by the objectives of the law, the statute is silent on these matters. This has the overall effect of making it harder to discern the logical relationship between the provisions of a law, and the objectives sought to be achieved by that law. The links or connections between different clauses of a provision must be clearly identified.

The idea of a coherent legislation extends beyond there being a connection between the provisions of a law and its objectives. This idea also extends to the legal, or jural, relationships established through the law. In Hohfeld's work, he identifies various jural correlatives - the two corresponding sides to every legal relationship.⁵⁸ For instance, where a right is granted under a legal provision, there is a corresponding duty on some entity to respect that right.⁵⁹ The Hohfeldian table of jural correlatives is widely taught, however, it has not infused drafting practice. Laws establish various rights but fail to identify the corresponding duty. In some instances, while the law recognises a certain immunity, it fails to identify the corresponding disability. This form of drafting creates ambiguity and gives rise to litigation. As a matter of general practice, drafters must keep in mind the need for 'completeness' of the legal relationships being set out under a law and must clearly articulate these relationships.

Illustration 20: Section 4 of the Indian Telegraph Act, 1885

Existing Provision	SARAL drafting
<p>4. Exclusive privilege in respect of telegraphs, and power to grant licenses.</p> <p>(1) Within [India], the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs:</p> <p>Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of [India]:</p> <p>[Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working-</p> <p>(a) of wireless telegraphs on ships within Indian territorial waters [and on aircraft within or above [India], or Indian territorial waters], and</p> <p>(b) of telegraphs other than wireless telegraphs within any part of [India].</p>	<p>4. Exclusive privilege in respect of telegraphs and power to grant licenses.-</p> <p>(1) Within India, the Central Government shall have exclusive privilege of establishing, maintaining, and working telegraphs.</p> <p>(2) The Central Government may, in exercise of its exclusive privilege, grant a license to any person to establish, maintain and work telegraphs.</p> <p>(3) Any person may establish, maintain, or work a telegraph within any part of India only if they have been granted a license under sub-section (2)</p> <p>(4) The license under sub-section (2) shall be granted on such conditions and in consideration of such payments as the Central Government deems fit.</p> <p>(5) In addition to licenses granted under sub-section (2), the Central Government may, by rules made under this Act, in exercise of its exclusive privilege, permit any person to establish, maintain and work-</p> <p>(a) Wireless telegraphs on ships within Indian territorial waters, and on aircraft within or above India or Indian territorial waters</p> <p>(b) Telegraphs other than wireless telegraphs within any part of India.</p>

⁵⁸ Albert Kocourek, 'Hohfeld system of fundamental legal concepts', III LR 15, 24 (1920)

⁵⁹ Albert Kocourek, 'Hohfeld system of fundamental legal concepts', III LR 15, 24 (1920)

	(6) The permission granted under sub-section (5) shall be granted subject to such restrictions and conditions as the Central Government thinks fit.
<p>Explanation:</p> <ul style="list-style-type: none"> • Internal structure of provision – the provision has been re-drafted to have a more coherent internal structure, clearly identifying how one clause is linked to another clause within the provision. • Identification of jural correlatives - the Central Government’s privilege of establishing, maintaining, and working telegraphs creates a corresponding no-right for any person to establish telegraphs. This is recognised through the amended sub-section (3), which provides that a person has the right to establish, maintain and work telegraphs only if a person has been granted a license in exercise of the Central Government’s exclusive privilege. 	

2. Ensure linguistic and logical consistency

Consistency, in the context of legal drafting, requires the drafter to ensure that a legislation is both externally and internally consistent. This means that not only should a law be consistent with other related laws that govern the same or related field but should also be free of internal contradictions. Where there is any difference between the law and any related laws, this difference should be identified and explained in the legislation.

Logical consistency

Ideas presented in one section of the document must not contradict ideas presented in a different section of the document or in case of subordinate documents, the main document. As a whole, laws must be consistent with the policy under which they are being drafted, as well as the laws already in force and the Constitution and any difference must be expressly iterated and explained in the document.

Linguistic consistency

The language used while drafting legislation, in addition to being simple, must be consistent and uniform throughout the document. Entities referred to by a particular word or phrase and/or defined by a particular word or phrase must be referred to by the same name throughout the document. In case of subordinate documents, the terms used in the document must be consistent with those used in the principal legislation.

Similarly, the law often uses different phrases to denote an action that may be taken, or to identify the standard of review that is required by an administrative body. These phrases must be deliberately identified, and where the same standard of review or substantive standards are mentioned, the phrases used to refer to such standards must be consistent across the law.

Illustration 21: Section 20, Consumer Protection Act, 2019

Existing provision	SARAL drafting
<p>Consumer Protection Act, 2019</p> <ul style="list-style-type: none"> • Section 20: Where the Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including— <p>(a) recalling of goods or withdrawal of services which are dangerous,</p>	<p>Consumer Protection Act, 2019</p> <ul style="list-style-type: none"> • Section 20: If the Central Authority is satisfied on the basis of investigation that there is sufficient evidence to show violation of consumer rights or unfair trade practice by a person, it may pass such order as may be necessary, including— <p>(a) recalling of goods or withdrawal of services which are dangerous, hazardous</p>

<p>hazardous or unsafe;</p> <p>(b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and</p> <p>(c) discontinuation of practices which are unfair and prejudicial to consumers' interest</p>	<p>or unsafe;</p> <p>(b) reimbursement of the prices of goods or services so recalled to purchasers of such goods or services; and</p> <p>(c) discontinuation of practices which are unfair trade practices or violative of consumer rights.</p>
<p>Explanation:</p> <ul style="list-style-type: none"> • Section 20, as it stands, refers to two standards: “violation of consumer rights” and “prejudicial to consumers interest”. • The Act lacks any other aids for interpreting the difference between these two standards, which throughout the Act, appear to be used interchangeably at different places. This demonstrates a lack of internal linguistic consistency. 	

Linguistic consistency has an external focus as well - well-drafted legislation should ensure that it is capable of being read along with related laws that govern the same field. This requires that the classification and nomenclature of entities in related laws is considered while drafting a legislation. Where new categories/nomenclature are being used in a law, and there is an overlap or inconsistency with the classifications/nomenclatures in related laws, the relationship between the two should be identified.

3. Ensure certainty by reducing vagueness and guiding discretion

Legislation is an instrument for the determination of the rights, obligations, and responsibilities of different stakeholders. Vagueness or uncertainty in legislation has the effect of creating hurdles in the realisation of such rights or enforcement of responsibilities.⁶⁰ Given the consequences flowing from legal non-compliance, it is crucial that laws are clear, precise and that their meaning can be discerned with certainty. This allows entities affected by a law to rely on it and organise their practices accordingly.

While there is an inevitable penumbra of doubt in relation to the use of language, the settled core of meaning of a legislation must be clearly and explicitly laid out in the law.⁶¹ Words and phrases which are important to the determination of rights/obligations should be defined, as far as possible. In some instances where such words cannot be defined and the ordinary meaning of the words is relied upon, there should be guidance by way of illustrations and explanations to reduce interpretive ambiguity in the law. Ambiguous words/statements should be avoided as far as possible.

There is a long-standing tendency of drafters to use ambiguity in legislation strategically.⁶² This form of strategic ambiguity is often a tool for either avoiding the articulation of certain standards/criteria or policy, or for providing greater leeway to executive authorities in the enforcement of the law. However, this form of ambiguity not only makes the law less certain, it is also prone to litigation and interpretive disputes. As such, strategic ambiguity should be avoided by legal drafters.

Further, the structural terms used in any law are crucial to understanding the logical flow and relations in the statute. The use of ambiguous structural terms like ‘unless’ has the potential to create differing interpretations

⁶⁰ Layman Allen and C Rudy Engholm, ‘The need for clear structure in Plain Language Legal Drafting’, *University of Michigan Journal of Legal Reform* 13, 455 (1980)

⁶¹ Layman Allen and C Rudy Engholm, ‘The need for clear structure in Plain Language Legal Drafting’, *University of Michigan Journal of Legal Reform* 13, 455 (1980)

⁶² Peter Butt, ‘Modern legal drafting: A guide to using clearer language’, 40 (2013)

of the law, and consequently, reduce its effectiveness.⁶³ Drafters should look to reduce uncertainty through the use of vague structural terms. Where possible, terms like ‘unless’, ‘until’, ‘where’ must be reduced to their logical denominators, in the form of words like ‘and’, ‘or’ ‘if, then’, ‘if not, then’ and ‘if and only if’. These basic structural terms are capable of encapsulating the different structural relations within a statute.

Illustration 22: Section 23, Contract Labour (Regulation and Abolition) Act, 1970

Existing provision	SARAL drafting
<p>Contract Labour (Regulation and Abolition) Act, 1970</p> <ul style="list-style-type: none"> • Section 23: Refusal to grant licence.- (1) On receipt of the application from the contractor, and as soon as possible thereafter, the Licensing Officer shall investigate or cause investigation to be made to satisfy himself about the correctness of the facts and particulars furnished in such application and the eligibility to the applicant for a licence 	<p>Contract Labour (Regulation and Abolition) Act, 1970</p> <ul style="list-style-type: none"> • Section 23: Refusal to grant licence.- (1) On receipt of the application from the contractor, and as soon as possible thereafter, but within thirty days from the receipt of the application, the Licensing Officer shall investigate or cause investigation to be made to satisfy himself about the correctness of the facts and particulars furnished in such application and the eligibility to the applicant for a licence.
<p>Explanation:</p> <ul style="list-style-type: none"> • The phrase “as soon as possible” is vague and does not provide any guidance to executive action. It is a commonly used phrase, often used in the exercise of strategic ambiguity. • The revised formulation provides a definitive timeline for the process under this provision, leading to greater certainty in the application of the law. 	

In addition to individuals and entities affected by a law, the law also must be clear to serve as an effective guide for executive action. For instance, where the law requires any executive authority to exercise discretion, it should provide a calculus for the exercise of such discretion. This calculus may include illustrating the factors that are relevant to the exercise of discretion, the relative weight of those factors and the standards based on which any action may or may not be taken. Further, as far as possible, discretion points should be minimised in any legislation.

Illustration 23: Determination of ‘market’ under Section 19, Competition Act, 2002

Example of guided discretion under Section 19, Competition Act 2002
<p>(5) For determining whether a market constitutes a “relevant market” for the purposes of this Act, the Commission shall have due regard to the “relevant geographic market” and “relevant product market”.</p> <p>(6) The Commission shall, while determining the “relevant geographic market”, have due regard to all or any of the following factors, namely:—</p> <ul style="list-style-type: none"> (a) regulatory trade barriers; (b) local specification requirements; (c) national procurement policies; (d) adequate distribution facilities; (e) transport costs;

⁶³ Layman Allen and C Rudy Engholm, ‘The need for clear structure in Plain Language Legal Drafting’, University of Michigan Journal of Legal Reform 13, 455 (1980)

<p>(f) language; (g) consumer preferences; or (h) need for secure or regular supplies or rapid after-sales services.</p> <p>(7) The Commission shall, while determining the “relevant product market”, have due regard to all or any of the following factors, namely:— (a) physical characteristics or end-use of goods; (b) price of goods or service; (c) consumer preferences; (d) exclusion of in-house production; (e) existence of specialised producers; or (f) classification of industrial products.</p>
<p>Explanation: This provision provides, clearly, the criteria for the determination of relevant market. This criterion provides guidance to the assessment of relevant market, thereby, providing a rational basis for the discretion provided to the Commission under the Act.</p>

Illustration 24: Clause 17 of the Draft Digital Personal Data Protection Bill, 2022

Existing Provision	SARAL Drafting
<p>17. Transfer of personal data outside India.</p> <p>The Central Government may, after an assessment of such factors as it may consider necessary, notify such countries or territories outside India to which a Data Fiduciary may transfer personal data, in accordance with such terms and conditions as may be specified.</p>	<p>17. Transfer of personal data outside India.</p> <p>(1) The Central Government can notify such countries or territories outside India to which a Data Fiduciary can transfer personal data, after the assessment of any or all of the following factors:</p> <ul style="list-style-type: none"> (a) considerations of equivalent data protection obligations in the jurisdiction; (b) impact that this transfer could have on the enforcement of relevant laws by authorities in India; (c) sensitivity of the personal data; (d) effective protection of the rights of the data principal under this Act; or (e) effect of such transfers on the security and strategic interests of the State. <p>(2) Transfer under sub-section (1) will be made in accordance with terms and conditions as may be specified.</p> <p>(3) The jurisdictions specified under sub-section (1), will be reviewed periodically based on the factors under sub-section (2).</p>
<p>Explanation:</p> <ul style="list-style-type: none"> • Changes made to clarify the nature of the power of the Central Government and provide clear guidelines for the exercise of the power under this section. • These factors provide a rational basis for the decision of the Central Government. 	

Measures for Rational Drafting

- Articulate the objective of the legislation, and where required, the objective of a particular provision.
- Follow the guidelines on chapter-level structure (Illustration 18)
- Arrange procedural provisions in a chronological order.
- Use legal standards consistently throughout the statute.
- Define and categorise entities covered by the law.
- Provide a definite mechanism for the exercise of every power or right granted.
- Minimise discretion points, and if retained, articulate factors to guide subjective assessments.

Actionable drafting

Actionable legal drafting is drafting which:

- Clearly identifies the roles and responsibilities of different actors in relation to a law.
- Enables users of a law (citizens, administrators, courts) to be effectively guided by the law.
- Provides specific directions on how to ensure compliance with the law, and the consequences of non-compliance.

Actionability of a legislation allows it to be put to practical use by citizens and implemented by the State. Owing to this understanding, two types of actions that a legislation mandates are: (a) acts of compliance by stakeholders and (b) acts of enforcement by the Government.⁶⁴

The drafter must ensure that the provisions of a legislative draft are *'easy to use'* by both the **stakeholders** and the **implementing authority**. For the stakeholders, the drafter must lay down directions in the text which not only allow them to understand their obligations but also allow them to understand the entire system of law proposed in a legislation. To be enforceable, the stakeholder must be shown how to comply with an obligation, and the necessary machinery must be provided for the creation of "new social habits".⁶⁵ Actionability requires the drafter to, as far as possible, narrow down the information in the legislation regarding the relevant parties, the types of possible actions/ prohibitions, and the effects of not following the structure established in the legislation.⁶⁶ Every such action that a real person *may take* in the legislation's new legal system must be addressed and sound directions in relation to such action must be added to the draft.

1. Identify roles and responsibilities of stakeholders clearly.

Stakeholder Mapping:

During pre-drafting research, the drafter must ensure that the legislation identifies all actual stakeholders of the law, whose circumstances are either currently or are likely to be affected by the enactment of the legislation.⁶⁷ As far as possible, it should not have actors, who do not have clear and definite responsibilities or rights but are likely to be affected by the law. The legislative logic for choosing relevant actors should be clear to the drafter. As a post-drafting measure, the drafter should assess whether the original logic in selection of actors has been adhered to or not.

⁶⁴ Bart Van Klink, 'Legislation, Communication, and Authority. How to Account for the Bindingness of Law?', *Conceptions and Misconceptions of Legislation*, 81-106, (2019) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3164296> accessed on 06 February, 2023

⁶⁵ B.A. Wortley, 'The Mechanics of Law making today', *Bulletin of the John Rylands Library*, 39 (1) (1956), <<https://www.manchesterhive.com/view/journals/bjrl/39/1/article-p244.xml>> accessed on 06 February, 2023

⁶⁶ Layman E. Allen and C. Engholm, 'Normalized Legal Drafting and the Query Method', *Journal of Legal Education*, (1978), <<https://repository.law.umich.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1028&context=articles>> accessed on 14, February 2023

⁶⁷ Bart Van Klink, 'Legislation, Communication, and Authority. How to Account for the Bindingness of Law?', *Conceptions and Misconceptions of Legislation*, 81-106, (2019) <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3164296> accessed on 06 February, 2023

Illustration 25: Section 2(1)(m) of the Foreign Contribution (Regulation) Act, 2010

Existing Provisions	SARAL Drafting
<p>(m) “person” includes—</p> <p>(i) an individual; (ii) a Hindu undivided family; (iii) an association; (iv) a company registered under section 25 of the Companies Act, 1956 (1 of 1956);</p>	<p>(m) “person” includes—</p> <p>(i) an individual; (ii) a Hindu undivided family; (iii) an association; (iv) any corporation established by or under any Central Act, State Act or Provincial Act or a company registered under the Companies Act, 2013; (v) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (vi) a limited liability partnership; (vii) any body-corporate incorporated by or under the laws of a country outside India; (viii) a co-operative society registered under any law relating to co-operative societies; (ix) society as defined under the Societies Registration Act, 1860; (x) trust; and (xi) every artificial juridical person, not falling within any of the above.</p>
<p>Explanation:</p> <ul style="list-style-type: none"> The definition of a person under the act has been expanded to include a variety of actors that may be regulated under the Act. 	

Specific Directions:

The provisions should demonstrate to the relevant stakeholder how to accomplish essential tasks under the legislation. Along with the structure of the document, the text of the provisions should also appear algorithmic, aiming to provide step-by-step directions for the requisite action. Reliance on experts should be placed for soundness of technical details relevant for such actions, to ensure that the actions that are being prescribed in the documents correspond to the actual technical landscape of the subject.⁶⁸ The drafter should assess whether the law aims to set up standards that need to be followed by the stakeholders. As far as possible, for clarity, the actors should have their respective rights and obligations in the draft. Judicious use of active and passive voice should be done to sharpen the nature of direction given through the draft. While active voice clearly identifies who is responsible for performing an action and is generally preferable, passive voice may be used to construct general clauses that set up standards.⁶⁹

Illustration 26: Clause 34 of the Indian Antarctica Bill, 2022.

Existing Provision	SARAL Drafting
<p>33. Waste Disposal</p> <p>The waste disposal sites on land and abandoned worksites shall be cleaned up by the generators of such wastes and the users of such sites:</p> <p>Provided that the provisions of this section shall not apply if the removal of any</p>	<p>33. Waste Disposal on land and abandoned worksites.</p> <p>(1) The generators of waste and the users of the land will be responsible for cleaning of waste disposal sites on land and abandoned worksites.</p> <p>(2) Section 33(1) will not apply if, the removal</p>

⁶⁸ B.A. Wortley, 'The Mechanics of Law making today', *Bulletin of the John Rylands Library*, 39 (1), (1956)

⁶⁹ Peggy Bivins, 'Implementing Plain Language into Legal Documents: The Technical Communicator's Role', *Electronic Theses and Dissertations*, University of Central Florida, (2008)

structure or waste material may result in any adverse environmental impact referred to in sub-section (5) of section 27 than leaving the structure or waste material in its existing location.	of any structure or waste material can result in any adverse environmental impact referred to in section 27(5), as opposed to the impact of leaving the structure or waste material in its existing location.
Explanation: <ul style="list-style-type: none"> • Changes made to clarify the nature of the direction. • The provision has been converted from a passive sentence to an active sentence. 	

Use of nominalisation should also be curtailed to keep the directions brief and ensure that the tone of the direction remains active.⁷⁰ Positive sentences must be treated as the rule, and negative sentences as the exception, since the former are simpler to read. As far as possible, there should be clarity of (a) the legal subject on whom the provision applies (b) the legal action that the subject is supposed to take, and (c) where applicable, limitations on the actions that can be taken by the subject.⁷¹

Illustration 27: Section 30 of the Marine Insurance Act, 1963

Existing Provision	SARAL Drafting
30. Unvalued policy.— An unvalued policy is a policy which does not specify the value of the subject-matter insured, but subject to the limit of the sum insured , leaves the insurable value to be subsequently ascertained, in the manner hereinbefore explained.	30. Unvalued policy.— An unvalued policy is a policy which does not specify the value of the subject-matter insured, but limited to the sum insured , leaves the insurable value to be subsequently ascertained, in the manner explained in the Act.
Explanation: <ul style="list-style-type: none"> • Changes made to clarify the nature of the direction. • Removal of nominalisation. 	

For example, a provision describing an offense can be worded in the following ways to indicate different degrees and conditions for the assessment of guilt:

- i. Conditional – “If a person knowingly does [specific type of action], then that person commits an offense.” - With these words and phrases, there is a need to assess mens rea and whether the standard of ‘knowingly’ is satisfied.
- ii. Mandatory – “A person is prohibited from doing [a specific type of action], or that person commits an offense. - With these words and phrases, the standard of ‘knowingly’ committing such acts is not required to be satisfied.

2. Provide clear guidance for enforcement and administration of the law

Identify enforcement agencies:

The authority or agency responsible for the enforcement of the law must be clearly identified or appropriately set up within the legislation. Ideally, a new chapter must be dedicated to setting up an authority. Instead of clubbing various aspects of such authority into one bulky clause, individual clauses dedicated to each feature of such authority must be drafted.⁷²

⁷⁰ Catalina Riera, ‘Plain English in Legal Language: A Comparative Study of Two UK Acts of Parliament’, *Alicante Journal of English Studies* 28, 147-163 (2015)

⁷¹ O.P. Motiwal, ‘Principles of Legislative Drafting’, *Journal of the Indian Law Institute*, 16 (11), (1974)

⁷² Vidhi Centre for Legal Policy, ‘Manual on Plain Language Drafting’, 29 (2017)

For example, Section 132 of the Companies Act, 2013 establishes the National Financial Reporting Authority combines clauses on establishment, composition, functions, powers, restrictions, accounts, appeal, the composition of the appellate authority, etc. into one large bulky section.

In contrast Chapter IV (Unique Identification Authority of India) of The Aadhaar (Targeted Delivery of Financial and Other Subsidies, Benefits and Services) Act, 2016 provides a good framework for the establishment of authorities.

Breadth of powers and duties:

Actions by the enforcement agencies should be taken as per the standards prescribed within the legislation. A clear list of duties, functions and powers of the authority must be laid down to clearly indicate the limits to the power of officers under the law.⁷³ Special care should be taken to ensure that there is no overlap of such duties, functions and powers between different levels of the authority to avoid confusion. 'Requisite actions', necessary for the functioning of the legal system should be separated from 'calls for actions' which may aim at establishing a future-proof, self-improving mechanism. The drafter must ensure that the administrative machinery provides for safeguards against the arbitrary use of powers, fair hearings and appeals amongst other things. The text must provide a clear procedure for all such actions.⁷⁴

Illustration 28: Section 70A of the Information Technology Act, 2000

Original Provisions	SARAL Drafting
<p>70A. National nodal agency.-</p> <p>(1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection</p> <p>(2) The national nodal agency designated under sub-section (1) shall be responsible for all measures including Research and Development relating to protection of Critical Information Infrastructure</p> <p>(3) The manner of performing functions and duties of the agency referred to in sub-section (1) shall be such as may be prescribed.</p>	<p>70A. National nodal agency.-</p> <p>(1) The Central Government may, by notification published in the Official Gazette, designate any organisation of the Government as the national nodal agency in respect of Critical Information Infrastructure Protection</p> <p>(2) The national nodal agency designated under sub-section (1) shall be responsible for performing the following functions and duties in relation to Critical Information Infrastructure:</p> <p>(a) Research and Development relating to protection of Critical Information Infrastructure;</p> <p>(b) Developing information security policies in relation to critical information infrastructure;</p> <p>(c) Establishing mechanisms for timely communication of cyber incidents; and</p> <p>(d) Establishing mechanisms for assessment and validation of critical information infrastructure.</p>
<p>Explanation:</p> <ul style="list-style-type: none"> Changes made to rectify the over-broad articulation of the functions of the national 	

⁷³Venice Commission, 'The Rule of Law Checklist', (2016) <https://www.venice.coe.int/images/SITE%20IMAGES/Publications/Rule_of_Law_Check_List.pdf> accessed on 08, February 2023

⁷⁴ Chris Micheli, 'Drafting Criminal or Penal Statutes, California Globe, (2020) <<https://californiaglobe.com/articles/drafting-criminal-or-penal-statutes/>> accessed on 06 February, 2023

nodal agency.

- Specific powers and duties have been provided to guide the national nodal agency, in exercise of the legislative power to lay down the essential policy in relation to any such body set up under the law.

If the enforcement of the law is to be done in collaboration with other agencies or institutes, then the extent and nature of collaboration must be clearly laid out in the provisions. All relevant agencies should ideally be housed within singular legislation to avoid fragmentation of the regulatory mechanism and avoid multiplicity of compliances for the stakeholders.

For example, the first iteration of the Cable Television Networks Act, 1995 ('CTN Act') vested regulatory powers directly with the Central Government and did not set up a dedicated or independent regulator with sector-specific expertise. To fill this lacuna, the Telecom Regulatory Authority of India was introduced to the broadcasting space to play the role of an 'interim regulator'. However, no 'permanent regulator' was ever set up under the CTN Act to consolidate the regulations and regulatory mechanisms for ease of compliance or implementation.

A careful check on the breath and flow of delegation of powers must be done. The drafter should keep in mind that the delegation of powers needs to be an intellectual exercise wherein the standards for safeguards and monitoring may differ based on the nature of the power delegated. The policy for delegation should be prescriptive and supported by specific implementation procedures. It must be complete and capable of being updated. A clear mechanism for the selection of the delegated authority should be in the legislation. A thorough check must be undertaken before the delegation of any powers to ensure that there is no ouster of jurisdiction of the legislative authority.⁷⁵ Delegating authorities should implement effective policies and procedures anchored in industry standards in order to monitor the activities of their delegates.⁷⁶ The enabling provisions should account for both general rules, such as principles of natural justice, and specific rules relevant to the nature of the legislation that a delegate must take into account before taking an action.

Illustration 29: Section 17 of the Cinematograph Act, 1957

Existing Provisions	SARAL Drafting
<p>17. Power to exempt.</p> <p>The Central Government may, by order in writing exempt, subject to such conditions and restrictions as it may impose, any cinematograph exhibition or class of cinematograph exhibitions from any of the provisions of this Part or of any rules made thereunder.</p>	<p>17. Power to exempt.</p> <p>(1) The Central Government can exempt any cinematograph exhibition or class of cinematograph exhibitions from the provisions or rules of this Part.</p> <p>(2) The exemption under sub-section (1) will be determined having regard to:</p> <ul style="list-style-type: none">(a) exhibition of films at film festivals;(b) exhibition of films for educational purposes;(c) exhibition of films of national importance; or(d) any other relevant factor. <p>(3) All exemptions under sub-section (1) will be made by a reasoned written order.</p>

⁷⁵ B. R. Arte, 'Legislative Drafting', Universal Law Publishing Co., 230-233, (2014)

⁷⁶ Benjamin Collette, Simon Ramos and Daniel Capocci, 'Delegation, Oversight & Due Diligence', Deloitte, (2019) <<https://www2.deloitte.com/content/dam/Deloitte/lu/Documents/financial-services/IM/lu-delegation-oversight-due-diligence.pdf>> accessed on 08, February 2023

Explanation:

- Changes made to rectify the over-broad power to exempt any type of film under the Act.
- Additional criteria added to provide guidance for exercise of the power.

3. Provide remedies for non-compliance and non-implementation of the law:

Offences and Penalties:

Proper implementation of legislation may also be obstructed by the absence of sufficient sanctions or penalties, as well as by insufficient or selective enforcement of the relevant provisions. The quantum of fines and duration of sentences of imprisonment should be backed by real-time industry knowledge for proportionality of sanctions.⁷⁷ A provision which allows for periodic revision of the quantum of penalty should be added to the draft.

The drafter should avoid omnibus provisions (which generally criminalise contravention of any provision of the legislation) of penalty. Each violation should ideally be correlated to the rights and obligations of stakeholders. If the object is to create an offence that combines elements of *mens rea* and *actus reus*, these elements should be clearly spelled out.

Illustration 30: Section 3 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978

Existing Provision	SARAL Drafting
<p>3. Banning of prize chit and money circulation schemes or enrolment as members or participation therein.</p> <p>No person shall promote or conduct any prize chit or money circulation scheme, or enroll as a member to any such chit or scheme, or participate in it otherwise, or receive or remit any money in pursuance of such chit or scheme.</p>	<p>3. Banning of prize chit and money circulation schemes.</p> <p>A person will not promote or conduct any prize chit or money circulation scheme.</p> <p>4. Banning of enrolment as members or participation therein.</p> <p>A person will not enroll as a member to any such chit or scheme or participate in it otherwise.</p> <p>5. Ban on receipt or remission of money from chit or schemes.</p> <p>A person will not receive or remit any money in pursuance of any chit or scheme as characterised under section 3 and section 4.</p>
<p>Explanation:</p> <ul style="list-style-type: none">• The three types of breaches that were combined in the original draft of the clause have been separated into three different and distinct clauses.	

The nature of the penalty should be identified to indicate whether it is administrative, civil, or criminal. Penalties should be graded (degrees of severity with corresponding levels of punishment) and have in-built guiding principles to decide them.⁷⁸

⁷⁷ Criminal Justice Division of the Attorney-General's Department, Government of Australia, 'Guide to Framing Commonwealth Offences, Infringement Notices and Enforcement Powers', (2013), <<https://www.ag.gov.au/sites/default/files/2020-03/A%20Guide%20to%20Framing%20Cth%20Offences.pdf>> accessed on 08, February 2023

⁷⁸ Ankita Putchala, 'Should India reform its system of imposing fines for offences?', Leaflet, (2022) <<https://theleaflet.in/should-india-reform-its-system-of-imposing-fines-for-offences/>> accessed on 08, February 2023

Illustration 31: Clause 48 of the Indian Telecommunications Bill, 2022

Existing Provision	SARAL Drafting
<p>48. Offences by companies</p> <p>If the person committing an offence under this Act is a company, the employee(s) who at the time the offence was committed, was responsible to the company for the conduct of the business relating to the offence, shall be liable to be proceeded against and punished accordingly.</p>	<p>48. Offences by companies</p> <p>(1) If the person committing an offence under this Act is a company, the employee(s) who at the time the offence was committed, was responsible to the company for the conduct of the business relating to the offence, they will be liable to be proceeded against and any punishment under this Act.</p> <p>(2) Nothing contained in sub-section (1) shall render any such person liable to any punishment provided under this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.</p>
<p>Explanation:</p> <ul style="list-style-type: none"> • Specific nature of punishment, “punishment under this Act” has been substituted for “punished accordingly”, which did not provide for a specific type of punishment. • Additional clarity on when a person shall be liable to be held accountable under the section has been added as sub-section (2). 	

The words used to describe the offence should not be vague or unduly broad. Such drafting may result in provisions that are unconstitutional. For example, Section 66A of the Information Technology Act, 2000 was declared unconstitutional by the Supreme Court of India in *Shreya Singhal v. Union of India*.⁷⁹ Terms such as “grossly offensive or have menacing character”, “persistently” and “annoyance” were found by the Court to be vague.

Appeals and adjudication:

The selection of the appellate authority should be done to secure independence and expertise.⁸⁰ There should be a clear and formalised provision for identification of the appellate body and process of appeals against the orders of an implementing authority at every level. The conditions on the basis of which the appeal will move from one level to the other should be specified. Principles of natural justice and context-specific guiding principles should be in-built into the procedures for hearing appeals. The provision should clarify the timelines for all actions to be taken. All orders or directions must be made through reasoned written orders.

As far as possible, especially for commercial disputes, alternate dispute resolution mechanisms such as arbitration, mediation, and conciliation should be incorporated into the legislation. Care should be taken in curbing the general jurisdiction of the court, so as to avoid strict interpretation of such provisions.

Illustration 32: Section 340 of the Cantonments Act, 2006

Existing Provision	SARAL Drafting
<p>340. Appeals from executive orders.—</p> <p>(1) Any person aggrieved by any order described in the third column of Schedule V may appeal to the appellate authority specified in that behalf in the fourth column of the said Schedule.</p> <p>(2) The Central Government may, for the purposes of expeditious disposal of the pending appeals, by notification in the</p>	<p>340. Appeals from executive orders.—</p> <p>(1) Any person aggrieved by any order mentioned in column (3) of the Fifth Schedule can appeal to the appellate authority mentioned in that behalf in column (4) of the said Schedule.</p> <p>(2) The Central Government can, for the purposes of expeditious disposal of pending appeals, by notification, amend the Fifth</p>

⁷⁹ *Shreya Singhal v. Union of India*, 2015 5 SCC 1.

⁸⁰ Eve Salomon, ‘Independent regulation of broadcasting: a review of international policies and experiences’, United Nations Economic Social and Cultural Organisation, (2016)

<p>Official Gazette, amend Schedule V so as to designate additional appellate authority in the fourth column of the said Schedule.</p> <p>(3) No such appeal shall be admitted if it is made after the expiry of the period specified in that behalf in the fifth column of the said Schedule.</p> <p>(4) The period specified as aforesaid shall be computed in accordance with the provisions of the Limitation Act, 1963 (36 of 1963), with respect to the computation of periods of limitation thereunder.</p>	<p>Schedule so as to designate additional appellate authority in the column (4) of the said Schedule.</p> <p>(3) No such appeal shall be admitted if it is made after the expiry of the period mentioned in that behalf in column (5) of the said Schedule.</p> <p>(4) The period mentioned as aforesaid will be computed in accordance with the provisions of the Limitation Act, 1963 with respect to the computation of periods of limitation thereunder.</p> <p>(5) The appellate authority will make endeavours to dispose of the appeal made under sub-section (1) above within a period of ninety days.</p> <p>(6) No appeal will be decided under this Chapter unless the appellant has been heard or has had a reasonable opportunity of being heard in person or through a legal practitioner.</p>
<p>Explanation: The provision is modified to provide a definitive time period for disposal of appeal, and procedural safeguards to ensure due process.</p>	

Measures for Actionable Drafting

- Establish clear standards for behavior to be followed by different stakeholders.
- Clearly delineate the powers between different authorities.
- Provide specific and definitive delegation of powers in the law.
- Identify procedures in a definitive manner with clear timelines.
- Provide clear, specific, and graded sanctions for non-compliance and non-implementation.

III. The SARAL Checklist

No.	Measure	Value
Pre-drafting stage		
1	Establish clear standards for behavior to be followed by different stakeholders.	Actionable
2	Clearly delineate the powers between different authorities.	
3	Identify procedures in a definitive manner with clear timelines	
4	Provide clear, specific, and graded sanctions for non-compliance and non-implementation	
Drafting stage		
5	Make simple word choices	Simple
6	Use one legislative idea per clause	
7	Construct short sentences.	
8	Avoid shotgunning	
9	Use active voice unless the actor is the law.	
10	Use punctuation carefully	
11	Avoid using the noun form of a verb.	
12	Put main subject and verb in the beginning, without qualifiers, conditions, exceptions.	
13	Place modifying words close to the word they modify.	Accessible
14	Replace provisos with exceptions or a separate clause	
15	Use headings of a provision to accurately summarize the content of a provision.	
16	Use marginal notes for clauses to outline the purpose, function, or effect of the clause.	
17	Use overviews to summarise the contents of the law in its entirety, or its parts, chapters, and schedules	Rational
18	Where appropriate, use formulas, method statements, and tables	
19	Articulate the objective of the legislation, and where required, the objective of a particular provision	
20	Follow the guidelines on chapter-level structure (Illustration 18)	
21	Arrange procedural provisions in a chronological order.	
22	Use legal standards consistently through the statute.	
23	Define and categorise the entities covered by the law	
24	Provide a definite mechanism for exercise of every power or right granted	
25	Minimize discretion points, and if retained, articulate factors to guide subjective assessments	Actionable
26	Provide specific and definitive delegation of powers in the law	
Post-drafting stage		
27	Prepare a machine-readable and accessible draft	Accessible
28	Translate the law to all official languages prior to its coming into force	
29	Publish and widely circulate legal explainers along with the law	
30	Use a question-and-answer format, simple language, bullet points, flowcharts, and tables to break down information in explainers.	

Implementing SARAL

The checklist identified on the previous page reflects a collection of the measures identified in this manual in relation to each foundational value of SARAL. As such, the checklist is a practical tool for any legal drafter to ensure that their drafts comply with the principles of simplicity, accessibility, rationality and actionability as identified in this manual. However, in order to effect structural changes in the way in which Indian laws are written, the checklist must be supplemented with a number of other measures which ensure that the SARAL principles are realized in practice. Some of these measures are identified below:

Requiring laws to be accompanied with a Memorandum of Simplicity

- The SARAL checklist provides the template for a comprehensive plain language drafting approach. However, for this template to be used by legal drafters in India, institutional changes are necessary as well. This can be achieved through creating a requirement for laws to be accompanied with a Memorandum of Simplicity.
- At present, laws tabled before Parliament must be accompanied by (i) a Statement of Objects and Reasons; (ii) notes on Clauses, if the Bill is of a complicated nature; (iii) Financial Memorandum; and (iv) a Memorandum regarding Delegated Legislation.⁸¹ The Manual of Parliamentary Procedures may be amended to also include the requirement of accompanying any bill with a Memorandum of Simplicity.
- The Memorandum of Simplicity should certify that the law has been drafted in accordance with the principles of plain language drafting. A checklist may be developed for this purpose, such as the SARAL checklist. The respective nodal ministry or the legislative department may be made responsible for implementing this checklist for every legislation proposed by them. Laws tabled before Parliament must necessarily comply with the checklist, and any deviations must be acknowledged and explained. Similar measures are required in other jurisdictions as part of their plain language drafting initiatives, such as the measures required under the Plain Language Writing Act, 2010 in the United States.
- The institutionalization of plain language drafting, through the tool of a Memorandum of Simplicity, will drive the Indian lawmaking process towards faster adoption of plain language drafting.

Creating a Plain Language Wing/Department in the Ministry of Law and Justice

- The Ministry of Law and Justice is the nodal ministry responsible for drafting of principal legislation for the Union Government. At present, the Legislative Department under the Ministry is responsible for the preparation of drafts. The Legislative Department houses the Official Languages Wing of the Ministry and is responsible for producing guidelines on the Standard Forms of Legal Documents in India.
- The functions of the Department may be reimagined given the imperative to produce laws in plain language, particularly for the Indian population. This requires the creation of dedicated capacity focused on ensuring the use of plain language. To this end, an institutional setup may be created within the Ministry of Law and Justice which can evaluate global best practices on plain language drafting, assist nodal ministries in India with preparation of plain language drafts, and carry out other capacity-building functions.

Using technology effectively to create an interactive database of laws

- Technology has significant potential in providing solutions which can overcome some of the obstacles in relation to making laws accessible and understandable. For instance, India Code, which presently hosts static pdf versions of laws, may be redesigned to have an interactive interface with appended explainers, such as the repository maintained by the United Kingdom's Legislative Department.⁸² This sort of interface can ease navigation of laws and ensure that machine-readable and accessible versions of laws are made available to citizens.

⁸¹ 9.6, Manual of Parliamentary Procedures in the Government of India, Ministry of Parliamentary Affairs (2018)

⁸² See About Us, 'Legislation.Gov.Uk', available at < <https://www.legislation.gov.uk/aboutus> >

IV. Redrafting The Right of Children to Free and Compulsory Education Act, 2009

The SARAL checklist identified in this manual can serve as a useful practical tool for the purpose of drafting laws in a simpler, accessible, rational, and actionable manner. This part of the manual provides an illustration for how the SARAL manual may be applied to existing Indian laws. The table below presents a re-draft of the Right of Children to Free and Compulsory Education Act, 2009 ('RTE Act').

It may be noted that this is an illustrative re-draft of an existing law. Consequently, while this re-draft substantially simplifies the form of the RTE Act, there are certain substance-related issues that must be addressed at the pre-drafting stage, as identified in the checklist. Therefore, the re-draft below does not apply the measures from the pre-drafting stage to this exercise.

The RTE Act is a legislation of crucial importance to the general public, and a landmark legislation in terms of ensuring access to education for children in India. However, there are various drafting inadequacies which plague the Act. For instance, the substantive provisions in the Act are compound provisions which contain various requirements within the same clause. The Act is also populated with elaborate references to other clauses of the Act, and at various places, uses traditional components of legalese.

These features make the Act inaccessible for the average Indian citizen who may look to this legislation for understanding their rights, entitlements, and obligations in the context of elementary education. As such, it is crucial that this Act is drafted in an accessible manner enabling ordinary Indian citizens to be aware of and claim their legal and constitutional rights. This re-draft demonstrates the potential of writing laws in plain language, which significantly enhances the readability and comprehensibility of the law.

Existing Provision	SARAL Drafting
Long Title, Preamble, Enacting Formula	
The Right of Children to Free and Compulsory Education Act, 2009	The Right of Children to Free and Compulsory Education Act, 2009
An Act to provide for free and compulsory education to all children of the age of six to fourteen years.	An Act to provide for free and compulsory education to all children of the age of six to fourteen years.
BE it enacted by Parliament in the Sixtieth Year of the Republic of India as follows:—	Enacted by Parliament as follows:—
CHAPTER 1. PRELIMINARY	
Section 1. Short title, extent and commencement	
(1) This Act may be called the Right of Children to Free and Compulsory Education Act, 2009.	(1) This is the Right of Children to Free and Compulsory Education Act, 2009.
(2) It shall extend to the whole of India except the State of Jammu and Kashmir.	(2) It extends to the whole of India except the State of Jammu and Kashmir.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.	(3) The Central Government will appoint a date by notification in the Official Gazette on which the Act will come into force.
[(4) Subject to the provisions of articles 29 and 30 of the	[(4) Subject to the provisions of articles 29 and 30 of the

<p>Constitution, the provisions of this Act shall apply to conferment of rights on children to free and compulsory education.</p>	<p>Constitution, the provisions of this Act will provide children with the right to free and compulsory education.</p>
<p>(5) Nothing contained in this Act shall apply to Madrasas, Vedic Pathshalas and educational institutions primarily imparting religious instruction.]</p>	<p>(5) This Act will not apply to Madrasas, Vedic Pathshalas and educational institutions primarily imparting religious instruction.]</p>
<p>Section 2. Definitions</p>	
<p>In this Act, unless the context otherwise requires,—</p> <p>[***]</p> <p>(a) “appropriate Government” means—</p> <p style="padding-left: 20px;">(i) in relation to a school established, owned or controlled by the Central Government, or the administrator of the Union territory, having no legislature, the Central Government;</p> <p style="padding-left: 20px;">(ii) in relation to a school, other than the school referred to in sub-clause (i), established within the territory of—</p> <p style="padding-left: 40px;">(A) a State, the State Government;</p> <p style="padding-left: 40px;">(B) a Union territory having legislature, the Government of that Union territory;</p> <p>(b) “capitation fee” means any kind of donation or contribution or payment other than the fee notified by the school;</p> <p>(c) “child” means a male or female child of the age of six to fourteen years;</p> <p>(d) “child belonging to disadvantaged group” means [a child with disability or] a child belonging to the Scheduled Caste, the Scheduled Tribe, the socially and educationally backward class or such other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or such other factor, as may be specified by the appropriate Government, by notification;</p> <p>(e) “child belonging to weaker section” means a child belonging to such parent or guardian whose annual income is lower than the minimum limit specified by the appropriate Government, by notification;</p> <p>[(ee) “child with disability” includes,—</p> <p style="padding-left: 20px;">(A) a child with “disability” as defined in clause (i) of section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996);</p> <p style="padding-left: 20px;">(B) a child, being a person with disability as defined in clause (j) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999);</p> <p style="padding-left: 20px;">(C) a child with “severe disability” as defined in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999).]</p> <p>(f) “elementary education” means the education from first</p>	<p>In this Act, unless the context otherwise requires—</p> <p>(a) “aided school” means any school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority</p> <p>(aa) “appropriate Government” means—</p> <p style="padding-left: 20px;">(i) the Central Government, for schools established, owned or controlled by the Central Government or by the administrator of the Union territory having no legislature;</p> <p style="padding-left: 20px;">(ii) the State Government, for schools established within the territory of a State, other than the schools referred to in clause (i);</p> <p style="padding-left: 20px;">(iii) the Government of the Union territory, for schools established within a Union territory having legislature, other than the schools referred to in clause (i);</p> <p>(b) “capitation fee” means any donation, contribution or payment, other than the fee notified by the school</p> <p>(c) “child” means a child of the age of six to fourteen years;</p> <p>(d) “child belonging to disadvantaged group” means—</p> <p style="padding-left: 20px;">(i) a child with disability</p> <p style="padding-left: 20px;">(ii) a child belonging to a Scheduled Caste, a Scheduled Tribe, a socially and educationally backward class or</p> <p style="padding-left: 20px;">(iii) any other group having disadvantage owing to social, cultural, economical, geographical, linguistic, gender or other similar factors, as specified by the appropriate Government by notification;</p> <p>(e) “child belonging to weaker section” means a child whose parents’ or guardian’s annual income is lower than the minimum limit specified by the appropriate Government, by notification;</p> <p>(ee) “child with disability” includes,—</p> <p style="padding-left: 20px;">(A) a child with “disability” as defined in section 2(i) of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;</p> <p style="padding-left: 20px;">(B) a child, being a person with disability as defined in section 2(j) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;</p> <p style="padding-left: 20px;">(C) a child with “severe disability” as defined in section 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999;</p> <p>(f) “elementary education” means the education from first class</p>

<p>class to eighth class;</p> <p>(g) “guardian”, in relation to a child, means a person having the care and custody of that child and includes a natural guardian or guardian appointed or declared by a court or a statute;</p> <p>(h) “local authority” means a Municipal Corporation or Municipal Council or Zila Parishad or Nagar Panchayat or Panchayat, by whatever name called, and includes such other authority or body having administrative control over the school or empowered by or under any law for the time being in force to function as a local authority in any city, town or village;</p> <p>(i) “National Commission for Protection of Child Rights” means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006);</p> <p>(j) “notification” means a notification published in the Official Gazette;</p> <p>(k) “parent” means either the natural or step or adoptive father or mother of a child;</p> <p>(l) “prescribed” means prescribed by rules made under this Act;</p> <p>(m) “Schedule” means the Schedule annexed to this Act;</p> <p>(n) “school” means any recognised school imparting elementary education and includes—</p> <p>(i) a school established, owned or controlled by the appropriate Government or a local authority;</p> <p>(ii) an aided school receiving aid or grants to meet whole or part of its expenses from the appropriate Government or the local authority;</p> <p>(iii) a school belonging to specified category; and</p> <p>(iv) an unaided school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority;</p> <p>(o) “screening procedure” means the method of selection for admission of a child, in preference over another, other than a random method;</p> <p>(p) “specified category”, in relation to a school, means a school known as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government;</p> <p>(q) “State Commission for Protection of Child Rights” means the State Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006).</p>	<p>to eight class;</p> <p>(g) “guardian”, in relation to a child, means a person having the care and custody of that child. It includes a natural guardian and a guardian appointed or declared by a court or a statute;</p> <p>(h) “local authority” means a Municipal Corporation, Municipal Council, Zila Parishad, Nagar Panchayat or Panchayat, or other similar local authority called by whatever name. It includes any authority or body having administrative control over the school, or any body empowered by any law to function as a local authority in any city, town or village;</p> <p>(i) “National Commission for Protection of Child Rights” means the National Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005;</p> <p>(j) “notification” means a notification published in the Official Gazette;</p> <p>(k) “parent” means either the natural or the step or the adoptive father or mother of a child;</p> <p>(l) “prescribed” means prescribed by rules made under this Act;</p> <p>(m) “Schedule” means the Schedule annexed to this Act;</p> <p>(n) “school” means any recognised school imparting elementary education. It includes—</p> <p>(i) a school established, owned or controlled by the appropriate Government or a local authority;</p> <p>(ii) an aided school;</p> <p>(iii) a specified category school; and</p> <p>(iv) an unaided school;</p> <p>(o) “screening procedure” means the method of selection for admission of a child, in preference over another. It does not include a random method;</p> <p>(p) “specified category school” means a school known as Kendriya Vidyalaya, Navodaya Vidyalaya, Sainik School or any other school having a distinct character which may be specified, by notification, by the appropriate Government;</p> <p>(q) “State Commission for Protection of Child Rights” means the State Commission for Protection of Child Rights constituted under section 3 of the Commissions for Protection of Child Rights Act, 2005; and</p> <p>(r) “unaided school” means a school not receiving any kind of aid or grants to meet its expenses from the appropriate Government or the local authority.</p>
CHAPTER 2. RIGHT TO FREE AND COMPULSORY EDUCATION	
Section 3. Right of child to free and compulsory education	
[(1) Every child of the age of six to fourteen years, including a	[(1) Every child of the age of six to fourteen years, including a

<p>child referred to in clause (d) or clause (e) of section 2, shall have the right to free and compulsory education in a neighbourhood school till the completion of his or her elementary education.]</p>	<p>child belonging to disadvantaged group or weaker section, will have the right to free and compulsory education in a neighbourhood school till the completion of their elementary education.]⁴</p>
<p>(2) For the purpose of sub-section (1), no child shall be liable to pay any kind of fee or charges or expenses which may prevent him or her from pursuing and completing the elementary education. [...]</p>	<p>(2) For the purpose of sub-section (1), a child is not liable to pay any kind of fee or charges or expenses which may prevent the child from pursuing and completing elementary education. [...]⁵</p>
<p>[(3) A child with disability referred to in sub-clause (A) of clause (ee) of section 2 shall, without prejudice to the provisions of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996), and a child referred to in sub-clauses (B) and (C) of clause (ee) of section 2, have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995: Provided that a child with “multiple disabilities” referred to in clause (h) and a child with “severe disability” referred to in clause (o) of section 2 of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 (44 of 1999) may also have the right to opt for home-based education.]</p>	<p>(3) A child with disability should have the same rights to pursue free and compulsory elementary education which children with disabilities have under the provisions of Chapter V of the Persons with Disabilities Act, 1995.</p> <p>(4) A child with “multiple disabilities” referred to in section 2(h) and a child with “severe disability” referred to in section 2(o) of the National Trust for Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999 will also have the right to opt for home-based education.</p>
<p>Section 4. Special provisions for children not admitted to, or who have not completed, elementary education</p>	
<p>Where a child above six years of age has not been admitted in any school or though admitted, could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age:</p> <p>Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed:</p> <p>Provided further that a child so admitted to elementary education shall be entitled to free education till completion of elementary education even after fourteen years.</p>	<p>(1) A child must be admitted in a class appropriate to the child's age when --</p> <ul style="list-style-type: none"> (a) The child is above six years of age and has not been admitted in any school; or (b) The child has been admitted to a school but could not complete elementary education. <p>(2) A child directly admitted in a class appropriate to their age under sub-section (1) will have the following rights</p> <ul style="list-style-type: none"> (a) The right to receive special training to be at par with others within a prescribed time limit. (b) The child will be entitled to free education till completion of elementary education even after fourteen years of age.
<p>Section 5. Right of transfer to other school</p>	
<p>(1) Where in a school, there is no provision for completion of elementary education, a child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.</p>	<p>(1) In a school where there is no provision for completion of elementary education, a child will have the right to seek transfer to any other school, except a specified category school or an unaided school, for completing elementary education.</p>
<p>(2) Where a child is required to move from one school to another, either within a State or outside, for any reason whatsoever, such child shall have a right to seek transfer to any other school, excluding the school specified in sub-clauses (iii) and (iv) of clause (n) of section 2, for completing his or her elementary education.</p>	<p>(2) Where a child is required to move from one school to another, either within a State or outside, for any reason whatsoever, the child will have a right to seek transfer to any other school, except a specified category school or an unaided school, for completing elementary education.</p>
<p>(3) For seeking admission in such other school, the Head-teacher or in-charge of the school where such child was last admitted, shall immediately issue the transfer certificate: Provided that delay in producing transfer certificate shall not be a ground for either delaying or denying admission in such other school: Provided further that the Head-teacher or in-charge of the</p>	<p>(3) For seeking admission in such other school, the Head-teacher or in-charge of the school where such a child was last admitted, must immediately issue the transfer certificate.</p> <p>(4) Any delay in producing a transfer certificate should not be a reason for delaying or denying admission in other schools.</p>

school delaying issuance of transfer certificate shall be liable for disciplinary action under the service rules applicable to him or her.	(5) The Head-teacher or in-charge of the school delaying issuance of transfer certificate will be liable for disciplinary action under the applicable service rules.
CHAPTER 3. DUTIES OF APPROPRIATE GOVERNMENT, LOCAL AUTHORITY AND PARENTS	
Section 6. Duty of appropriate Government and local authority to establish school	
For carrying out the provisions of this Act, the appropriate Government and the local authority shall establish, within such area or limits of neighbourhood, as may be prescribed, a school, where it is not so established, within a period of three years from the commencement of this Act.	For carrying out the provisions of this Act -- (a) The appropriate Government or the local authority must establish a school, within the prescribed area or neighbourhood limits, where a school is not yet established. (b) The school must be established within a period of three years from the commencement of this Act.
Section 7. Sharing of financial and other responsibilities	
(1) The Central Government and the State Governments shall have concurrent responsibility for providing funds for carrying out the provisions of this Act.	(1) The Central Government and the State Governments will have concurrent responsibility for providing funds for carrying out the provisions of this Act.
(2) The Central Government shall prepare the estimates of capital and recurring expenditure for the implementation of the provisions of the Act.	(2) The Central Government must prepare the estimates of capital and recurring expenditure for implementing the provisions of the Act.
(3) The Central Government shall provide to the State Governments, as grants-in-aid of revenues, such percentage of expenditure referred to in sub-section (2) as it may determine, from time to time, in consultation with the State Governments.	(3) The Central Government must provide grants-in-aid of revenues to the State Governments for such percentage of expenditure referred to in sub-section (2) as it may determine in consultation with the State Governments from time to time.
(4) The Central Government may make a request to the President to make a reference to the Finance Commission under sub-clause (d) of clause (3) of article 280 to examine the need for additional resources to be provided to any State Government so that the said State Government may provide its share of funds for carrying out the provisions of the Act.	(4) The Central Government can request the President to make a reference to the Finance Commission under Article 280(3)(d) to examine the need for additional resources to be provided to State Governments so that the said State Government can provide its share of funds to carry out the provisions of the Act.
(5) Notwithstanding anything contained in sub-section (4), the State Government shall, taking into consideration the sums provided by the Central Government to a State Government under sub-section (3), and its other resources, be responsible to provide funds for implementation of the provisions of the Act.	(5) The State Government will be responsible for providing funds for implementation of the provisions of this Act, taking into consideration the sums provided by the Central Government to a State Government under sub-section (3) and its other resources, regardless of anything contained in sub-section 4.
(6) The Central Government shall— (a) develop a framework of national curriculum with the help of academic authority specified under section 29; (b) develop and enforce standards for training of teachers; (c) provide technical support and resources to the State Government for promoting innovations, researches, planning and capacity building.	(6) The Central Government must— (a) develop a national curriculum framework with the help of the academic authority specified under section 29; (b) develop and enforce standards for training of teachers; (c) provide technical support and resources to the State Government for promoting innovations, research, planning and capacity building.
Section 8. Duties of appropriate Government	
The appropriate Government shall— (a) provide free and compulsory elementary education to every child: Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate	(1) The appropriate Government must— (a) provide free and compulsory elementary education to every child. (b) ensure availability of a neighbourhood school as specified in section 6; (c) ensure that a child belonging to weaker section or disadvantaged group is not discriminated against and

<p>Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school.</p> <p>Explanation.—The term “compulsory education” means obligation of the appropriate Government to—</p> <p>(i) provide free elementary education to every child of the age of six to fourteen years; and (ii) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years;</p> <p>(b) ensure availability of a neighbourhood school as specified in section 6;</p> <p>(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;</p> <p>(d) provide infrastructure including school building, teaching staff and learning equipment;</p> <p>(e) provide special training facility specified in section 4;</p> <p>(f) ensure and monitor admission, attendance and completion of elementary education by every child;</p> <p>(g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;</p> <p>(h) ensure timely prescribing of curriculum and courses of study for elementary education; and</p> <p>(i) provide training facility for teachers.</p>	<p>prevented from pursuing and completing elementary education on any grounds;</p> <p>(d) provide infrastructure, including school building, teaching staff and learning equipment;</p> <p>(e) provide special training facility specified in section 4;</p> <p>(f) ensure and monitor admission, attendance and completion of elementary education by every child;</p> <p>(g) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;</p> <p>(h) ensure timely prescribing of curriculum and courses of study for elementary education; and</p> <p>(i) provide training facilities for teachers.</p> <p>(2) Regardless of Section 8(1)(a), a child or their parents or guardian is not entitled to make a claim for reimbursement of expenditure incurred on elementary education if the child is admitted in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority.</p> <p>Explanation—For the purpose of this section, the term “compulsory education” means obligation of the appropriate Government to—</p> <p>(i) provide free elementary education to every child of the age of six to fourteen years; and</p> <p>(ii) ensure compulsory admission, attendance and completion of elementary education by every child of the age of six to fourteen years.</p>
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Section 9. Duties of local authority

<p>Every local authority shall—</p> <p>(a) provide free and compulsory elementary education to every child:</p> <p>Provided that where a child is admitted by his or her parents or guardian, as the case may be, in a school other than a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority, such child or his or her parents or guardian, as the case may be, shall not be entitled to make a claim for reimbursement of expenditure incurred on elementary education of the child in such other school;</p> <p>(b) ensure availability of a neighbourhood school as specified in section 6;</p> <p>(c) ensure that the child belonging to weaker section and the child belonging to disadvantaged group are not discriminated against and prevented from pursuing and completing elementary education on any grounds;</p> <p>(d) maintain records of children up to the age of fourteen years residing within its jurisdiction, in such manner as may be prescribed;</p> <p>(e) ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction;</p> <p>(f) provide infrastructure including school building, teaching staff and learning material;</p>	<p>(1) Every local authority must—</p> <p>(a) provide free and compulsory elementary education to every child.</p> <p>(b) ensure availability of a neighbourhood school as specified in section 6;</p> <p>(c) ensure that a child belonging to weaker section or disadvantaged group is not discriminated against and prevented from pursuing and completing elementary education on any grounds;</p> <p>(d) maintain records of children up to the age of fourteen years residing within its jurisdiction, in a manner as prescribed;</p> <p>(e) ensure and monitor admission, attendance and completion of elementary education by every child residing within its jurisdiction;</p> <p>(f) provide infrastructure including school building, teaching staff and learning material;</p> <p>(g) provide special training facility specified in section 4;</p> <p>(h) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;</p> <p>(i) ensure timely prescribing of curriculum and courses of study for elementary education;</p> <p>(j) provide training facilities for teachers;</p>
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<p>(g) provide special training facility specified in section 4;</p> <p>(h) ensure good quality elementary education conforming to the standards and norms specified in the Schedule;</p> <p>(i) ensure timely prescribing of curriculum and courses of study for elementary education; (j) provide training facility for teachers;</p> <p>(k) ensure admission of children of migrant families;</p> <p>(l) monitor functioning of schools within its jurisdiction; and</p> <p>(m) decide the academic calendar.</p>	<p>(k) ensure admission of children of migrant families;</p> <p>(l) monitor functioning of schools within its jurisdiction; and</p> <p>(m) decide the academic calendar.</p> <p>(2) Regardless of Section 9(1)(a), a child or their parents or guardian is not entitled to make a claim for reimbursement of expenditure incurred on elementary education if the child is admitted in a school other than a school established, owned, controlled, or substantially financed by funds provided directly or indirectly by the appropriate Government or a local authority.</p>
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Section 10. Duty of parents and guardian

<p>It shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.</p>	<p>It will be the duty of every parent or guardian to admit or cause to be admitted their child or ward to an elementary school in the neighbourhood.</p>
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Section 11. Appropriate Government to provide for pre-school education

<p>With a view to prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangement for providing free pre-school education for such children.</p>	<p>To prepare children above the age of three years for elementary education and to provide early childhood care and education for all children until they complete the age of six years, the appropriate Government may make necessary arrangements for providing free pre-school education for such children.</p>
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CHAPTER 4: RESPONSIBILITIES OF SCHOOLS AND TEACHERS

Section 12. Extent of school's responsibility for free and compulsory education

<p>(1) For the purposes of this Act, a school, –</p> <p>(a) specified in sub-clause (i) of clause (n) of section 2 shall provide free and compulsory elementary education to all children admitted therein;</p> <p>(b) specified in sub-clause (ii) of clause (n) of section 2 shall provide free and compulsory elementary education to such proportion of children admitted therein as its annual recurring aid or grants so received bears to its annual recurring expenses, subject to a minimum of twenty-five per cent;</p> <p>(c) specified in sub-clauses (iii) and (iv) of clause (n) of section 2 shall admit in class I, to the extent of at least twenty-five per cent. of the strength of that class, children belonging to weaker section and disadvantaged group in the neighbourhood and provide free and compulsory elementary education till its completion:</p> <p>Provided that where a school specified in clause (n) of section 2 imparts pre-school education, the provisions of clauses (a) to (c) shall apply for admission to such pre-school education.</p> <p>(2) The school specified in sub-clause (iv) of clause (n) of section 2 providing free and compulsory elementary education as specified in clause (c) of sub-section (1) shall be reimbursed expenditure so incurred by it to the extent of per-child-expenditure incurred by the State, or the actual amount</p>	<p>(1) For the purposes of this Act, –</p> <p>(a) a school established, owned or controlled by the appropriate government or a local authority, must provide free and compulsory elementary education to all admitted children;</p> <p>(b) an aided school must provide free and compulsory elementary education to a proportion of children admitted to it. This will be the proportion of its annual recurring aid or grants received to its annual recurring expenses, and shall be a minimum of twenty-five per cent of the children admitted to it;</p> <p>(c) specified category schools and unaided schools must admit, in class I, children belonging to weaker sections and disadvantaged groups in the neighbourhood. These children must be at least twenty-five percent of the strength of that class and must be provided free and compulsory elementary education till its completion.</p> <p>(d) If any school specified in section 2(n) imparts pre-school education, the provisions of clauses (a) to (c) will apply for admission to such pre-school education.</p> <p>(2) Any unaided school providing free and compulsory elementary education as specified in Section 12(1)(c) will be reimbursed for the expenditure incurred by it to the extent of per-child-expenditure incurred by the State, or the actual</p>
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<p>charged from the child, whichever is less, in such manner as may be prescribed: Provided that such reimbursement shall not exceed per-child-expenditure incurred by a school specified in sub-clause (i) of clause (n) of section 2: Provided further that where such school is already under obligation to provide free education to a specified number of children on account of it having received any land, building, equipment or other facilities, either free of cost or at a concessional rate, such school shall not be entitled for reimbursement to the extent of such obligation.</p> <p>(3) Every school shall provide such information as may be required by the appropriate Government or the local authority, as the case may be.</p>	<p>amount charged from the child, whichever is less.</p> <p>(3) Reimbursements under sub-section (2) must not exceed per-child-expenditure incurred by a school established, owned or controlled by the appropriate government or a local authority.</p> <p>(4) A school which is already under obligation to provide education free of cost or at a concessional rate, to a specified number of children on account of it having received any land, building, equipment or other facilities, will not be entitled for reimbursement.</p> <p>(5) Every school must provide information required by the appropriate Government or the local authority.</p>
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Section 13. No capitation fee and screening procedure for admission

<p>(1) No school or person shall, while admitting a child, collect any capitation fee and subject the child or his or her parents or guardian to any screening procedure. (2) Any school or person, if in contravention of the provisions of sub-section (1),— (a) receives capitation fee, shall be punishable with fine which may extend to ten times the capitation fee charged; (b) subjects a child to screening procedure, shall be punishable with fine which may extend to twenty-five thousand rupees for the first contravention and fifty thousand rupees for each subsequent contraventions.</p>	<p>(1) While admitting a child, a school or person must not — (a) collect any capitation fee, or (b) subject a child, parent or guardian to any screening procedure.</p> <p>(2) Any school or person who in violation of the provisions of sub-section (1) — (a) receives capitation fee, will be punishable with a fine which may extend to ten times the capitation fee charged; (b) subjects a child, parent, or guardian to any screening procedure, will be punishable with a fine which may extend to twenty-five thousand rupees for the first violation and fifty thousand rupees for each subsequent violation.</p>
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Section 14. Proof of age for admission

<p>(1) For the purposes of admission to elementary education, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 (6 of 1886) or on the basis of such other document, as may be prescribed.</p> <p>(2) No child shall be denied admission in a school for lack of age proof.</p>	<p>(1) For the purposes of admission to elementary education, the age of a child must be determined on the basis of - (a) the birth certificate issued in accordance with the provisions of the Births, Deaths and Marriages Registration Act, 1886 or (b) any other document as prescribed.</p> <p>(2) A child must not be denied admission to a school for lack of age proof.</p>
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Section 15. No denial of admission

<p>A child shall be admitted in a school at the commencement of the academic year or within such extended period as may be prescribed: Provided that no child shall be denied admission if such admission is sought subsequent to the extended period: Provided further that any child admitted after the extended period shall complete his studies in such manner as may be prescribed by the appropriate Government.</p>	<p>(1) A child should be admitted to a school at the commencement of the academic year or within such an extended period as prescribed.</p> <p>(2) A child must not be denied admission if admission is sought subsequent to the extended period.</p> <p>(3) Any child admitted after the extended period must complete studies in the manner as prescribed by the appropriate Government.</p>
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Section 16. Prohibition of holding back and expulsion

<p>No child admitted in a school shall be held back in any class or expelled from school till the completion of elementary education.</p>	<p>A child admitted to a school must not be held back in any class or expelled from school till the completion of elementary education.</p>
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Section 17. Prohibition of physical punishment and mental harassment of a child

(1) No child shall be subjected to physical punishment or mental harassment.
(2) Whoever contravenes the provisions of sub-section (1) shall be liable to disciplinary action under the service rules applicable to such person.

(1) A child must not be subjected to physical punishment or mental harassment.
(2) Anyone violating the provisions of sub-section (1) will be liable to disciplinary action under the applicable service rules.

Section 18. No School to be established without obtaining certificate of recognition

(1) No school, other than a school established, owned or controlled by the appropriate Government or the local authority, shall, after the commencement of this Act, be established or function, without obtaining a certificate of recognition from such authority, by making an application in such form and manner, as may be prescribed.

(2) The authority prescribed under sub-section (1) shall issue the certificate of recognition in such form, within such period, in such manner, and subject to such conditions, as may be prescribed:
Provided that no such recognition shall be granted to a school unless it fulfils norms and standards specified under section 19.

(3) On the contravention of the conditions of recognition, the prescribed authority shall, by an order in writing, withdraw recognition:

Provided that such order shall contain a direction as to which of the neighbourhood school, the children studying in the derecognised school, shall be admitted:

Provided further that no recognition shall be so withdrawn without giving an opportunity of being heard to such school, in such manner, as may be prescribed.

(4) With effect from the date of withdrawal of the recognition under sub-section (3), no such school shall continue to function.

(5) Any person who establishes or runs a school without obtaining certificate of recognition, or continues to run a school after withdrawal of recognition, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

(1) After the commencement of this Act, all schools to be established or to function, must obtain a certificate of recognition from such authority as prescribed, by applying in the prescribed form and manner.

(2) Sub-section (1) will not apply to a school established, owned or controlled by the appropriate Government or the local authority.

(3) The authority prescribed under sub-section (1) will issue the certificate of recognition to a school that fulfils norms and standards specified under section 19, within the period, in the form and manner, and subject to the conditions, as prescribed.

(4) On violation of the conditions of recognition, the prescribed authority will withdraw recognition of a school by an order in writing.

(5) Recognition must not be withdrawn without giving the school an opportunity of being heard in a manner as prescribed.

(6) Any order under sub-section (4) must specify which neighbourhood school the children studying in the derecognised school must be admitted to.

(6) A school must cease to function from the date of withdrawal of recognition under sub-section (4).

(7) Any person who establishes or runs a school without obtaining the certificate of recognition or continues to run a school after withdrawal of recognition, will be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.

Section 19. Norms and standards for school

(1) No school shall be established, or recognised under section 18, unless it fulfils the norms and standards specified in the Schedule.

(2) Where a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it shall take steps to fulfil such norms and standards at its own expenses, within a period of three years from the date of such commencement.

(3) Where a school fails to fulfil the norms and standards within the period specified under sub-section (2), the authority prescribed under sub-section (1) of section 18 shall withdraw recognition granted to such school in the manner specified under sub-section (3) thereof.

(4) With effect from the date of withdrawal of recognition under sub-section (3), no school shall continue to function.

(1) A school must not be established or recognised under section 18 unless it fulfils the norms and standards specified in the Schedule.

(2) If a school established before the commencement of this Act does not fulfil the norms and standards specified in the Schedule, it must take steps to fulfil such norms and standards at its own expenses within a period of three years from the date of commencement of this Act.

(3) If a school fails to fulfil the norms and standards within the three-year period specified under sub-section (2), the authority prescribed under section 18(1) must withdraw recognition granted to such school in the manner specified under section 18(4).

(4) A school must cease to function from the date of withdrawal of recognition under sub-section (3).

<p>(5) Any person who continues to run a school after the recognition is withdrawn, shall be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.</p>	<p>(5) Any person who continues to run a school after the recognition is withdrawn, will be liable to fine which may extend to one lakh rupees and in case of continuing contraventions, to a fine of ten thousand rupees for each day during which such contravention continues.</p>
<p>Section 20. Power to amend Schedule</p>	
<p>The Central Government may, by notification, amend the Schedule by adding to, or omitting therefrom, any norms and standards.</p>	<p>The Central Government, by notification, can amend the Schedule by adding or omitting any norms and standards.</p>
<p>Section 21. School Management Committee</p>	
<p>(1) A school, other than a school specified in sub-clause (iv) of clause (n) of section 2, shall constitute a School Management Committee consisting of the elected representatives of the local authority, parents or guardians of children admitted in such school and teachers:</p> <p>Provided that at least three-fourth of members of such Committee shall be parents or guardians:</p> <p>Provided further that proportionate representation shall be given to the parents or guardians of children belonging to disadvantaged group and weaker section:</p> <p>Provided also that fifty per cent. of Members of such Committee shall be women.</p> <p>(2) The School Management Committee shall perform the following functions, namely:—</p> <p>(a) monitor the working of the school;</p> <p>(b) prepare and recommend school development plan;</p> <p>(c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and</p> <p>(d) perform such other functions as may be prescribed:</p> <p>[Provided that the School Management Committee constituted under sub-section (1) in respect of,—</p> <p>(a) a school established and administered by minority whether based on religion or language; and</p> <p>(b) all other aided schools as defined in sub-section (ii) of clause (n) of section 2, shall perform advisory function only.]</p>	<p>(1) A school, other than an unaided school, must constitute a School Management Committee.</p> <p>21A. Composition of School Management Committee</p> <p>(1) The School Management Committee will consist of elected representatives of the local authority, parents or guardians of children admitted to such schools and teachers.</p> <p>(2) Parents or guardians must compose a minimum of three-fourths of the members of the Committee.</p> <p>(3) Parents or guardians of children belonging to disadvantaged groups and weaker sections must have proportionate representation on the Committee.</p> <p>(4) Fifty percent of the members of the Committee must be women.</p> <p>21B. Functions of School Management Committee</p> <p>(1) The School Management Committee must perform the following functions:</p> <p>(a) monitor the working of the school;</p> <p>(b) prepare and recommend school development plans;</p> <p>(c) monitor the utilisation of the grants received from the appropriate Government or local authority or any other source; and</p> <p>(d) perform such other functions as prescribed:</p> <p>[(2) The School Management Committee will only perform an advisory function when it is constituted for—</p> <p>(i) a school established and administered by a minority whether based on religion or language; and</p> <p>(ii) an aided school.]</p>
<p>Section 22. School Development Plan</p>	
<p>(1) Every [School Management Committee, except the School Management Committee in respect of a school established and administered by minority, whether based on religion or language and an aided school as defined in sub-clause (ii) of clause (n) of section 2, constituted] under sub-section (1) of section 21, shall prepare a School Development Plan, in such manner as may be prescribed.</p> <p>(2) The School Development Plan so prepared under sub-section (1) shall be the basis for the plans and grants to be made by the appropriate Government or local authority, as the case may be.</p>	<p>(1) Every School Management Committee constituted under section 21(1) must prepare a School Development Plan in the manner prescribed by rules made under this Act.</p> <p>(2) Sub-section (1) does not apply to the School Management Committee of:</p> <p>(a) a school established and administered by a minority, whether based on religion or language, and</p>

	<p>(b) an aided school.</p> <p>(3) The School Development Plan prepared under sub-section (1) will be the basis for the plans and grants to be made by the appropriate Government or local authority to the school.</p>
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Section 23. Qualifications for appointment and terms and conditions of service of teachers

<p>(1) Any person possessing such minimum qualifications, as laid down by an academic authority, authorised by the Central Government, by notification, shall be eligible for appointment as a teacher.</p> <p>(2) Where a State does not have adequate institutions offering courses or training in teacher education, or teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers, the Central Government may, if it deems necessary, by notification, relax the minimum qualifications required for appointment as a teacher, for such period, not exceeding five years, as may be specified in that notification: Provided that a teacher who, at the commencement of this Act, does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of five years: [Provided further that every teacher appointed or in position as on the 31st March, 2015, who does not possess minimum qualifications as laid down under sub-section (1), shall acquire such minimum qualifications within a period of four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017 (24 of 2017).]</p> <p>(3) The salary and allowances payable to, and the terms and conditions of service of, teachers shall be such as may be prescribed.</p>	<p>(1) Any person possessing minimum qualifications, as laid down by an academic authority authorised by the Central Government by notification, will be eligible for appointment as a teacher.</p> <p>(2) The Central Government, by notification, may relax the minimum qualifications required for appointment as a teacher for a period not greater than five years if -- (a) a State does not have adequate institutions offering courses or training in teacher education; or (b) Teachers possessing minimum qualifications as laid down under sub-section (1) are not available in sufficient numbers.</p> <p>(3) A teacher who does not possess minimum qualifications as laid down under sub-section (1), at the time of commencement of this Act, must acquire such minimum qualifications within a period of five years.</p> <p>(4) Every teacher appointed on or before 31st March, 2015, who does not possess the minimum qualifications laid down under sub-section (1), must acquire such minimum qualifications within four years from the date of commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2017.]</p> <p>(5) The salary and allowances payable to teachers, and the terms and conditions of their service will be as prescribed.</p>
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Section 24. Duties of teachers and redressal of grievances

<p>(1) A teacher appointed under sub-section (1) of section 23 shall perform the following duties, namely:— (a) maintain regularity and punctuality in attending school; (b) conduct and complete the curriculum in accordance with the provisions of sub-section (2) of section 29; (c) complete entire curriculum within the specified time; (d) assess the learning ability of each child and accordingly supplement additional instructions, if any, as required; (e) hold regular meetings with parents and guardians and apprise them about the regularity in attendance, ability to learn, progress made in learning and any other relevant information about the child; and (f) perform such other duties as may be prescribed.</p> <p>(2) A teacher committing default in performance of duties specified in sub-section (1), shall be liable to disciplinary action under the service rules applicable to him or her: Provided that before taking such disciplinary action, reasonable opportunity of being heard shall be afforded to such teacher.</p> <p>(3) The grievances, if any, of the teacher shall be redressed in such manner as may be prescribed.</p>	<p>(1) A teacher appointed under section 23(1) will perform the following duties:— (a) be regular and punctual in attending school; (b) conduct and complete the curriculum in accordance with the provisions of section 29(2); (c) complete the entire curriculum within the specified time; (d) assess the learning ability of each child and accordingly supplement additional instructions, if required; (e) hold regular meetings with parents and guardians and apprise them about their child's regularity in attendance, ability to learn, progress made in learning and any other relevant information; and (f) perform such other duties as prescribed.</p> <p>(2) A teacher defaulting in duties specified in sub-section (1), will be liable to disciplinary action under the applicable service rules.</p> <p>(3) Before taking disciplinary action under sub-section (2), a reasonable opportunity of being heard must be afforded to such teacher.</p> <p>(4) The grievances of the teacher will be redressed in the prescribed manner.</p>
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Section 25. Pupil-Teacher Ratio	
<p>(1) [Within three years] from the date of commencement of this Act, the appropriate Government and the local authority shall ensure that the Pupil-Teacher Ratio, as specified in the Schedule, is maintained in each school.</p> <p>(2) For the purpose of maintaining the Pupil-Teacher Ratio under sub-section (1), no teacher posted in a school shall be made to serve in any other school or office or deployed for any non-educational purpose, other than those specified in section 27.</p>	<p>(1) [Within three years]¹⁰ from the date of commencement of this Act, the appropriate Government and the local authority must ensure that the Pupil-Teacher Ratio specified in the Schedule is maintained in each school.</p> <p>(2) For maintaining the Pupil-Teacher Ratio under sub-section (1), a teacher posted in one school must not be made to serve in any other school or office or deployed for any non-educational purpose, other than the purposes specified in Section 27.</p>
Section 26. Filling up vacancies among teachers	
<p>The appointing authority, in relation to a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or by a local authority, shall ensure that vacancy of teacher in a school under its control shall not exceed ten per cent. of the total sanctioned strength.</p>	<p>In a school established, owned, controlled or substantially financed by funds provided directly or indirectly by the appropriate Government or by a local authority, the appointing authority must ensure that vacancy among teachers in a school is not more than ten percent of the total sanctioned strength.</p>
Section 27. Prohibition of deployment of teachers for non-educational purposes	
<p>No teacher shall be deployed for any non-educational purposes other than the decennial population census, disaster relief duties or duties relating to elections to the local authority or the State Legislatures or Parliament, as the case may be.</p>	<p>A teacher must not be deployed for any non-educational purposes except decennial population census, disaster relief duties or duties relating to elections of the local authority, the State Legislatures or Parliament.</p>
Section 28. Prohibition of private tuition by teacher	
<p>No teacher shall engage himself or herself in private tuition or private teaching activity.</p>	<p>A teacher must not engage in private tuition or private teaching activity.</p>
CHAPTER 5. CURRICULUM AND COMPLETION OF ELEMENTARY EDUCATION	
Section 29. Curriculum and evaluation procedure	
<p>(1) The curriculum and the evaluation procedure for elementary education shall be laid down by an academic authority to be specified by the appropriate Government, by notification.</p> <p>(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), shall take into consideration the following, namely:—</p> <p>(a) conformity with the values enshrined in the Constitution;</p> <p>(b) all round development of the child;</p> <p>(c) building up child's knowledge, potentiality and talent;</p> <p>(d) development of physical and mental abilities to the fullest extent;</p> <p>(e) learning through activities, discovery and exploration in a child friendly and child-centered manner;</p> <p>(f) medium of instructions shall, as far as practicable, be in child's mother tongue;</p> <p>(g) making the child free of fear, trauma and anxiety and helping the child to express views</p>	<p>(1) The curriculum and the evaluation procedure for elementary education must be laid down by an academic authority notified by the appropriate Government.</p> <p>(2) The academic authority, while laying down the curriculum and the evaluation procedure under sub-section (1), must take the following into consideration:—</p> <p>(a) conformity with the values enshrined in the Constitution;</p> <p>(b) all round development of the child;</p> <p>(c) building up the child's knowledge, potentiality and talent;</p> <p>(d) development of physical and mental abilities to the fullest extent;</p> <p>(e) learning through activities, discovery and exploration in a child friendly and child-centered manner;</p> <p>(f) medium of instructions will, as far as practicable, be</p>

freely; (h) comprehensive and continuous evaluation of child's understanding of knowledge and his or her ability to apply the same.	in the child's mother tongue; (g) freeing the child of fear, trauma and anxiety and helping the child in expressing their views freely; (h) comprehensive and continuous evaluation of a child's understanding of knowledge and their ability to apply the same.
Section 30. Examination and completion certificate	
(1) No child shall be required to pass any Board examination till completion of elementary education.	(1) No child will be required to pass any Board examination till completion of elementary education.
(2) Every child completing his elementary education shall be awarded a certificate, in such form and in such manner, as may be prescribed.	(2) Every child completing elementary education will be awarded a certificate in the prescribed form and manner.
CHAPTER 6. PROTECTION OF THE RIGHTS OF CHILDREN	
Section 31. Monitoring of child's right to education	
(1) The National Commission for Protection of Child Rights constituted under section 3, or, as the case may be, the State Commission for Protection of Child Rights constituted under section 17, of the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), shall, in addition to the functions assigned to them under that Act, also perform the following functions, namely:— (a) examine and review the safeguards for rights provided by or under this Act and recommend measures for their effective implementation; (b) inquire into complaints relating to child's right to free and compulsory education; and (c) take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Act.	(1) The National Commission for Protection of Child Rights constituted under section 3, and the State Commission for Protection of Child Rights constituted under section 17 of the Commissions for Protection of Child Rights Act, 2005, will, in addition to the functions assigned to them under that Act, perform the following functions:— (a) examine and review the safeguards for rights provided under this Act and recommend measures for their effective implementation; (b) inquire into complaints relating to a child's right to free and compulsory education; and (c) take necessary steps as provided under sections 15 and 24 of the said Commissions for Protection of Child Rights Acts.
(2) The said Commissions shall, while inquiring into any matters relating to child's right to free and compulsory education under clause (c) of sub-section (1), have the same powers as assigned to them respectively under sections 14 and 24 of the said Commissions for Protection of Child Rights Act.	(2) The said Commissions while inquiring into any matters relating to a child's right to free and compulsory education under sub-section (1)(c), will have the same powers as assigned to them respectively under sections 14 and 24 of the said Commissions for Protection of Child Rights Act.
(3) Where the State Commission for Protection of Child Rights has not been constituted in a State, the appropriate Government may, for the purpose of performing the functions specified in clauses (a) to (c) of sub-section (1), constitute such authority, in such manner and subject to such terms and conditions, as may be prescribed.	(3) In a State where the State Commission for Protection of Child Rights has not been constituted, the appropriate Government may constitute such authority for the purpose of performing the functions specified in clauses (a) to (c) of Section 31(1).
Section 32. Redressal of grievances	
(1) Notwithstanding anything contained in section 31, any person having any grievance relating to the right of a child under this Act may make a written complaint to the local authority having jurisdiction.	(1) Regardless of anything contained in section 31, any person having any grievance relating to the right of a child under this Act may complain in writing to the local authority having jurisdiction.
(2) After receiving the complaint under sub-section (1), the local authority shall decide the matter within a period of three	(2) After receiving the complaint under sub-section (1), the local authority must provide a reasonable opportunity of being

months after affording a reasonable opportunity of being heard to the parties concerned.	heard to the parties concerned, and decide the matter within a period of three months.
(3) Any person aggrieved by the decision of the local authority may prefer an appeal to the State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be.	(3) Any person aggrieved by the decision of the local authority may appeal to the State Commission for Protection of Child Rights or the authority prescribed under section 31(3).
(4) The appeal preferred under sub-section (3) shall be decided by State Commission for Protection of Child Rights or the authority prescribed under sub-section (3) of section 31, as the case may be, as provided under clause (c) of sub-section (1) of section 31.	(4) The appeal under sub-section (3) must be decided by the State Commission for Protection of Child Rights or the authority prescribed under section 31(3), as provided under section 31(1)(c).

Section 33. Constitution of National Advisory Council.

(1) The Central Government shall constitute, by notification, a National Advisory Council, consisting of such number of Members, not exceeding fifteen, as the Central Government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.	(1) The Central Government, by notification, must constitute a National Advisory Council consisting of a maximum of fifteen Members having knowledge and practical experience in the field of elementary education and child development.
(2) The functions of the National Advisory Council shall be to advise the Central Government on implementation of the provisions of the Act in an effective manner.	(2) The National Advisory Council will advise the Central Government on effective implementation of the provisions of this Act.
(3) The allowances and other terms and conditions of the appointment of Members of the National Advisory Council shall be such as may be prescribed.	(3) The allowances and other terms and conditions of the appointment of Members of the National Advisory Council will be as prescribed.

Section 34. Constitution of State Advisory Council.

(1) The State Government shall constitute, by notification, a State Advisory Council consisting of such number of Members, not exceeding fifteen, as the State Government may deem necessary, to be appointed from amongst persons having knowledge and practical experience in the field of elementary education and child development.	(1) The State Government, by notification, must constitute a State Advisory Council consisting of a maximum of fifteen Members having knowledge and practical experience in the field of elementary education and child development.
(2) The functions of the State Advisory Council shall be to advise the State Government on implementation of the provisions of the Act in an effective manner.	(2) The State Advisory Council will advise the State Government on effective implementation of the provisions of the Act.
(3) The allowances and other terms and conditions of appointment of Members of the State Advisory Council shall be such as may be prescribed.	(3) The allowances and other terms and conditions of the appointment of Members of the State Advisory Council will be as prescribed.

CHAPTER 7 MISCELLANEOUS

Section 35. Power to issue directions

(1) The Central Government may issue such guidelines to the appropriate Government or, as the case may be, the local authority, as it deems fit for the purposes of implementation of the provisions of this Act.	(1) The Central Government can issue guidelines to the appropriate Government or the local authority for the purposes of implementation of this Act.
(2) The appropriate Government may issue guidelines and give such directions, as it deems fit, to the local authority or the School Management Committee regarding implementation of the provisions of this Act.	(2) The appropriate Government can issue guidelines and give directions to the local authority or the School Management Committee regarding implementation of this Act.
(3) The local authority may issue guidelines and give such directions, as it deems fit, to the School Management Committee regarding implementation of the provisions of this	(3) The local authority can issue guidelines and give directions to the School Management Committee regarding implementation of this Act.

Act.	
Section 36. Previous sanction for prosecution	
No prosecution for offences punishable under sub-section (2) of section 13, sub-section (5) of section 18 and sub-section (5) of section 19 shall be instituted except with the previous sanction of an officer authorised in this behalf, by the appropriate Government, by notification.	Prosecution for offences punishable under section 13(2), section 18(5) and section 19(5) must only be instituted with the approval of an officer authorised in this behalf by the appropriate Government, by notification.
Section 37. Protection of action taken in good faith	
No suit or other legal proceeding shall lie against the Central Government, the State Government, the National Commission for Protection of Child Rights, the State Commission for Protection of Child Rights, the local authority, the School Management Committee or any person, in respect of anything which is in good faith done or intended to be done, in pursuance of this Act, or any rules or order made thereunder.	No legal proceeding will be maintainable, in respect of any action taken or intended to be taken, in good faith, under this Act, its rules, or orders and directions issued under the Act, against: <ul style="list-style-type: none"> (a) the Central Government, (b) the State Government, (c) the National Commission for Protection of Child Rights (d) the State Commission for Protection of Child Rights (e) the local authority (f) the School Management Committee or (g) any person
Section 38. Power of appropriate Government to make rules	
(1) The appropriate Government may, by notification, make rules, for carrying out the provisions of this Act.	(1) The appropriate Government may notify rules for carrying out the provisions of this Act.
(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:— <ul style="list-style-type: none"> (a) the manner of giving special training and the time-limit thereof, under first proviso to section 4; (b) the area or limits for establishment of a neighbourhood school, under section 6; (c) the manner of maintenance of records of children up to the age of fourteen years, under clause (d) of section 9; (d) the manner and extent of reimbursement of expenditure, under sub-section (2) of section 12; (e) any other document for determining the age of child under sub-section (1) of section 14; (f) the extended period for admission and the manner of completing study if admitted after the extended period, under section 15; (g) the authority, the form and manner of making application for certificate of recognition, under sub-section (1) of section 18; (h) the form, the period, the manner and the conditions for issuing certificate of recognition, under sub-section (2) of section 18; (i) the manner of giving opportunity of hearing under second proviso to sub-section (3) of section 18; 	(2) The rules may provide for the following: <ul style="list-style-type: none"> (a) the manner of giving special training and the time-limit under section 4(2)(a); (b) the area or limits for establishment of a neighbourhood school under section 6; (c) the manner of maintenance of records of children up to the age of fourteen years, under section 9(d); (d) the manner and extent of reimbursement of expenditure under section 12(2); (e) any other document for determining the age of a child under section 14(1); (f) the extended period for admission and the manner of completing study if admitted after the extended period, under section 15; (g) the authority, the form and the manner of applying for the certificate of recognition, under section 18(1); (h) the manner and the conditions for issuing the certificate of recognition under section 18(2); (i) the manner of giving opportunity of hearing under section 18(3)(b); (j) the other functions to be performed by School Management Committee under section 21(2)(d); (k) the manner of preparing School Development Plan under

<p>(j) the Other functions to be performed by School Management Committee under clause (d) of sub-section (2) of section 21;</p> <p>(k) the manner of preparing School Development Plan under sub-section (1) of section 22;</p> <p>(l) the salary and allowances payable to, and the terms and conditions of service of teacher, under sub-section (3) of section 23;</p> <p>(m) the duties to be performed by the teacher under clause (f) of sub-section (1) of section 24;</p> <p>(n) the manner of redressing grievances of teachers under sub-section (3) of section 24;</p> <p>(o) the form and manner of awarding certificate for completion of elementary education under sub-section (2) of section 30;</p> <p>(p) the authority, the manner of its constitution and the terms and conditions thereof, under sub-section (3) of section 31;</p> <p>(q) the allowances and other terms and conditions of appointment of Members of the National Advisory Council under sub-section (3) of section 33;</p> <p>(r) the allowances and other terms and conditions of appointment of Members of the State Advisory Council under sub-section (3) of section 34.</p>	<p>section 22(1);</p> <p>(l) the salary and allowances payable to, and the terms and conditions of service of teacher, under section 23(3);</p> <p>(m) the duties to be performed by the teacher under section 24(1)(f);</p> <p>(n) the manner of redressing grievances of teachers under section 24(3);</p> <p>(o) the form and manner of awarding certificate for completion of elementary education under section 30(2);</p> <p>(p) the authority, the manner of its constitution and the terms and conditions, under section 31(3);</p> <p>(q) the allowances and other terms and conditions of appointment of Members of the National Advisory Council under section 33(3);</p> <p>(r) the allowances and other terms and conditions of appointment of Members of the State Advisory Council under section 34(3).</p>
<p>(3) Every rule made under this Act and every notification issued under sections 20 and 23 by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or notification or both Houses agree that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.</p>	<p>(3) Rules made under this Act and notifications issued under sections 20 and 23 by the Central Government must be laid before each House of Parliament on publication.</p> <p>(4) Rules and notifications must be laid for a period of 30 days while the Parliament is in session.</p> <p>(5) The 30 days referred in sub-section (4) may extend over one or more successive sessions.</p> <p>(6) After the rules and regulations have been laid as per subsection (3), if before the expiry of the next session, both Houses agree:</p> <p style="padding-left: 40px;">(a) to make any modifications; or</p> <p style="padding-left: 40px;">(b) that such rule or regulation should not be made or issued</p> <p style="padding-left: 40px;">the rule or regulation will have effect only in the modified form or have no effect respectively.</p> <p>(7) Any change in the rules or regulations under sub-section (6) will not affect the validity of anything previously done under the rule or regulation.</p>
<p>(4) Every rule or notification made by the State Government under this Act shall be laid, as soon as may be after it is made; before the State Legislatures.</p>	<p>(8) Rules or notifications made by the State Government under this Act must be laid before the State Legislature on publication.</p>
<p>Section 39. Power of Central Government to remove difficulties</p>	
<p>(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to it to be</p>	<p>(1) If a difficulty arises in giving effect to the provisions of this Act, the Central Government can make necessary provisions for removing the difficulty.</p>

<p>necessary for removing the difficulty: Provided that no order shall be made under this section after the expiry of three years from the commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2012 (30 of 2012).</p>	<p>(2) Such provisions must be – (a) consistent with this Act; and (b) made by order published in the Official Gazette.</p> <p>(3) No order can be made under this section after the expiry of three years from the commencement of the Right of Children to Free and Compulsory Education (Amendment) Act, 2012 (30 of 2012).</p>
<p>(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.]</p>	<p>(4) Orders made under this section must be laid before each House of Parliament on publication.</p>
<p>End</p>	

Conclusion and way forward

- The objective of this manual was to develop a system of principles that can guide a plain language approach towards writing Indian laws. This objective is crucial not only as a matter of convenience, but also as a core component of furthering the rule of law in Indian society.
- The manual examined the history of legislative drafting in India, and the evolution of the Plain Language Movement in various jurisdictions. Through a comparative study of the Plain Language Movement and the instruments developed in different jurisdictions (US, UK, Australia, Hong Kong, Germany), it was identified that there is the need for (i) a principled approach towards plain language drafting; (ii) which is suited to the Indian context; and (iii) which ensures the creation of effective, actionable laws (**Page 10**)
- Based on this analysis, this manual identifies four foundational values must be possessed by any law: it must be Simple, Accessible, Rational and Actionable (**Page 11**). For each value, this manual identified various principles that enhance these values, and the practical measures which would actualize those principles.
- These practical measures have been combined into the SARAL Checklist (**Page 48**). The Checklist is a practical tool that any drafter in India can use to ensure that they produce a legal draft which follows the values and principles of plain language writing.
- This manual also recognised certain institutional measures that can be taken to ensure the implementation of a plain language writing approach. This included (i) requiring all laws to be accompanied with a Memorandum of Simplicity; (ii) creating a Plain Language Wing/Department in the Ministry of Law and Justice; and (iii) effectively using technology to create an interactive database of laws (**Page 49**)
- The manual will serve as the foundation for Vidhi's efforts in the field of plain language drafting. With the SARAL Checklist, Vidhi will develop plain language versions of various important statutes in India with the goal of demonstrating that it is possible to write Indian laws in plain language without compromising on their precision or effectiveness.
- Future areas of research include (i) the development of a SARAL Standard Clauses Reckoner – a guide to drafting commonly used provisions through a plain language approach; (ii) developing SARAL Saathis (Explainers, FAQs) to accompany various laws; (iii) developing SARAL drafts of important Indian laws; (iv) analysing structural and institutional solutions to implement a plain language drafting approach in India.
- Through these areas of research, we hope to engage with and learn from the participants of the SARAL Initiative and hope to build consensus around the urgent need for plain language laws in India.

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