



75 Years: Laws that Shaped India | The Emblems & Names (Prevention of Improper Use) Act, 1950

For Prelims: [Emblems & Names \(Prevention of Improper Use\) Act, 1950](#), [Flag Code of India, 2002](#), [National Anthem](#), [Emblem](#)

For Mains: Need for the Emblems & Names (Prevention of Improper Use) Act, 1950, Related Judgement

What is the Context?

In 1946, the [United Nations General Assembly \(UNGA\)](#) made a recommendation to all member states of the UN. The recommendation urged them to **enact suitable legislative or other necessary measures to prevent unauthorised use**, specifically for commercial purposes, of the [emblem](#), official seal, name, and abbreviations of the UN.

Instances **have also been brought to attention regarding the inappropriate use of the [Indian national flag and emblem](#)**, as well as the names or **pictorial representations of Mahatma Gandhi and other national leaders**. Accordingly, the [Emblems & Names \(Prevention of Improper Use\) Act, 1950](#) **was notified** in the Gazette of India on 1st September 1950.

What is the Emblems & Names (Prevention of Improper Use) Act, 1950?

- **Definition:**
 - It extends to the whole of India and also applies to **citizens of India outside India**.
- **Terms:**
 - **Emblem:** Any emblem, seal, flag, insignia, coat-of-arms, or pictorial representation specified in the Schedule;
 - **Competent Authority:** Any authority competent under any law for the time being in force to register any company, firm, or other body of persons or any trademark or design or to grant a patent;
 - **Name:** Includes any abbreviation of a name.
- **Prohibition of Improper Use (Section 3):**
 - Regardless of any existing laws, **individuals are not allowed to use or keep using, without prior permission from the Central Government** or its authorized officer, any name or emblem listed in the Schedule or any imitation of it that looks similar.
 - This **applies to using them for trade, business, profession, patent titles, trademarks, or designs**. The Central Government may specify certain cases and conditions where such usage is allowed.
- **Penalty:**
 - Any person who contravenes the provisions of section 3 **shall be punishable with a fine which may extend to 500 rupees**.
- **The Previous Sanctions for Prosecution:**
 - No legal action for any offense punishable under this Act can be initiated without prior approval from the Central Government or an authorised officer designated by the Central Government through a general or specific order.

- **Exemption:**
 - This Act **does not provide any exemption to individuals** from any legal action or proceeding that could be filed against them independently of this Act.
- **Power to Amend the Schedule:**
 - The Central Government has the authority to modify or expand the Schedule by issuing a notification in the Official Gazette. Any such additions or changes made to the Schedule will be **considered valid and enforceable as if they were originally part of the Act itself.**
- **Power to Make Rules:**
 - The Central Government has the authority to create rules, which will be published in the Official Gazette, to fulfil the objectives of this Act.

What was the Need to Enact this Act in India?

- **National Pride and Sovereignty:** The act aims to safeguard the emblems, names, and symbols that hold significant national pride and represent the [sovereignty](#) of India. It ensures that **these symbols are not misused or exploited for personal or commercial purposes**, while preserving their dignity and sanctity.
- **Protection of National Symbols:** The act seeks to protect national symbols, such as the national flag, emblem, and other emblems or names specified in the Schedule of the act. These symbols are of **great importance and must be respected and used appropriately.**
- **Prevention of Offense or Insult:** The act aims to prevent the use of emblems, names, or symbols in a manner that may offend or insult the sentiments of the people. It ensures that **these symbols are not used inappropriately, which could potentially cause harm or hurt to individuals or communities.**

Is there Any Related Judgment?

- **Naveen Jindal vs Union of India Case, 2004**
 - In this case, the [Supreme Court \(SC\)](#) held that the right to **unfurl the National Flag with dignity is a Fundamental Right of the citizen** within the meaning of [Article 19 \(1\)\(a\) of the Indian Constitution](#). The **right to hoist or unfurl the National Flag is an expression and manifestation of a person's allegiance and feelings** and sentiments of pride for the nation.
 - The Emblems and Names (Prevention of Improper Use) Act, 1950 and the [Prevention of Insults to National Honour Act, 1971](#) **regulate the use of the National Flag.**
 - In this case, the [Flag Code of India 2002](#) was challenged.

Prevention of Insults to National Honour Act, 1971 **prohibits the desecration of or insult to the country's national symbols, including the national flag, the [Constitution](#), the [national anthem](#) and the Indian map.**

What is the Flag Code of India?

- It **allowed the unrestricted display of the Tricolour as long as the honour and dignity of the flag were being respected.**
- The flag code **did not replace the pre-existing rules governing the correct display of the flag.**
 - It was, however, **an effort to bring together all the previous laws, conventions and practices.**
- **It is divided into three parts:**
 - General description of the tricolour.
 - Rules on the display of the flag by public and private bodies and educational institutions.
 - Rules for the display of the flag by governments and government bodies.
- It **mentions that the tricolour cannot be used for commercial purposes** and cannot be

dipped in salute to any person or thing.

- Moreover, **the flag should not be used as a festoon**, or for any kind of decoration purpose.
- For official display, **only flags that conform to the specifications as laid down by the Bureau of Indian Standards** and bearing their mark can be used.

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