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**FAIRFIELD**  
INSTITUTE OF MANAGEMENT & TECHNOLOGY



# ATTORNEY

LEGAL MAGAZINE  
BY  
FAIRFIELD-SCHOOL OF LAW



## EDITORIAL

LEGAL PERSPECTIVES OF THE  
2022 RUSSIAN INVASION OF  
UKRAINE.

LEGAL EDUCATION FOR THE  
MARGINALIZED: A COMMENT  
ON EXCLUSIONARY NLUS



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# CHAIRMAN'S MESSAGE

It is a matter of great pleasure to know that ATTORNEY-E LEGAL MAGAZINE of FIMT-School of Law for the term ending December 2022 is all set to be released.

Education is a foundation stone to the change and development of all societies and has immense power to shape the young developing minds. It has great wit and strength to change our developing nation to a developed nation. Like the four cardinal virtues put forward by Plato- Justice, Wisdom, Courage, and temperament; which are knowable by human nature; Justice Stands first among them followed by the other three. In the same way, Legal Education along with its theoretical and practical relevance has its emphasis primarily as a blueprint in the formation of legal structure which we are trying to improve by practical and clinical courses.

Keeping that goal in mind, it becomes pertinent to give our students opportunity to showcase their talents and this E-Magazine is one such endeavor. I would like to congratulate the students for adding precious drops to the vast ocean of legal scholarship. I would also like to congratulate the Editorial Team for this beautiful execution of an idea.



**Shri V.K.N Bhardwaj**  
Chairman

**FIMT GROUP OF INSTITUTIONS**

उद्यमेन हि सिध्यन्ति कार्याणि न मनोरथैः।

न हि सुप्तस्य सिंहस्य प्रविशन्ति मुखे मृगाः।

## FROM EDITOR IN CHIEF'S DESK

Legal Education in India has undergone a paradigm shift in the last two decades and the University has played a key role in shaping these changes while preparing students, teachers and young advocates for emerging challenges and to solve existing ones with a clear vision and most importantly, a belief that it could be achieved.

To promote Legal Education and provide the nation with successful advocates without any hurdles caused by the unpredictable crisis, the college focuses on its vision, mission, and goals that empower students to be just citizens. To achieve excellence in learning and practicing the legal aspect with deeper stimulus of Law and Order and to serve the nation is the motto of the institute I congratulate Editorial Board who used various mediums of expression to present their ideas. As long as our ideas are expressed and thoughts kindled

we can be sure of learning, as everything begins with an idea. I appreciate every student who contributed to the magazine along with their commitment to curriculum. That little extra we do, is the icing on the cake.

I would sincerely place thanks to my editorial team whose dedication and diligence towards completion of ATTORNEY-E LEGAL MAGAZINE of FIMT-School of Law was always part of the process.



**Prof. (Dr.) Shaveta Gagneja**  
Director  
**FIMT-School of Law**

Happy Reading!!!!!!

# FOREWARD

Education as prominent as it sounds; needs a smooth yet captivating source to reach to the majority. Its perspectives need to be seen through different schemes; yet focusing on the bigger picture, that is, creating more just lawyers and law protectors. The sensibility and wisdom that one has within; achieve broader support when one has the right legal education; to help the masses without losing one's authenticity and duty as a citizen. The magazine in my considered view will widen the horizons of legal discourse with respect to the dynamic diaspora of public policy. To express one's thought, College magazine is the of public policy. To express one's thought, college magazine is the best platform and this is what our students have expressed in



**Prof. (Dr.) M. Afzal Wani**  
Advisor-FIMT

terms of contributions towards the magazine. I would like to thank our management for their constant support and mentoring. I would also like to thank Director, FIMT-School of Law for her continuous efforts and guidance. Her determination to stand against the odds has helped us to expand new ideas and put them into action. Finally, I would also like to thank my colleagues and the students without whom this magazine would lack the precision it showcases.

Best Wishes!!

## MESSAGE FOR THE STUDENTS

Dear Students,

As you study for law be aware that “Law, is a jealous mistress”. Pursuing Law as a profession requires determination, dedication and diligence. The drop out rate in Litigation is much higher than in other profession. Lawyers, lose their initial enthusiasm for financial constraints more than any other reason. The pay off, at least, initially is deprivation and denigration. Today, of course, things have much improved, since I joined the profession at least three decades ago. Law has opened up many more avenues, apart from litigation and the generation now entering the profession is smarter, bolder, more tech-savvy and impatient. Patience is a virtue, you'll learn hands on. As you prepare to be a lawyer, prepare well. This profession not just requires, but demands deep study.

A study of law, I believe is imperative to hone your mind to think well. When you think differently, think out of the box, you'll make a great lawyer, not just a living.

Articulation and creativity with language is always an advantage. The ability to read like a hawk and not like a sparrow, pays rich dividends. But most important, is the ability to be tenacious. Persist in the profession. Persist in your integrity. I wish you the very best as you prepare to enter the real world.



**Ms. Abha Malhotra**  
Advocate, Arbitrator, Mediator  
Senior Counsel-Union of India  
Advisor -FIMT

# ABOUT FIMT-SCHOOL OF LAW

Fairfield Institute of Management & Technology (FIMT), New Delhi is established by “**The Fairfield Group of Institutions**” and is affiliated to Guru Gobind Singh Indraprastha University (GGSIPU). With a very humble beginning, the institute has grown in stature and size and now offers 10 professional courses in Law, Management, Journalism, Commerce, Information Technology, Humanities and Education.

School of Law offers **BA-LLB & BBA-LLB** (Five-Year Integrated Course) and **One-Year LLM** with specialisation in Corporate Law, Alternative Dispute Resolution and Intellectual Property Rights. Within a short span of time we have made a mark in the legal education and has been successful in imparting quality legal education with the batches passing out.

We have a very sound infrastructure with all the facilities for teaching and research such as the best **Moot Court Hall, Legal Services Clinic, rich library, reading room, e-legal research support, ICT Lab, Gymnasium, Playground, Entrepreneurship Development Cell & Psychological Counselling Cell**. The students are also offered Transport facility for commuting.

We also have been the first and only college of GGSIPU to host the prestigious **31st Bar Council of India All India Inter-University Moot Court Competition**.

There has been extensive focus on Legal and Multidisciplinary Research. The FIMT-School of Law has a peer-reviewed, double-blind journal named **FIMT Law Journal** with ISSN Number publishes Bi-Annually since 2018. To inculcate a culture of research amongst students we have a Bi-Annual Magazine- **Attorney**. A 6-monthly Newsletter **Prayas-Ek Koshish**, which serves as a platform to highlight the attempts made for the betterment of the students.

In addition to classes, we also offer **Add on Courses on Mediation, Conflict & Resolution, Victimology, Artificial Intelligence & Law, Human Rights, Copyright Laws, Restoring Sustainability of Environment etc** taught by distinguished academicians and Industry Experts.

Recently, **Three-Day Para Legal Volunteer Training** was held in collaboration with DSLSA & NALSA by FIMT-Legal Service Clinic.

In today's time of cut-throat competition, it becomes pertinent to provide students with adequate exposure, therefore, FIMT-School of Law in collaboration with Kathamandu School of Law, Nepal offers an **International Student Exchange Program** for Law students every year.

For an all-round development of the student's personality, we have 12 **clubs and societies for Photography, Dance, Singing, Theatre, Debate, namley, Thirak, Zahaanat, Polaroid, Aahang, Prosperous, Ecomania, Moot Court Society, Srijan, Conquerors, Shoryam**. To sensitize the students about gender issues we have **Gender Sensitization Club** as directed by the UGC.

To empower the students, we have **NCC program** with male and female Battalions. Selected students are trained in drill, shooting, physical fitness, First-aid, map reading, sailing and camp training.

Also, it is very necessary to build a sense of social and civic responsibility among the students and to ensure that we have **National Service Scheme (NSS) unit of FIMT**.

We also have a dedicated **Training & Placement Cell** which provides students with placement and internship opportunities and grooms students for internship and placement by way of organising workshops and seminars.

The School of Law is honoured to have esteemed academicians like Prof. (Dr.) Afzal Wani Former Dean USLLS, GGSIPU and Prof. (Dr.) Sunanda Bharti, University of Delhi in the **Advisory Board** of the college.



# PLEDGE

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ISO 9001:2015 & SA 14001:2015 & ISO 45001:2018



WE, THE MEMBERS OF  
FAIRFIELD INSTITUTE OF MANAGEMENT & TECHNOLOGY  
NEW DELHI (INDIA)  
determined to develop FIMT COLLEGE into a

DIVERSE, SECULAR, PROGRESSIVE, AND  
ENVIRONMENTALLY SUSTAINABLE INSTITUTION  
and to secure to its members

- Liberty of Thought, Expression and Belief;
- Equality for all regardless of Gender, Sexuality, Age, Caste, Creed or Religion;
- Development, Social, and Intellectual;
- Recognition of Talents, Ideas, and Thoughts without bias;
- Foster among all Critical Thinking, Research, and Innovation;

AND STAND UNITED BY COMMON DESTINY OF BEING  
RESPONSIBLE CITIZENS AND TAKE PLEDGE TO CONTRIBUTE IN  
NATION BUILDING,

## LEGAL PERSPECTIVES OF THE 2022 RUSSIAN INVASION OF UKRAINE.



Dr. Manish Yadav  
Assistant Professor, FIMT  
(SOL)

### EDITORIAL

Is the war legal-Jus ad Bellum under International Law? Art 2, paragraph 4 of the United Nations Charter stipulates that: "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations." Military necessity, along with distinction, proportionality, humanity, and honour are the five most commonly cited principles of the Jus in Bello- International Humanitarian Law governing the legal use of force in an armed conflict. The legality of who is competent to declare war varies among nations and forms of government. In many nations, that power is given to the head of state or sovereign. The official international protocol for declaring war was defined in the Hague Conventions (III) of 1907 on the opening of hostilities.

Ukraine's resort to self-defense and invitations for external military assistance is legal under International Law. The United Nations Security Council has been stymied because Russia is a permanent and veto-wielding member. Historically, weakening sovereignty norms have sparked the deadliest periods in world history. It is important to drop the Cold War mentality and the notion of blocs and shift to a multi-polar, pragmatic international system in which non-western countries play a more decisive role. The West should recognize the principle of the indivisibility of security, which holds that the security of one country shall not be at the expense of the security of other and that this principle must be the basis of a new international security architecture. Russia vetoed the UNSC resolution that would have called for Russia to immediately cease its attack on Ukraine.

China, India, and the United Arab Emirates abstained from the vote; the 11 remaining members of the UNSC voted in favour of the resolution. Furthermore, on Sunday 27th February 2022, United Nations Security Council Resolution 2623 was passed unanimously. It called for the UN General Assembly to sit in an "emergency special session" (just the 11th in the body's 75-year history) in response to Russian efforts to annex additional Ukrainian territories (Donetsk, Kherson, Luhansk, Zaporizhzhia oblasts in the fall of 2022, the United Nations General Assembly declared by a vote of 143-5 with 35 nations abstaining that Russia's actions had "no validity under International Law." Among other statements, the General Assembly resolution called upon Russia to abide by the UN Charter and the 1970 Declaration on Principles of International Law concerning Friendly Relations. The Declaration on Friendly Relations says that assisting a rebel group in another nation would threaten the target country's "territorial integrity," and that states have a duty to refrain from engaging in such actions.

Russia and Ukraine are also accused of violations of the Geneva Conventions (1949) of which both are signatories. The recent trial and death sentence in Eastern Ukraine against three foreign combatants captured by Russian Army is the case in point. Russia also has been accused to have acted contrary to the Intermediate-Range Nuclear Forces Treaty, The New Strategic Arms Reduction Treaty, The Open Skies Treaty, and the Incidents at The Sea Agreement. According to an assessment by John B Bellinger III in Council on Foreign Relations: Russia's invasion of Ukraine violates the UN Charter and cannot be justified under International Law as an act of self-defense or humanitarian intervention.

On the other hand, Russia was accused by Amnesty International/ Human Rights Watch on 25th Feb 2022/18th March 2022 respectively of crimes against humanity, war crimes, and waging war in violation of International Law, indiscriminately attacking densely populated areas, and exposing civilians to disproportionate and unnecessary harm.

In late February 2022, Ukraine represented by the law firm Covington & Burling sued Russia in the International Court of Justice (ICJ). The lawsuit accuses Russia of "engaging in a military invasion of Ukraine involving grave and widespread violations of the human rights of the Ukrainian people it also rejected Russia's claims that Ukraine was engaging in genocide in Donbass and requested a court order requiring Russia to immediately halt its military operations in Ukraine." Russia boycotted an initial hearing held in the case on 7th March 2022, and later said it did not send anyone to attend because of the "absurdity" of Ukraine's lawsuit. The ICJ indicated that it would decide Ukraine's application for an emergency order calling for a halt to hostilities "as soon as possible." On 16th March 2022, the court ruled that Russia must "immediately suspend the military operations that it commenced on 24th February 2022 in the territory of Ukraine." The court split 13-2 in the decision, with Judges Xue Hanqin of China and Kirill Gevorgian of Russia dissenting. Volodymyr Zelenskyy the Ukrainian President hailed the ruling as a complete victory for his country, saying that Russia would be further isolated if it ignored the order.

Moreover, the invasion has violated the Rome Statute that created the International Criminal Court and prohibits "the invasion or attack ... or any annexation by the use of force." Russia withdrew from the statute in 2016 and does not recognize ICC authority while on the other hand, Ukraine did not ratify the statute but signed two declarations accepting ICC jurisdiction in 2013 and 2014. On 28th February 2022, the International Criminal Court (ICC) announced its intent to investigate the alleged war crimes. A formal ICC investigation began on 2nd March 2022, when Karim Ahmad Khan, prosecutor for the ICC, opened a full investigation into present and past allegations of crimes against humanity, genocide in Ukraine, and war crimes from 21st November 2013 onwards. The Ukraine investigation was fast-tracked after an unprecedented 39 requests by ICC member states to begin the proceedings though ICC prosecutors normally have to go through

an approval process to begin an investigation—a process that can take a month. The ICC also set up an online portal for people with evidence to contact investigators and sent investigators, lawyers, etc. to Ukraine to collect evidence. For President Putin, the expansion of NATO to include Ukraine was a "direct threat" to his nation's security. According to John Cheria Russia has been asking for a new security architecture keeping NATO designs in mind but has been constantly rebuffed. The Soviet leadership was promised in 1990 that NATO would not "move an inch eastward" so the military alliance's decision to include Ukraine touches a "Raw Nerve" in Russia.

Lastly according to K P Fabian Presidents Joe Biden, Vladimir Putin, and Volodymyr Zelensky should urgently find a way out of the crisis they are responsible for. If these three men had not collaborated, however unwittingly, to escalate the dispute into hostilities, the course of history would have been different.



Second generation reforms in legal education pushed for the establishment of specialised public funded universities christened as National Law Universities. From 1986 till 2022 a total of 22 NLUs have been offering 5 year undergraduate integrated course and one year postgraduate course. However, their model has been criticised time and again for being exclusionary. Some of the ground of it being exclusionary are mentioned below:

### **ENTRANCE EXAM**

The entrance examination, CLAT and AILET have a very high fee, around rupees four thousand which makes many aspirants from underprivileged backgrounds to reconsider their ambitions

### **LANGUAGE**

India has recognised 22 languages as official. A lawyer can practise in district court in the official language of that particular state. However, the entrance examination for 5 year law is conducted in only one language i.e. English. This is unfair to those students who are well versed in some other vernacular language, majority of them completing their schooling from State Boards. In India only a privileged section of the society has command over English language and these entrance examinations furthers their entry into the profession without realising that one could be a good lawyer despite not knowing English.

This preference of English language continues in classroom too. Teaching in almost all NLUs is preferred in English instead of adopting a multi lingual approach to make students understand the concept better. As a result of this many students from rural or marginalised sections feel excluded.

### **FEE**

NLUs have been criticized for charging exorbitant fee from the students anywhere from 3 lakh to 1 lakh. This has created a butterfly effect as suggested by Prof. Faizan Musatafa, "Since governments are not funding NLUs, they largely act as self-financing institutions, charging a high fee. A majority of students take up loans, and join corporate firms to pay them back as senior lawyers are not coming forward to make attractive payments to junior lawyers who join them. Students of various NLUs are protesting against the rapid fee hike, but to no avail.

### **INFRASTRUCTURE**

Despite collecting hefty amount in fee, many new NLUs lack the infrastructure required to impart

quality legal education. Students of NLU Orissa began an indefinite strike demanding Hostel facility for girls and a functional library. Few days back Supreme Court issued a notice to BCI asking on what grounds it had granted recognition to NLU Tripura when it does not even have a building or faculty. "We also fail to appreciate how the university was certified by BCI if neither are there any faculty nor are there any buildings"

Students from HNLU, Raipur reported that the authorities have casually made many sexist remarks like "Ladke toh ladke, ladkiyon ko bhi der raat ko bahar jana hai." (Men are men, but even women want to go out late.) and "Ladkiyon ko bhi maa baap ki izzat ka dhyan nahi hai. Unhein bhi modern banna hai, peena hai."

At the onset of Metoo wave, a student from NLU Delhi claimed that the institution "shelter those who've committed harassment and pretending like it doesn't exist." In addition to that, more than 100 students of NLIU Bhopal lodged a complaint against a professor for sexual harassment.

In view of the issues mentioned above, it would be appropriate to conclude that NLUs might have reformed the legal education scenario but it had done little to make sure it is inclusive in nature. Students from caste, religion, gender or income based marginalised group face barriers in entering the varisty, and if they do, they have to face discrimination with barely any functional system of redressal.

### **SEXISM**

If you think atleast the 'islands of excellence' would be fair towards the marginalised gender, you are in for a shock. Many NLUs like NLU Odisha, RGNUL, HNLU, DNLU have protested against sexism prevalent in the campuses. Almost all the NLUs have different curfew timings for male and female students, with male students being allowed to stay out late. In RGNUL the warden of girls hostel will talk to the parents of adult female students if they stay outside hostel for a night or if they say they are going home. This practice, even if part of the rules and regulations for boys hostel too, was not practised.



## CRITICAL ANALYSIS OF JUDGEMENT - Section 377 IPC

Naman Jaggi, BBA-LLB, 9 Sem



On 27th April 2016, 5 people, filed a writ petition challenging the constitutionality of sec 377 of the Indian Penal Code. The said petition was filled on the grounds that the issues being presented are more diverse and varied from the previous petition of Suresh Kumar Kaushal vs union of India in 2013. The petitioners were dancer Navtej Singh Johar, journalist Sunil Mehra, chef Ritu Dalmia, hoteliers Aman Nath and Keshav Suri, and businesswoman Ayesha Kapur. Navtej Singh Johar (petitioner) who was a dancer and identified himself with the LGBT (Lesbian, Gay, Bisexual, and Transgender) community filed a writ petition in the court seeking inclusion of right to sexual autonomy and right to choose the sexual partner within the ambit of right to life under article 21. He also sought the declaration of section 377 of the I.P.C. as unconstitutional. He contended that the language of section 377 is vague and there is no intelligible differentia between natural and unnatural sexual acts. He also said that section 377 discriminates on the basis of sexual partners and has a 'chilling effect' on freedom of speech and expression by denying the expression of one's sexual identity through choice of romantic partners. Also, section 377 violates the right to privacy by putting the LGBT people in fear of humiliation due to their lifestyle.

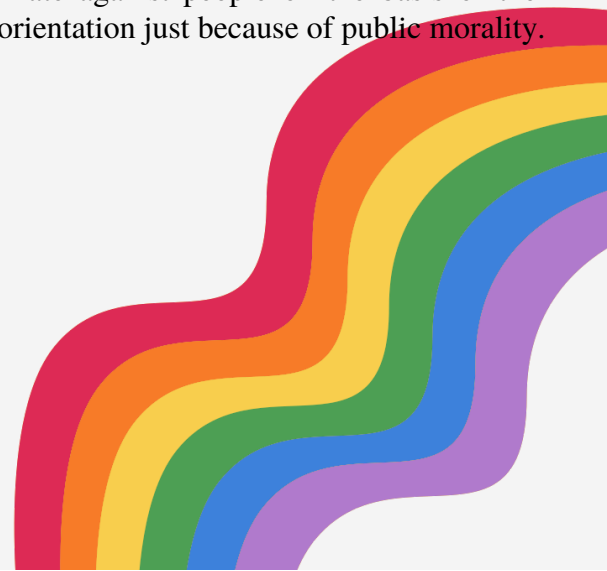
The Respondent in the case left the constitutional validity of sec 377 upon the wisdom of the court. Further they opined that homosexuality and one's homosexual attributes are against the order of nature and constitutional dignity.

The issues being raised in the following case were-

- Whether the rationale adopted in the Suresh Kaushal judgement was proper or not?
- Whether section 377 violates articles 14 and 15 of the constitution?
- Whether section 377 violates the right privacy under article 21?
- Whether section 377 has a 'chilling effect' on article 19 (1) (a) by criminalizing gender expression by the LGBT community?

In light of the above-mentioned issues being presented in the case, it is submitted that due to Section 377, individuals are forced to deny the core of their identity and vital dimensions of their personality.

It infringes upon the right to privacy of a person and their right to live with dignity. They don't feel their self-respect and self-worth. Homosexuals are treated unfairly on the premise of their personal choices, sexual preferences and their orientation, thus curbing their right to live with dignity and respect (Article 21). They are forced to hide their identity and are not provided with an enriching and positive atmosphere that can help them in realising their full potential. Public disapproval or disgust are not justified reasons to curb one's freedom. The constitutional protection of dignity requires that we respect and value each individual as a member of the society. As a right to dignity, each individual has a freedom of choice and action. The constitution of India respects, celebrates diversity and it would never intend to discriminate against people on the basis of their sexual orientation just because of public morality.



## COURT'S OBSERVATION

A two-judge bench amongst other things stated that the LGBT community comprised only a "minuscule fraction of the total population" and that the mere fact that the powers under Section 377 were misused by the police were not a reflection of the constitutional validity of the Section. Further, it was held that Section 377 IPC applied irrespective of age and consent and that it did not criminalise a particular person or identity or orientation. Section 377 only identified certain acts which, when committed, would constitute an offence. The Bench further observed that such a prohibition regulated sexual conduct regardless of gender identity and orientation.

For the second issue, the court held that there is no reasoned classification between natural and unnatural sexual acts. The intimacy between consenting adults of same-sex is outside the jurisdiction of the state. Section 377 also discriminates against a segment of people for their sexual orientation without any reasonable ground. So, it violates Articles 14 and 15 of the Constitution of India. Thirdly, the court said that not granting privacy to LGBT community merely because they are a minority is violative of the fundamental right to live with dignity. Also, carnal intercourse between two people of same-sex in private is not derogatory to public morality. Also, the LGBT community has been marginalised for long and they do have a fear of being shunned from society. Finally, the court said that gender identity is intrinsic to a person's identity and denying the same will be violative of one's dignity. Due to section 377, LGBTs often find themselves stigmatised. Homosexuals also face a lot of pressure. So, they often hide their identity. It has immense social ramifications.

Gender identity refers to each person's deeply felt internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body which may involve a freely chosen, modification of bodily appearance or functions by medical, surgical or other means and other expressions of gender, including dress, speech and mannerisms. Gender identity, therefore, refers to an individual's self-identification as a man, woman, transgender or other identified category.

## BACKGROUND

The Navtej Johar case is not the first case in India which dealt with the rights of homosexuals. There are two important precedents which dealt with this issue. Before analysing the Navtej Johar case, it is important to look at the evolution of judicial interpretation about the rights of homosexuals. These precedents are:

Naz Foundation v. Govt. of NCT, Delhi

Naz Foundation, an NGO committed to HIV-AIDS prevention filed a lawsuit in Delhi High Court seeking legalisation of homosexuality as criminalization of homosexuality led to hindrances in its initiatives. High Court dismissed the petition on grounds of no locus standi of the petitioner. An appeal was made to the Supreme Court. The apex court said that section 377 creates unreasoned classification and targets homosexuals. Public disgust is not a proper ground for criminalising homosexuality.

The word 'sex' under article 15 includes 'sexual orientation' as well and since article 15 prevents discrimination based on sex, section 377 is violating article 15. Right to life under article 21 includes 'right to health' and section 377 is a hindrance to it as homosexuals often hide their identity due to criminalisation of homosexuality.

So, adequate treatment is not provided. Section 377 was declared unconstitutional insofar as it criminalises consensual sexual acts of adults in private.

### Suresh Kumar Kaushal v. Naz Foundation

Suresh Kaushal (petitioner) challenged the decision of the apex court in the Naz Foundation case wherein the apex court legalised homosexuality. The petitioner contended that the documentary evidence of the Naz foundation was non-reliable. The apex court can't take over the work of the legislature. Section 377 is gender-neutral and there is no violation of Article 14. Right to privacy under article 21 doesn't include elements of section 377. Finally, the petitioner said that if homosexuality is legalised, the institution of marriage and social structure would break down.

The respondent re-stated the arguments concerning the violation of the fundamental rights of homosexuals under articles 14, 15, and 21 due to section 377 of I.P.C. The respondent also contended the need for flexible laws as per the changing needs of society. The apex court said that homosexuals are in minority in the country and laws needn't be changed for their interests. Court said that section 377 was a pre-constitutional law and had it been violative of any provision under Part III, it would've been struck down long ago. So, section 377 was held to be constitutionally valid. **COURT'S DECISION**

Former chief Justice of India Justice Deepak Mishra said, "In the garb of social morality, the members of the LGBT community must not be outlawed or given a step motherly treatment of malefactor by the society.



If this happens or if such a treatment to the LGBT community is allowed to persist, then the constitutional courts, which are under the obligation to protect the fundamental rights, would be failing in the discharge of their duty.

sexual relationship between consenting adults with many cutting cakes and unfurling the rainbow flag.

## ANALYSIS

With such a judgement one can clearly analyse that, part of the personality of a person has to be respected and not despised or looked down upon. The said inherent nature and the associated natural impulses in that regard are to be accepted. Non-acceptance of it by any societal norm or notion and punishment by law on some obsolete idea and idealism affects the kernel of the identity of an individual. Destruction of individual identity would tantamount to crushing of intrinsic dignity that cumulatively encapsulates the values of privacy, choice, freedom of speech and other expressions

object to it. The consenting acts that happen in private (such as carnal intercourse against the order of nature) should not be the concern of the law as it doesn't fit in the criteria stated above. Privacy of each individual should be respected and a balance needs to be maintained between the society and its individuals. It depends on the context when privacy should be given a higher stand. Sexual preferences are one of the most private parts of one's life and invading it needs a very strong reason on critical morality as positive morality tends to change with time. A very strong reason is required in order to justify the punishments and mistreatments for homosexuals. Homosexuals were forced to suppress their sexual impulses which affect their development, personality, emotional lives and happiness. The shield of "public morality" does not justify all the tortures and punishments they have to go through.

A failure to do so would reduce the citizenry rights to a cipher."

Justices disagreed with the concept that there is anything unnatural and unscientific among homosexual adults. The liberty under law includes the respect for individual choice and therefore criminalising consenting intercourse between homosexuals under section 377 of Indian Penal Code is irrational and manifestly arbitrary. The Five judge constitution bench includes Chief Justice Deepak Mishra, Justice D.Y. Chandrachud, A.M. Khanwilkar, Justice Indu Malhotra, Justice Rohinton Nariman gave judgement against the colonial era law. The petition was filed by Keshav Suri, the Executive Director of the Lalit Suri Hospitality Group and the NGO Naaz Foundation filed a review petition against the Supreme Court's 2013 judgement which re-criminalised homosexuality that overturned Delhi High court's verdict of 2009 that held section 377 illegal. The section 377 is against Article 14 which is equality before law, Article 15 and dignity of the people of LGBT community.

LGBT community and others welcomed Supreme Court's judgement decriminalising consensual gay sex asserting that the historic verdict granted them a basic human rights but also acknowledging that complete equality was still some distance away. Five judges' constitutional bench of the Supreme Court unanimously decriminalised a part of 150 years old colonial law under section 377 of Indian Penal Code which criminalises consensual unnatural sex prompting joy, tears, hugs and dancing across the country. Activists, members of LGBT community, politicians welcomed the verdict which also said society cannot dictate a



## Apex Court dismisses PIL challenging States creating committees for implementation of the Uniform Civil Code.

The decision of the States of Gujarat and Uttarakhand to form committees to introduce and execute the Uniform Civil Code was contested in a public interest litigation (PIL) suit that was dismissed by the Apex Court today (UCC).

A bench dismissed an assertion made by one Anoop Baranwal as being without merit and ruled that the creation of such committees could not be challenged as being outside the bounds of the law. The Court discussed Article 162 and stated that it shows that a state's executive authority is only limited by what its legislature has authorized.



## Judges Will Have To Face Public Scrutiny: Law Minister Kiren Rijju

Speaking at the 16th National Conference of Akhil Bharatiya Adhivaktha Parishad, Union Law & Justice Minister Kiren Rijju said judges should feel accountable to the nation's population. He said if the Judiciary stays within the role prescribed by the Constitution, there will be no tension between the judiciary, legislature and the executive. He said that the judiciary should be committed to the people. "Then the people (earlier governments) used to think that the judiciary should be committed to the government. But according to us, the judges should be committed towards the country, not the government

## First 'Robot Lawyer' to advise defendants in the US



In two instances involving speeding, the first "robot lawyer" in the world—powered by artificial intelligence—will provide defence attorneys with legal counsel. The defendants in two speeding ticket cases will receive legal instruction from US-based startup DoNotPay, which advertises itself as "the world's first robot lawyer," in court the following month. After listening to the court proceedings, an AI running on a smartphone will coach the defendants on how to reply through an earphone.

## Misuse of Funds at the Gurudwara, a Sacred Site, Hurts People's Emotions: Punjab and Harayana HC

The Punjab and Haryana High Court recently stated that the Gurudwara is a revered location and that the theft of its monies "hurts the feelings of many people" as it denied anticipatory bail to several individuals accused of stealing money from Gurudwara Singh Sabha in Barwala, Hisar District, Haryana. The bench stated that releasing the petitioners will set a poor example and provide oxygen to the fraudsters.



## Apex Court dismisses PIL challenging States creating committees for implementation of the Uniform Civil Code.



The constitution bench headed by CJI Chandrachud has said that the question as to "whether Section 6A of the Citizenship Act suffers from any constitutional infirmity" covers the issues that arise in the matter. A civil society organisation called Assam Sanmilita Mahasangha, which is based in Guwahati, and others have contended that the different cut off date for Assam is "unconstitutional" and have suggested that 1951 be used as the base year for Assam. Forward support of the segment, several organisations have stepped in.

## Google v CCI: Supreme Court to hear plea challenging NCLAT's refusal to grant interim relief against ₹1,337 crore penalty

The NCLAT had passed the order on January 4 2023 stating that since no urgency was shown in filing the appeal, Google could not be allowed to insist on interim relief.

In its appeal against a decision by the Competition Commission of India (CCI) that imposed a fine of Rs. 1,337 crore for abuse of dominant position, Google filed a plea with the Supreme Court contesting the NCLAT's refusal to award the internet giant interim relief.

## Rigors of Section 37 of NDPS Act cannot be invoked to obstruct bail in perpetuity: Himachal Pradesh High Court



Himachal Pradesh High Court recently emphasised that the strict bail requirements under Section 37 of the Narcotic Drugs and Psychotropic Substances (NDPS) Act, 1985 cannot be continuously cited to weaken the accused's right to a speedy trial. Supreme Court of India: Where the public prosecutor opposes the application for bail, the court must be satisfied that there are reasonable grounds to believe that the accused is not guilty of the alleged offence

## Uphaar Tragedy: Delhi High Court reserves order on plea by Sushil Bansal to stay release of Netflix series Trial By Fire

Senior Advocate Rajiv Nayar, representing Netflix, pointed out that the injunction was sought by Ansal on the basis of the statements in the book on which the film is based. He referred to the disclaimer which states that the series is a work of fiction. Senior Attorney Amit Sibal, who appeared on behalf of Netflix, stated that the case was noteworthy because a web series was publicly announced to be produced and the book was released three years before to the announcement.





# SIGNIFICANCE OF POLLUTER PAYS PRINCIPLE IN ENVIRONMENTAL PROTECTION

-Mr. Mudit Jain

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## INTRODUCTION

Environment plays a significant role in a person's life. Living in a healthy environment is necessary for living a healthy life. However, in the contemporary world with industrialization taking place, the world is witnessing environmental degradation due to the extraction of raw materials, and minerals and the release of toxic substances on a rampant scale. Industrialists not only use natural resources for the production of goods and supply of services in carrying out their business operations but the release of toxic substances as by-products in the water bodies and land affects the lives of the living creatures dependent upon them. In order to protect the environment it is necessary to ensure that the industrialists or polluters shall realize their mistakes, especially with respect to environmental issues caused by their activities. One way of making the industrialists realize their mistake is by compelling them to pay for the loss caused to the environment by their activities. Stockholm Declaration through as Principle 16 introduced the concept of the 'Polluter Pays Principle'. The principle essentially holds that the polluter is responsible for environmental pollution. The polluter is directly to blame for all environmental degradation. So, underneath the 'polluter pays principle,' the polluter not only has to reimburse the victims of pollution but also pay compensation for the recovery of environmental destruction due to pollution. As far as India is concerned the 'polluter pays principle' was introduced for the first time through the case titled as Indian Council of Enviro-Legal Action vs Union of India 1996 AIR 1446 wherein, Justice Dalveer Bhandari while laying stress upon the role of Polluter Pays Principle in environmental Protection stated that "reversing the imbalance caused to the ecology is part and parcel of the industrial process. Thus, the financial responsibility of taking prevention and controlling measures for the

pollution caused should rest upon the industry which caused pollution." Further in the cases of Research Foundation For Science Technology National Resource Policy v. Union of India and Anr WP 657/1995 and Vellore Citizens' Welfare Forum v. Union of India and Ors. 1996 5 SCC 647 the judiciary mentioned that the principles such as the precautionary principle and the polluter pays principle form an intrinsic part of the environmental laws of India.

Further Article 21 of our constitution deals with the Fundamental right to life and liberty. The word 'Life' in Art. 21 includes the right to live in a healthy and pollution-free environment. Pollution caused by industrialization and related activities severally affect the environment and makes it difficult for the human being to survive in it. Thus it becomes necessary for everyone especially the wrongdoers to protect and improve the environment and also to compensate for the harm so caused by their activities to the environment. Further, they shall also take steps to restore back the environment as it was prior to the damage caused by their activities.

Adoption and cultivation of the polluter pay principle help in making 'Sustainable Development' i.e. development that meets the needs of the present generation without compromising the ability of the future generation to meet theirs.

## CONCLUSION

Thus Polluter Pays Principle plays an important role in the road toward Sustainable Development. Environment belongs to all and we must ensure that our developmental activities shall not harm the environment and that the polluter or the wrongdoer must compensate and revive the environment back to the stage it was prior to the environmental degradation.

# CHILD LABOUR IN INDIA: A CONSTITUTIONAL PERSPECTIVE

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(SOL)



## INTRODUCTION

Children make up around one-third of the global population. To preserve and enhance future generations, they must thus be cared for and preserved. Children are a crucial part of the social structure and the future of the culture. Who is a child, therefore, is the question at hand? Alternatively, who qualifies as a child? It's getting more and harder to come up with a single description of what a "child" is. The definition of "child" according to the dictionary is a young person, particularly one who is between infancy and youth.

According to the International Labour Organization<sup>12</sup> (ILO), child labour includes situations in which children lead permanently adult lives, work long hours for little pay in environments that are harmful to their health and physical and mental development, are occasionally separated from their families, and are frequently denied meaningful educational opportunities and training opportunities that could be open up to them a better future.

The main reasons for the inability to control child labour include poverty, low wages compared to adult wages, unemployment, a lack of family allowance programmes, emigration to urban areas, large family sizes, the availability of children at low cost, the absence of strict laws requiring children to attend school, illiteracy, parental ignorance, and traditional attitudes.

## INDIAN CONSTITUTION AND CHILD LABOUR

The Indian Constitution outlaws forced labour and human trafficking, and forbids the hiring of kids in factories. It states that no child under the age of fourteen may be hired to work in a factory, mine, or in any other dangerous occupation.

The broad consensus was that without laws forbidding and punishing its breach, the right granted by Article 24 will barely be effective. Even if the restriction outlined therein is not "followed up by proper legislation," the Supreme Court made it apparent that Article 24 "shall function proprio vigore." It was once again determined that it is against Article 24 to engage minors under the age of 14 for construction work in Labourers, Salal Hydro Project v. State of J&K.

In *M C Mehta v. State of Tamil Nadu*, it was observed that child labour was a widespread problem. As a result, it issued broad directives regarding the employment and exploitation of children in Sivakasi, including a ban on hiring children under the age of 14 and a requirement that arrangements be made for their education through the establishment of a fund and the employment of the parents or other capable adults in the household. In the *Bandhu Mukti Morcha v. Union of India* case, which dealt with the hiring of children in the U.P. carpet weaving sector, these guidelines were reaffirmed.

## CONCLUSION

Children are the country's most valuable resource. Our country's ambitions for the development of our human resources should give children's programmes a significant place. In order for our children to develop into strong adults who are morally sound, physically and intellectually healthy, and who possess the abilities and drive that society demands. In India, child labour is a serious issue. The prevalence of it is demonstrated by the greater child labour participation rates in India than in other emerging nations. Our goal should be to provide all children with equal development chances during the growing phase. Even as citizens, we should work with the government and other organisations established for this reason to achieve this goal.

# SINGLE USE PLASTIC BAN: A REALITY CHECK

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India is the world's fifth-largest producer of plastic waste. In his Independence Day speech in 2019, Prime Minister Narendra Modi urged the people to eliminate India of single-use plastic. India has outlawed single-use plastic products including plastic straws that are widely strewn yet have no practical purpose as of July 1, 2022. Due of the harm that single-use plastic causes to terrestrial and aquatic ecosystems, the ban's goal is to reduce plastic pollution.

The demand for goods that come with single-use plastic items, including straws and disposable cutlery, has increased as a result of rapid economic expansion.

India uses roughly 14 million tonnes of plastic yearly, but there is no organised system in place to manage plastic garbage, which results in a lot of littering. Used plastic items that eventually clog sewers, rivers, and oceans and also harm wildlife is all over the streets of towns.

According to some experts, it might be challenging to enforce the restriction. The government has made the decision to establish control rooms to monitor any unauthorised distribution, sale, or usage of single-use plastic products.

The United Nations estimates that 100 million tonnes of plastic debris have been dumped in the world's oceans, creating an epidemic-sized problem. Scientists have discovered a significant amount of microplastic.

Seven months after the ban's implementation, very little has improved on the ground as of February 1. India Spend discovered various goods made of banned plastic being sold in markets, restaurants, and other public spaces in Delhi, Mumbai, and Bengaluru. Vendors claimed that no penalties or orders to stop using these items had been issued and that they were really still

available in wholesale form. From the beginning, the ban drew criticism for covering too little of the overall amount of plastic garbage. According to estimates from the industry, less than 2% % of India's overall plastic trash is made up of the 3 single-use plastics that are now illegal.

According to a study conducted by scientists from the Universities of California, Santa Barbara, and others, the world created 8.3 billion metric tonnes of plastic between 1950, when large-scale manufacture started, and 2015. Of this, plastic garbage makes up 6.3 billion metric tonnes, or 80%.

Only 9% of this plastic garbage has been recycled. Most plastic garbage has ended up in landfills or in the oceans and other bodies of water throughout the world. There is widespread consensus that the plastic pollution issue needs to be addressed, and India launched a resolution addressing single-use plastic pollution in the fourth United Nations Environment Assembly, which was held in 2019.

The Plastic Waste Management Amendment Rules in India were announced in August 2021, and the ban was implemented a year later. India will ban the following single-use plastic items as of July 1, 2022: earbuds with plastic sticks, balloon sticks made of plastic, plastic flags, candy sticks, ice-cream sticks, polystyrene (thermocool) used for decoration, plates, cups, glasses, cutlery like forks, spoons, and knives made of plastic, straws, trays, wrapping or packing film around sweet boxes, invitation cards, cigarette packets, plastic or PVC banners less than 100 micron, and stirrers.

Carry bags with a thickness of less than 75 microns are already prohibited, and beginning on December 31, 2022, bags with a thickness of up to 120 microns will also be prohibited. Plastic sachets used to package, sell, or store gutkha, tobacco, and pan masala are also totally prohibited.

In consideration of the aforementioned, it is our responsibility to cease using single-use plastic in order to ensure the happiness, health, and prosperity of our environment, our planet, and all other living things.



# A CRITICAL ANALYSIS OF CYBER CRIME WITH THE HELP OF JUDICIAL DECISIONS

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## INTRODUCTION

As a result of the unexpected cybercrime bust and the fact that criminals became masterminds in the execution of their illegal activities with the use of contemporary world technologies like computers, smart phones, laptops, and other cutting-edge digital technologies, the importance of understanding the world of cybercrime and technology has been prioritised in India. Forgery, cheating, blackmail, theft, robbery, dacoity, and other modern crimes committed with the unfavourable use of technology must be stopped. It is also important to understand the pattern, style, or model of the cybercriminals in order to eradicate or drastically lower the cybercrime rate in India and for improvement of the world.

## CYBER CRIME IN INDIA

That several Special Courts have been formed by the government to handle matters involving cybercrime as a result of the rise in cybercrime in India, lessening the workload of the normal court of law in the process. Judges, prosecutors, and police officers receive specialised training in the field of cyber offences in order to increase their efficiency while rendering decisions in the interest of justice. Due to a lack of information technology skills, conventional courts feel unable to handle matters involving cybercrimes, necessitating the creation of special courts.

Teenagers use of social media contributes to their overall and physical development, which leads to various types of cybercrimes like child pornography, aiding suicide, cyberdefamation, kidnapping, extortion, blackmail, and even outraging women's modesty through the use of various social media platforms.

As a result, social media is being used by criminals who even have a rudimentary understanding of current technology as a tool for carrying out crime in the modern world.

## JUDICIAL DECISIONS

### 1. The Bank NSP Case

A management trainee at the bank was engaged to be married in one of the most prominent cybercrime instances, the Bank NSP case. Using the business computers, the pair sent and received several emails. After a while, the two split up, and the girl started sending emails to the boy's international clients using phoney email addresses like "Indian bar organisations." She accomplished this using the bank's computer. The boy's business suffered a significant loss of clientele and sued the bank. The emails sent utilising the bank's technology were held accountable by the bank.

### 2. Andhra Pradesh Tax Case

After department officers obtained laptops used by the accused in one of the numerous cyber fraud cases in India, dubious techniques of a well-known businessman from Andhra Pradesh were made public. The proprietor of a plastics company was detained, and investigators from the Vigilance Department found Rs 22 crore in cash inside his home. Within ten days, they demanded an explanation from him about the unaccounted funds. The accused thought his offence would go unnoticed until he submitted 6,000 vouchers to demonstrate the legitimacy of the trade. However, after careful examination of the vouchers and the information on his computers, it became clear that every single one of them was created after the raids were carried out. Later it emerged that the accused was in charge of five different companies, under the guise of one company and used fake and computerised vouchers to show sales records and save tax.

## CONCLUSIONS AND SUGGESTIONS

That in real-world situations, the proper application of the relevant laws and a thorough investigation by investigating personnel play a crucial role in providing speedy and accurate justice to a party/victim who has been wronged, but that a lack of knowledge of the rights and laws made for the country's citizens can even slow down and have an impact on India's chain of justice delivering system. Government-sponsored awareness campaigns and sufficient training for the different executive and judicial bodies to handle instances involving cybercrimes can both be useful and fruitful for the society and its positive growth.



# RIGHT TO LIFE & PERSONAL LIBERTY UNDER ARTICLE 21 OF THE INDIAN CONSTITUTION

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## INTRODUCTION

The option to carry on with a free, full and noble life is one of the most essential standards of human life. Everyone has the right to live their lives how they want to, without being harmed in any way by other people. Only a democracy that gives its citizens the right to defend their own life and liberty can be successful. As stated in Article 21: Protection of Life and Individual Freedom: A person's life or liberty shall not be taken away except in accordance with legal procedures. Every person, whether they are a citizen or a foreign national, is entitled to this fundamental right. Two rights are provided by Article 21: The right to life; The right to personal liberty. One of the most significant rights that the Constitution guarantees is the fundamental right outlined in Article 21. This right has been referred to as the "heart of fundamental rights" by the Indian Supreme Court. The right specifically states that no person shall be denied life and liberty except in accordance with the legal procedure. This suggests that this right has only been granted to the State. In this context, state includes not only the government but also its departments, local bodies, and legislatures, among other things. A violation of Article 21 does not occur when a private individual infringes on the rights of another individual. In this case, Article 226 or general law would provide the victim with a remedy. The right to life encompasses more than just the right to live. Being able to live a full life with dignity and purpose is another requirement. The primary objective of Article 21 is for the State to only follow the prescribed legal procedure when removing a person's

right to life or liberty. Interpretation of Article 21 Due to judicial intervention, the scope of Article 21 is not restricted or narrow. It has grown as a result of several landmark decisions.

## JUDICIAL APPROACH TOWARDS ARTICLE 21

In the case of *AK Gopalan* Article 21 had a limited scope prior to the 1950s. In this instance, the Supreme Court ruled that the term "procedure established by law" in the Constitution embodies the British idea of personal liberty rather than "due process" in the United States.

In the case of *Maneka Gandhi v. Union of India* Case, The *Gopalan* case was overturned in this case. The Supreme Court stated that Articles 19 and 21 are not compartments that are impermeable. Article 21's concept of personal liberty encompasses many rights, some of which are enshrined in Article 19, providing them with "additional protection." The court also decided that a law governed by Article 21 must also meet the requirements of Article 19. This means that any legal procedure for taking someone's life or liberty must not be unfair, unreasonable, or arbitrary.

## CONCLUSION

The scope of the Right to Life and Personal Liberty is extensive and continues to expand. There has been a rise in awareness of the various aspects of a person's life that he or she has the right to control and can use to improve the quality of their life. The Supreme Court of India has referred to this right as the "heart and soul" of the Indian Constitution, and it certainly demonstrates that it is so—it represents the most fundamental requirements of human life.



# MALICIOUS PROSECUTION

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The Criminal and civil cases that lack many evidences usually aren't pursued and occasionally criminal charges or civil lawsuits are maliciously filed to intimidate, harass, defame, or injure the other party. Such actions are known as malicious prosecution. Malicious prosecution occurs when one party knowingly and with malicious intention initiate a baseless litigation against the other party. This can include both criminal charges and as well as civil claim, for which the cause of action is essentially the same. Malicious Prosecution is described under Law of Torts and also under Indian Penal code. It is an abuse to the Judicial System as it aims to provide justice to innocent people but under Malicious Prosecution, innocent people are convicted. Under this the defendant becomes plaintiff and plaintiff becomes defendant the case under malicious prosecution should be filed within a year of a malicious suit. For the execution of malicious proceeding, it is necessary to be initiated by a criminal proceeding against an innocent person without any reasonable cause. There are provisions in India for dealing with malicious proceedings, criminal suits and a claimant usually has no remedies. The English legal system has been very flexible enough as per the changing times but the conservative approach and thinking of Indian lawmakers hasn't really worked out for the public good as there are still no remedies for civil claims which defame the person.

The rationality of prosecution in India is a bit different than that in England, it is deemed to be a prosecution when it has reached a stage where calculable damage has been caused to the party defending that suit. In the

Indian context, the wrongful/Malicious prosecution should be the most effective for identifying the cases of malicious prosecution as it directly targets procedural and other prosecutor misconducts, which is one of the primary sources of factual errors that results in innocent people being held guilty of offences they did not commit. At present in our country there is no statutory or legal scheme for compensating those people who are wrongfully incarcerated. The person filing the case of malicious prosecution must have suffered any damage or harm and he has to prove the same in the court to initiate the proceeding.

According to a case *Riegel Vs. Hygrade Seed Co.* Malicious Prosecution is for the recovery of damages to person, property, or reputation, shown to have approximately resulted from a previous civil or criminal proceeding, which was commenced or continued without probable cause, but with malice, and which has terminated unsuccessfully. In case of *Maneka Gandhi v. Union of India*, the Supreme Court gave a new and different dimension to Art. 21 and held that the right to live is not just a physical right but includes within its area the right to live with human dignity.

The person prosecuted maliciously is restrained from doing certain acts, curtailing his or her Rights to Personal Liberty. A victim of a malicious accusation may have to face arrest for no fault of his but still he is accused of doing the act. In this procedure of law, the liberty is curtailed of the victim by violating his fundamental right to liberty. Thus it can be seen that a person prosecuted maliciously, his fundamental right to life and liberty of a person at multiple levels are violated.

# RATIONAL JUSTICE: THE CONCEPT AND PERSPECTIVES

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God the ultimate law-giver in Judeo-Christian traditions gave the Ten Commandments and Obligations related to them. In ancient India, we had the provision of courts 'Kantakshodhana' (Adjudicatory Mechanism), for rational justice a concept that emerged and existed to implement the rationale of the Justice Delivery System and Law Enforcement to Shodha (Removal and Redress) of the Kanta (the Piercing Hurdle) to retain the desisted hope of individuals justifying evidence and variegated Justice. The bond of Law and Justice is like a mirror image at a single footing to provide justice delivery verified practically in a mechanism to supervise the Law and administer criminal justice. The precise determination about Justice' says that criminal justice access is inconsiderate for the existing unequal social structure but on the other hand if you want proper consideration then equality of Justice is the first requirement for the fair Administration of Justice.

Justice in terms of human morale might identify as the right way within the sanctioned law and make themselves law-abiding citizens. Beyond that morale, Justice also invalidates the differences among people on Social, Economic, and Political basis. The law brings masses to justice rightly secured only if received justice featured the crucial criteria of Equality and Fairness. Far from the broad and common standing of justice, each person perceived a distinct justice persona, that dynamic justice partakes the needs of the Society. The dynamism of law and justice as instruments ponders upon the authenticity of functionaries of the Justice delivery system of state or society actionable into the ambit of Law and its applicability to the citizenry. The Administration of Law and Justice is the first-hand area where 'The Judiciary assists in building the Nation's faith 'In Justice Delivery System.

Justice has two facets Q and S namely, Quality and Speed. Justice Warren Burger, the former Chief Justice of the American Supreme Court observed in the American context: The harsh truth is that we may be on our way to a society overrun by hordes of lawyers, hungry as locusts, and several judges never before comprehended by the human mind. The notion that ordinary people want black-robed judges, well-dressed lawyers, and fine-paneled courtrooms as the setting to resolve their disputes, is not correct. People with legal problems like people with grievances want relief and they want it as quickly and inexpensively as possible.

In India, the above-stated fact is a reality either for those people who justified the notion of justice attained' and upheld' in their version like "What is Justified is Justice and what is unjustified is Injustice or Justifiable." We the people of India never had a certain or self-defined Legal System as a result of foreign invasions and subjugation thereafter. In ancient times we have seen glorious epochs but after the invasions, India lost its preeminence in terms of law, culture, and heritage.

Justice is the ultimate objective of Law that requires four-way efforts to galvanize the Legal system. The Judicial organ i.e. Judiciary plays a very important role in society. In a civilized society, every human being has rights that are to be protected, so that people can live happily and peacefully. The concept of Jurisprudence only exists in India from the standpoint of Law and its fairness towards the Citizens. Moreover, it is human wit and volition that are sacrosanct for the emergence of any system and its obedience.



# CRIMES IN METAVERSE AND REGULATING USER BEHAVIOUR

-Himani Gaur ,LLM, 1 Sem



## INTRODUCTION

The metaverse refers to multi-user virtual worlds with a social emphasis. The concept has recently gained momentum due to advancements in related fields of technology, such as virtual reality and cryptocurrency. The Metaverse is a vision of how the next generation of the internet will operate. A metaverse will be an improved digital environment where it is possible to move seamlessly between work, play, shopping, socializing, and creativity in one landscape. Firms such as Meta (Facebook) are investing heavily in immersive experiences, where users with wearable hardware discard reality for a purely virtual world, interacting via Avatars.

## VIRTUAL REALITY, AUGMENTED REALITY, AND METAVERSE

Virtual Reality is a computer-generated environment with scenes and objects that appear to be real, making users feel they are immersed in their surroundings. This environment is perceived through a device known as a Virtual Reality headset or helmet.

In recent years, the concept of Metaverse has become a popular buzzword in the media and different communities. In 2021, the company behind Facebook rebranded itself into Metaverse Platforms, in order to match their new version of the development of the Metaverse. The metaverse is expected to be the next major enlargement phase of the internet. The metaverse will have an impact on human society, production, and life.

In this research-based work, we analyze the current trends and challenges that building in such a virtual environment will face. We will focus on 3 major pillars to guide the development of the metaverse: Privacy, Governance, and Responsible Metaverse. The research is related to the legal framework of a metaverse in the world to protect the privacy of individuals in the cyber world.

On the other hand, Augmented Reality (AR), our own, becomes the framework within which objects, images, or similar are placed. Everything we see is in a real environment and it may not be strictly necessary to wear a headset. Eg-Pokemon Go In the metaverse the surrounding disappears and it is not just a Virtual Reality. Metaverse will be accessible across all the different computing platforms such as VR, AR, PC, Mobile devices, and game consoles.

## RESPONSIBLE METAVERSE

Artificial intelligence, which will be used in Metaverse, poses a number of privacies, ethical, and transparency concerns. This fund will primarily be used to construct the Metaverse while taking compatibility, privacy, safety, and economic opportunity into account.

Pillars for Responsible Metaverse-

1. Safety. Inclusivity and Accessibility
2. Security and Privacy
3. Governance and Accountability



## NEED FOR RESPONSIBLE METAVERSE

- Data Protection

Unprecedented amounts and types of personal data will be shared with metaverse participants. In order to understand the behaviour and ideas of their customers in the metaverse, organizations will track each person's motions, physiological reactions, and brainwave patterns. When using personal information, one must adhere to data protection laws.

- Cyber-attacks

Cyberattacks in the Metaverse might be more sci-fi in nature, including deep fakes and compromised avatars. Given the intricate network of connections that the Metaverse is made of, it can become challenging to determine who is responsible for breach reporting and what the data protection authorities should do with it.

## PRIVACY CONCERNS

The IT Act, 2000, section 43A, serves as the primary legal framework for India's current data protection regime. Large amounts of biometric data, which meet the criteria for sensitive personal data or information (or "SPDI"), are anticipated to be gathered by Metaverse. According to Section 3 of the IT Rules, SPDI includes passwords, bank account information, health information, credit/debit card information, information regarding one's sexual orientation, and biometric information. The regulations demand that the body corporation handling SPDI use security measures and take the consent of employees, there must be a choice not to submit SPDI, and the body-corporate may only collect SPDI for legitimate objectives related to its functions. Thus, Governments and body-corporates outside India can monitor data in the Metaverse environment.

## CRIMES IN METAVERSE

In particular, for the workforce of working women, workplace harassment continues to be a major source of worry. Clear procedures must be implemented by employers to prevent harassment and wrongdoing. Avatars on the Metaverse have already been virtually touched plenty of times. In addition, the IPC was changed to include provisions for voyeurism, stalking, and sexual innuendo after the Nirbhaya case. Similarly, to this, the IT Act's Section 67A outlaws the publication or transmission of sexually explicit acts or conduct using electronic means. People in the Metaverse can be anywhere in the real world. It is unclear which country's employment laws will apply within the Metaverse and which court would have jurisdiction for offences committed.



Since the Metaverse has no single physical location, as per Indian law, the option of filing complaints at the jurisdiction where the cause of action arises or the subject property lies is lost. However, the victim can file a complaint at their own location by virtue of Section 179 of the CrPC. There are several crimes that can be committed without human beings being present. For instance, any male avatar who does any act (such as making a gesture) in front of a female avatar and which has an impact on the senses of the real lady behind the avatar is said to have insulted the modesty of that woman. This is a violation of the law in the Metaverse.

## CONCLUSION

We need to think about this carefully as the Metaverse experience grows more immersive. Our laws must be prepared for the Metaverse since it is approaching more quickly than we anticipate. While a legal void lies in front of us, the Metaverse shouldn't turn into another "wild west" for labour laws. The combination of technology protections, operational procedures, and individualised rules will be used to successfully integrate new models with current regulations. The Metaverse is an alternate digital reality that requires sophisticated SPDI as well as other sensors and software to operate properly. To make sure that employee data is handled and secured in line with SPDI rules and used only for specified and agreed-upon purposes in the Metaverse.

# CYBERBULLYING : A CRITICAL STUDY

-Heena Sharma ,LLM, 1 Sem



## INTRODUCTION

Information and communication technology have evolved rapidly in the past 2 decades and the emergence of social media is one of the key developments. Nowadays, social media is one of the eminent parts of everyone's lives. Social media has not only become an easy means of communication but also serves as a medium to stay updated with the outside world. Today, social media has a strong influence on people and COVID-19, has played one of the major roles in making people addicted to it. On average, Indian users spent 2.4 hours on social media, in line with the global average. According to one of the articles of The Hindu Business Line, the number of social network users (social media and messaging apps) in India is projected to grow by over 400 million, reaching the 1 billion mark by 2025.

The Oxford Dictionary defines a social network as "websites and software programs used for social networking". The interpretation of communication and social interaction has changed due to the rise in social media usage. Social media platforms like Facebook and Twitter have brought a drastic change in the way we were using the internet for both personal and professional purposes. The growth and hike of Social Media websites have also invited Cyber Crime as it is a deep pool of personal data.

The growth of these websites at an exponential rate has invited the cyber offenders to commit Cyber Crimes posing threat to the privacy of individuals as well as national security. According to National Cyber Crime Reporting Portal, saw a rise of 15.3% in reported complaints during the Second Quarter of 2022 compared to the First Quarter of 2022. Total of 2,37,658 complaints were reported during the Second Quarter of 2022. Technological advancements and the COVID-19 pandemic have also accelerated the reliance on digital platforms to perform daily and essential activities, making users increasingly susceptible to cyber threats. FBI's officially published report ranks India in the top five of Cyber Crime victims globally. India has found itself on this list for the second time in a row. Further, any crime taking place on the computer can be said to be a cyber-offence.

## WHAT IS CYBERBULLYING?

The act of bullying when performed using digital technologies falls under the category of cyberbullying. It usually takes place on social media, messaging platforms, gaming platforms and mobile phones. It is repeated behaviour, aimed at scaring, angering or shaming those who are targeted.



Cyberbullying take place in various ways such as:

- Imitate someone and send messages to others and post pictures on their behalf or through fake accounts.
- Sending distressing, insulting or threatening messages, images, or videos via messaging platforms.
- Outspread lies about or posting shameful photos or videos of someone on social media.
- Face-to-face bullying and cyberbullying often go on simultaneously but cyberbullying leaves its mark digitally by which it will be known all over the world. It makes it difficult to detect the person behind the cybercrime.

## WHAT ARE THE CATEGORIES OF CYBER-CRIMES?

Cyber Crimes are extended to numerous activities. Cyber Crimes can be divided into the following categories:

- Cyber Crimes against persons: like harassment occur in cyberspace or through the use of cyberspace. Harassment can be sexual, racial, religious, or other which can be denoted as Cyber Stalking, Cyber Bullying or etc.
- Cyber Crimes against property: like a computer by wreckage, the transmission of harmful programmed, unauthorised trespassing, unauthorised possession of computer information.
- Cyber Crimes against the government: which can be denoted as Cyber Terrorism.

## RISKS & CHALLENGES

The threats are rising along with the number of users accessing social media platforms.

- Cyber Stalking: This kind of Cyber Crime involves online harassment where the user is subjected to many online messages and emails.

typically, cyberstalkers use social media, websites and search engines to intimidate a user and instil fear. Usually, the cyberstalker knows their victim and makes the person feel afraid or concerned for their safety.

- Cyber Bullying: This kind of Cyber Crime involves bullying over digital devices like cell phones, computers, and tablets. Cyberbullying can occur through SMS, Text, and apps, or online in social media, forums, or gaming where people can view, participate in, or share content. Cyberbullying includes sending, posting, or sharing negative, harmful, false, or mean content about someone else. It can include sharing personal or private information about someone else causing embarrassment or humiliation. Some cyberbullying crosses the line into unlawful or criminal behaviour.
- Defamation: This kind of Cyber Crime involves publishing false statements about an individual in cyberspace that can injure or demean the reputation of that individual.
- Assault By Threat: This kind of Cyber Crime involves threatening a person with fear for their lives or the lives of their families through the use of a computer network i.e. E-mail, videos or phones.
- Identity Theft: As millions of people disclose their personal information to register on one or more social networking platforms, this data becomes exposed to hackers and identity thieves who use it for harmful purposes including password resets, loan applications, and other purposes.
- Cyber Terrorism: social media is now also used to support actions related to terrorism. It can encourage, support, engage in, and disseminate terrorism propaganda, including recruitment, radicalization training, and the planning of terrorist strikes.

## ANALYSIS OF CYBER BULLYING IN INDIA

India is the second largest online market in the world with over 560 million internet users, ranked only behind China. It is estimated that by 2023, there would be over 650 million internet users in the country. According to the latest national crime records bureau NCRB data, a total of 27, 248 cases of cybercrime were registered in India in 2018. Cyber Crime is not like other crimes occurring in society

It has no jurisdiction bars, as the cyber criminals are mysterious which not only affects an individual but also the whole country. As India is a developing country, people are learning and making technology a part of their lives. Not only in urban areas but also in rural areas technology is becoming a major part of their lives and with the increase in the number of users, the number of cyber bullying cases is also increasing. India also reported prominent acts of cyber bullying such as spreading false rumors at 39%, being excluded from groups and conversations at 35% and name calling at 34%. Indian children witness and experience maximum cyber bullying on almost every social media and messaging platform. 45% of Indian children said they hide their cyber bullying experiences from parents, perhaps due to the relative absence of conversation.

“Cyber bullying in India reaches alarming heights as more than 1 in 3 kids face cyber racism, sexual harassment, and threats of physical harm as early as the age of 10 - making India the #1 nation for reported cyber bullying in the world,” said Gagan Singh, Chief Product Officer, McAfee.

### THE PROVISIONS REGARDING CYBER CRIMES

1. Section 354D of the Indian Penal Code: States that any man who stalks a woman by following her around and making repeated attempts to get in touch with her for personal reasons even though she has shown an obvious lack of interest or by keeping track of how she uses the internet, email, or any other kind of electronic communication.
2. Section 499 of the Indian Penal Code: This section deals with “Defamation”. It provides that “Defamation” arises when any allegation or imputation is made against any person in oral or in written or by words, sign or visible representation and also publish such allegation to harm that particular person.
3. Section 507 of the Indian Penal Code: This section provides that any person who commits offence of criminal intimidation by an unspecified communication, or having taken the precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding section.
4. Section 66 of the Information Technology Act, 2000: This section provides that anyone who commits one of the acts listed in section 43 dishonestly or fraudulently shall be punished with imprisonment which may be extended to three years, a fine up to five lakh rupees, or a combination of the two.

5. Section 66E of the Information Technology Act, 2000: This section provides that any person deliberately or consciously captures, publishes or transmits the image of a genital area of any person without his or her authorization, under conditions violating the privacy of that person, shall be punished with imprisonment which may extend to three years or with fine not exceeding two lakh rupees, or with both.

6. Section 67 of the Information Technology Act, 2000: This section provides that any indecent material that is published or transmitted electronically may be punished. Anyone who publishes, transmits, or causes to be published, seen, or heard any material that is lascivious, appeals to the prurient interest, or has the tendency to deprave and corrupt people who are likely, taking into account all pertinent circumstances, to read, see, or hear the matter contained or embodied in it, shall be punished with imprisonment of either description for a term that may extend to five years and also with fine which may extend to ten lakh rupees.

Only a few victims and their families report cases of cyberbullying, despite the fact that there are laws in place to punish bullying. The majority would rather remain silent and wait for things to become better on their own.





# LEGAL PERSPECTIVE OF SURROGACY IN INDIA

Amanpreet Singh, BA LLB 3 Sem

## INTRODUCTION

In layman's words, "surrogacy" refers to a procedure or arrangement in which a woman consents to bear and deliver a child on behalf of another person. The Surrogacy (Regulation) Act, 2021, often known as The Surrogacy Act, governs surrogacy in India and defines it as "a process whereby one woman bears and gives birth to a child for an intending couple with the aim of turning over such kid to the intending couple after the birth." Around the world, surrogacy practices fall into one of two categories- Commercial surrogacy is the system or practice of surrogacy in which the surrogate mother receives income in addition to the payments made for insurance and medical costs. On the other hand, Altruistic Surrogacy is a process in which a woman voluntarily takes on the role of a surrogate mother without receiving any financial reward aside from insurance and medical costs. India authorized commercial surrogacy in 2002.

Commercial surrogacy was unethical in nature, but it also aided poor women who were eager to participate in the procedure and saw surrogacy as a moral way to make money. The 228th Law Commission Report placed a strong focus on the necessity of regulating assisted reproductive technology (ART) facilities, surrogacy, and the rights and obligations of the parties concerned. In its report, the panel had suggested while ethical altruistic surrogacy should be tolerated, commercial surrogacy should be outlawed. Nevertheless, Commercial Surrogacy persisted for a few more years.

## RESTRICTIONS

Despite the changes made to the earlier measures, the Surrogacy Act as it was passed in 2021 has proven to be very restricted. For instance, the Surrogacy Bill of 2019 stipulated that the couple could only use close female relatives who are ready to carry their children as surrogate mothers. But because it was so restricted and limited the intending couple's options for surrogacy, this clause was repealed when the bill was put into effect. The Act's provisions forbid worldwide commercial surrogacy as well as intercountry surrogacy because the Act stipulates that the intended pair must be Indians. Couples who choose to become parents through surrogacy are also not eligible if they already have a living child, whether it was born through surrogacy, adoption, or biological

reproduction. The sole exception to this regulation is if the survivor kid has a disability, either mental or physical, or is afflicted with a terminal or life-threatening illness.

## BAN ON COMMERCIAL SURROGACY

While a ban on commercial surrogacy may seem like a significant victory and a step toward ensuring the welfare of women, a blanket ban rather than stringent limits would eventually draw attention to a number of problems. A total prohibition on commercial surrogacy in a nation that previously had a sizable surrogacy market will likely result in an underground industry that is more violent and exploitative toward women who want to be surrogate mothers or who want to do so for financial gain. Altruistic surrogacy also limits the number of couples that can choose this route. In truth, it's difficult to locate a lady who will act as a surrogate mother for no money or other benefits.

## EXCLUSIONS/TRANSGENDER – RIGHTS AND SAME-SEX COUPLE

The practice of surrogacy enables those who want to have a biological child but are unable to do so for a variety of reasons. The Transgender Persons (Protection of Rights) Act, 2019 was passed to guarantee equality for transgender people and to protect their rights. Transgender people are now recognized as the third gender in India. In the case of National Legal Services Authority v. Union of India, the judiciary also acknowledged the rights of transgender people to be treated equally and as full citizens of the nation.

Despite the fact that homosexual or same-sex relationships are now accepted in India as a result of the Navtej Johar v. Union of India decision, members of this community still do not have equal rights. The LGBTQ+ population is thought to be a vital group to include in the scope of surrogacy regulations because they are a group that cannot naturally have biological children of their own. Couples who identify as homosexual or transgender are not included in the ICMR Guidelines or the Surrogacy Bill. The fact that a community's members are not heterosexual couples should not be used as a reason to deny them the ability to parent. The Indian Department of Health Research argued at the Bill stage of the current Act that there is a legitimate worry about homosexual couples simply divorcing and being "married," which would significantly complicate the surrogacy process

# EVOLUTION OF MEDIA LAWS - INDIAN PERSPECTIVE

Abhinav Chandra, BA LLB 3 Sem



## INTRODUCTION

Media plays a vital role in informing people about their surroundings, the truth, and the situations they reside in. Media law is not a term for a uniform and integrated body of law like the law of contract or the law of crimes. It is a mix of a variety of laws and ethics that are considered most important for a working journalist and media industry. When the term “media law” is used, the focus is on the law itself. It examines the limits within which the media organizations and journalists operate. Hence this type of emphasis diverts the focus on terms like freedom of speech, defamation, confidentiality, privacy, censorship, contempt, and freedom of access to information.

This paper intends to throw light on the origin and aspects of Media Laws in India.

## MEDIA ETHICS

Media Ethics has been defined as “Media ethics job role is to deal with the specific ethical principles and standards of media.” An investigation report by Ethical Journalism Network (EJN), an international journalism ethics gatekeeper, titled “Untold Stories: How Corruption and Conflict of Interest stalks the Newsroom” studied the decay in media professionalism in 20 countries including India and published a report. It finds out some area where we need to concentrate on, to save this once noble job from falling into further disgrace. Hence, in present scenario, the ethical behavior of media is highly important.

## CONCEPT OF MEDIA LAW AND ETHICS

One of the path breaking study has been conducted by Press Council of India committee in 2010, headed by Pranjoy Guha Thakurtha and K Srinivas Reddy which dealt with problems a democratic country has to face, when the media is mired in corruption. The well acclaimed New York Times Ethical Handbook which is considered as a benchmark by many across the globe across the media spectrum, clearly list out the parameters for the media staff to move around and space available for them to work in. It says “Journalist can collect information for its reader but Staff members may stay away from misusing it, don’t provide wrong information that will violate our commitment to the readers and their fundamental rights as well.”

It further states that a media person shall in no way provide advisory service to any organization regarding how to deal with media houses to get a favorable coverage either freely or paid service. Media person must stay away from financial issues either in the form of investments or financial advisories. It has also better to keep a distant away from being appearing as a paid speaker. Even though a media person is helping out a particular candidate in election that will put extra pressure on the ethical limits.

The challenge to protect journalism is bigger than that of protecting the interest of businesses.

## INTERPRETATION OF MEDIA LAWS IN INDIA

Media Laws does not refer to a uniform body of law but rather a collection of a variety of laws and ethical standards that influence the work of the media. Also, different forms of media are subject to different regulations. Nevertheless, there are universal rules that need to be respected by all journalists when practicing their profession. Only when journalists adhere to the generally accepted legal and ethical principles of their profession that they can they fulfill their main function in a democratic society: serving the public interest.

They are often recognized as the “fourth estate,” alongside the legislative, executive and judicial branches of government. Their role is not solely confined to the reproduction of facts. The mass media also communicates political, social, ethical, cultural, and other ideas, and thereby makes an important contribution to the formation of public opinion. Media law is a branch of law that consists of a system of legal norms that regulate the activities of the mass media. It examines the limits within which media outlets and journalists can operate. Media law on one



Never before has mass communication been so pervasive in our everyday life. Thanks to social media, anyone with internet access can take on the role of a publisher, potentially spreading their message to an audience of millions with just the click of a mouse. That enormous potential comes at a high cost: today it is easier than ever to spread lies about people and destroy their reputation in just a few minutes. For this reason, it is vital not only for journalists but also for the general public to have a basic knowledge of media law and ethics, in order to act responsibly and ethically when disseminating content to a mass audience

## ROLE OF MASS MEDIA IN DEMOCRATIC SOCIETY

Social and political life as we know it would be impossible without the existence of mass media.

hand, regulates the principles of the dissemination of media products and on the other hand it can affect the format and content of media products. Some regulations apply only to specific types of media. For example, there are broadcasting laws that apply only to the activities of broadcast media. More general legal provisions are to be respected by all media. The law relating to mass media does not constitute a single field of law but is rather comprised of a diverse set of laws and provisions that are scattered across the entire legal framework. The foundations of the principles of media law can be found in the constitutions of many countries, specific national legislation, as well as international conventions and acts dealing with this subject.



# ROLE AND RESPONSIBILITY OF MULTINATIONAL CORPORATIONS AND COMPANIES WITH REGARD TO SUSTAINABLE DEVELOPMENT AND ENVIRONMENTAL CONCERNS

Aadil Akhlaque, LLM 1 Sem



## CONCEPTUAL BACKGROUND

When discussing environmental degradation in the context of sustainable development, it helps to have a common understanding of the term. Sustainable development is defined as growth that provides for the needs of the present without compromising the ability of future generations to do the same. The interests of both the current and future generations must be taken into account when working toward sustainable development, which is why a positive interaction between the two is essential. With its emphasis on a balanced approach to economic, social, and environmental well-being, sustainable development is a cornerstone of the UN's overall framework for action. In this context, environmental sustainability is seen as a need for human existence, with its origins in larger social problems. To improve human well-being, ES prioritises the preservation of NC. To contrast with the state's economic capital, North Carolina is investing in the restoration of its water, land, air, minerals, and ecosystem services for use in manufacturing. The environment encompasses the sources of raw materials used to satisfy human requirements and the measures taken to ensure that the sink capacity for recycling human waste is not exceeded, both of which are necessary to protect human health. Humanity has to learn how to adapt to its biophysical surroundings. ES claims that keeping NC running is necessary since it provides a means of generating funds for materials and waste disposal. It means that the human economic subsystem (population and consumption, at a particular technology level) must remain within the biophysical limits of the wider environment on which it relies. locate production of final goods as close to the point of sale as possible for several reasons: meeting the

needs of local consumers, reducing transportation-related energy consumption and emissions, and creating employment opportunities in the area. Multinational corporations (MNCs) throughout the world need to step up their engagement with the public sphere. The development of novel technologies is a pressing need if we are to effectively address these problems. In order to reduce waste and pollution, industry may develop cutting-edge new technologies for recycling waste and resources. Although LCA has great potential, it is currently difficult to execute without introducing a number of problems, and there is yet no conclusive scientific evidence linking its idea to the cause of global environmental problems. To solve the global environmental crisis, we need to launch a major new sector that recovers valuable materials from trash. It has been argued that recycling is an economically stable yet low-tech business. A lot of money has not been put into research and development at the national level. In an attempt to boost their economies and guarantee national security, several countries have nationalised the so-called high-tech industry. If a firm or even a country cannot give enough resources to such endeavours, we will need to work together worldwide to build precompetitive generic technologies and then compete to use such technologies for the benefit of society and the advantageous conditions of the enterprise. Multinational corporations (MNCs) may and should play important roles in this kind of global collaboration. This has led the Japanese people to seek absolute national security. The current trend of MNCs forging more and more strategic partnerships is really heartening. Consistent with this idea, CSR is a great program.

## CONCEPT OF CORPORATE SOCIAL RESPONSIBILITY

This idea of corporate social responsibility was written into the books of antiquity. The Dharma- Way is upheld by CSR, which is in line with Hindu thought.

In the past, Maharajas and other wealthy individuals used to provide large sums of money for the construction of homeless shelters nearby.

According to the Veda, affluent individuals are required to create tanks for the benefit of the neighbourhood, plant trees, and contribute a portion of their money. Numerous political texts produced by eminent political philosophers, such as Arthashastra by Kautilya and The Prince by Machiavelli, also incorporate the CSR concept. Different Religion CSR as Enumerated as Enshrined under

- Hinduism “Daan” Rig Veda, Yajur veda, Manusmriti etc.
- Islam “Zakaat” Quran
- Sikhism “Dashant” Guru Granth Sahib
- Christianity “Public Services” Bible

### IMPORTANCE OF CSR

A. Business perspective: The interaction between stakeholders and shareholders of the firm is strengthened for the business entity via CSR. The risk of investing is decreased by taking CSR into account. The corporate entity's profit was used to fund CSR. Because these gains are not used for CSR, they should be invested; as the quantity of investment decreases, so does the risk of investment. CSR improves an organisation's reputation, which has the effect of increasing goodwill value. Additionally, CSR improves interactions with customers.

B. Social perspective: CSR primarily benefits society since its focus areas include rural development, health, education, and livelihood. By prioritising human development as a goal, CSR also supports sustainable development in society. Human rights, democratic rights, labour rights, and environmental rights are also promoted by CSR. A significant amount of CSR was allocated to the health and education sectors.

### RECOMMENDATIONS

Based On the problems, certain recommendations are mentioned below with their details:

1. Generation of Awareness and Capacity Building: Raising managers' understanding of CSR concerns and building their competence to execute CSR practices inside businesses are both necessary. It is necessary to provide training programs that are accessible to business managers, especially in those regions with limited capacity. To increase the effectiveness of CSR programs, there must also be a growing sense of knowledge of CSR among the general public.

2. Improve Partnership with Stakeholders: It is clear that the government, society, and other stakeholders cannot work together efficiently and effectively in the CSR field. This frequently causes obstacles when putting CSR activities into action. It is advised that an appropriate strategy be included to gather all crucial players for the effective execution of CSR projects.

3. Creating the Right Conditions for CSR: The government should reward the private sector for its exemplary work by providing incentives. A formal cooperation with the local government, simple grants, tax breaks, and other financial incentives are required.

4. Reward and Recognition: The government, as well as even private groups, should think about honouring and awarding businesses that join with non-governmental organisations to carry out effective programs that benefit the disadvantaged and impoverished. To boost the private sector's good efforts, incentives should be offered.

5. Legislation and Regulatory Framework by Government: Government involvement in CSR has historically been careless. Due to the government's decreasing influence on the CSR policy framework, Indian businesses are now adopting other international norms. Therefore, it is imperative that Indian corporations adopt CSR through appropriate legal and legislative frameworks.

6. Checking and Adherence of Measures for CSR Application: The Indian government has created a statutory framework for CSR, but the Indian corporate community must assure appropriate execution and adherence to the legislation.

7. Organisational issues: The findings also highlight the requirement that businesses with CSR programs set aside a specific portion of their profit after tax (PAT) for CSR expenditures. As a result, a CSR strategy should be created well in advance.

8. Pooling of Resources: It is frequently seen that businesses wind up duplicating each other's efforts on related initiatives in the same regions. It is advised that businesses engaged in CSR initiatives should consider combining their resources to form a national alliance for CSR.

# TRADEMARKS INFRINGEMENT IN INDIA

Jatin Solanki , LLM 1 Sem



## INTRODUCTION

A company may use a logo or a combination of letters and numbers to symbolise its goods and services and assert its ownership of a word or design. Trademarks can be registered under many different categories, including product, service, collective, certification, shape, sound, and pattern marks. Although there are many different types of trademarks, they all serve the same objective, which is to let consumers recognise products and services coming from a particular manufacturer or service provider. We examine the various trademark types in this article and understand the concept of trademark infringement and the possible remedies and damages provided under the act.

## WHAT IS TRADEMARK

The definition of trademark is given in Section 2 of the Trademark Act, 1999. It is defined as a mark that is capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging, and combination of colours.

## TYPES OF TRADEMARKS

1. Product Mark
2. Service Mark
3. Collective Mark
4. Certification Mark
5. Shape Mark
7. Sound Mark

## WHAT IS TRADEMARK INFRINGEMENT?

A person has the right to take legal action to recoup damages from someone who has violated their registered trademark, as stated in Section 27 of the Trademarks Act, 1999. When a third party uses a trademark that is deceptively similar to the trademark of the legitimate owner of the goods and services covered by the registration, infringement has taken place. The registered owner has the right to sue anyone who uses his trademark without permission.

According to Section 28 of the Trademark Act of 1999, the registered owner of a trademark has the sole right to use the mark in connection with the products and services for which it was registered and to take legal action against anybody who uses the mark illegally. Acts that constitute infringement

The Trademarks Act of 1999's Section 29 addresses trademark infringement. It is described as acting in a way that violates the exclusive rights given to the legitimate owner of the trademark.

## REMEDIES AGAINST INFRINGEMENT

Only three years after the date the infringement occurred may a lawsuit be filed for trademark infringement. A new course of action will be taken each time a trademark is violated if the infringement is allowed to continue. Under Trademark Act 1999, the remedies available to the owner whose trademark is infringed are:

- Sections 103 of the Act lays down criminal remedy for the contravention of the trademark of any individual or entity which lays down a period of six months of imprisonment which can be extended till a time frame of three years for infringing trademark rights.



- Section 104 of the Act talks about penalties that need to be provided as a sanction against an infringement. The section mentions a fine of fifty thousand rupees which can be increased till an extent of two lakhs in case someone is found to transgress the trademark rights.

- An inflating version of punishment is laid down under Section 105 of the same Act.

- A seizure of powers of the person liable for infringing can be carried out as a criminal remedy for an efficient adaptation to the above provisions.

- A suit can be filed for infringement under Section 134 of the Trade Mark Act- A suit of such nature may be filed before a District or High Court under whose jurisdiction the time at which infringement suit was filed, and the person who institutes the suit resides, or carries on business for profit or loss.

- A person may also seek relief under Section 135(1) of the Trademark Act, where the Court may grant relief under Section 134.

- A person may also seek relief under Section 135(2) of Trade Mark Act- Under this Section, the Court may give ex parte injunction order under Section 36-42 of Specific Relief Act, 1963 or Order XXXIX Rules 1 & 2 of Section 151 of Code of Civil Procedure 1908.

## DEFENCES AVAILABLE AGAINST TRADEMARK INFRINGEMENT

There are various defences available against trademark infringement:

1. Fair use-If the trademark infringement victim can show that he used the registered trademark owner's permission, he may assert the fair use defence. This defence is available to the infringer when he uses the mark in good faith for descriptive purposes rather than for a particular mark.

3. Prior Use: A prior trademark user is granted greater rights to the mark than a registered user. By demonstrating that he has been using the trademark for a longer amount of time and has built up more goodwill in the industry than the registered user, the defendant can use this argument.

4. Non-use of the trademark by the registered proprietor—In this case, it is the defendant's responsibility to show that the registered proprietor has not been using the trademark for a significant amount of time. He must demonstrate his sincere interest in using the trademark that the owner of the trademark is not currently using.



6. Delay and Acquiescence- When the plaintiff fails to file a claim against the defendant for infringement, his entitlement is believed to have been waived. He is alleged to have given the infringement specific permission to use his trademark.

In the well-known dispute between The Coca-Cola Company and Bisleri International Pvt. Ltd. The Delhi High Court was adamant about the notion that if there was any infringement at all, the court would certainly have jurisdiction to hear the case. The misunderstanding caused by the brand-name MAAZA being misidentified as belonging to the defendant's company rather than the plaintiffs' corporation led to the case's resolution. The defendant used the trademark internationally as well as domestically. The court inferred that the defendant is liable for infringement due to usage of trademark beyond the permissible extent and as a result it issued an interim injunction against the defendant.

## CONCLUSION

In India, the demand for trademark registration is steadily increasing, which shows how aware individuals are becoming aware of the need to protect their own products. Today, trademark infringement is a widespread occurrence. Any type of trademark violation has a negative effect on the person or the entity and lowers the brand's value.

Trademark is a valuable weapon that a proprietor can utilise to monetize both his trademark and his merchandise. Additionally, trademarks serve as a barrier between registered trademark owners and other market competitors

# ADULTERATION OF FOOD

## AN OVERVIEW ON LAWS, COMPLAINT & REDRESSAL

Ankita Dubey , BALLB 9 Sem

### INTRODUCTION

Every human deserves access to clean, healthy, and fresh food to survive. Getting seriously ill due to the consumption of adulterated food is no less than a catastrophe. Therefore, the adulteration of food needs to be eradicated from society. Adulteration is the mixing or addition of undesirable substances to food, resulting in low quality and unfitness for consumption. Some adulterated foods are nearly venomous, and they can lead to serious health issues such as kidney disorders and heart failure. Sometimes, they even have carcinogenic properties that are proven to be fatal to human life.

### HISTORY OF LEGISLATIONS FOR THE PREVENTION OF ADULTERATION

India is a massive country, and so the food processing industry in India needs to be regulated. Preventing food adulteration is a cardinal factor in regulating this massive industry.

The concept of food adulteration is not recent. Centuries ago, Chanakya mentioned the prevention of food adulteration in his book "Arthshastra." There were numerous mentions of the same in the chapter "kataka shodhana," dedicated to adulteration.

In modern India, several laws were formulated to prevent adulteration. Even before India gained independence, legislation was worked out, by the provinces.

After India gained independence, adulteration was a widespread practice prevailing throughout India. It was necessary to bring about change through new legislation. The Indian Constitution mentions healthy and safe food in Articles 21 and 47. The Indian penal code also mentions the prevention of food adulteration in sections 273 and 272.

Apart from the constitution and the IPC, the Prevention of Food Adulteration Act of 1954 was one of the important pieces of legislation enacted after independence to prevent adulteration and manage other aspects of the food industry. There were several other laws that governed various food commodities.

In 2004, the joint parliamentary committee on pesticide residues, in its 2004 report, emphasized the need to cover all food laws and to have a single regulatory body. As a result, the Food Safety and Standard Act (FSSA) went into effect in 2006.

### OBJECTIVES OF THE FOOD SAFETY AND STANDARD AUTHORITY OF INDIA

The FSSAI's objectives were to establish a science-based standard for food products, control their production, storage, distribution, sale, and import, and guarantee the accessibility of wholesome, safe food for human consumption and matters related to or very similar. To ensure the welfare of citizens, FSSAI created a structure in which all stakeholders in the food industry were held accountable for food safety. Also, the FSSAI emphasizes spreading awareness so that the consumer can make better and more informed choices. In addition, the FSSAI, by way of awareness-raising, training program, and monitoring, focuses on building the capacity of stakeholders to ensure the safety of the food.

### REDRESSAL SYSTEM FOR COMPLAINTS

FSSAI also has a mechanism for complaint redressal.

- Against whom can a complaint be made?

Any consumer or stakeholder can complain to the FSSAI on matters concerning food. They can even appoint a formal representative. The complaint can be lodged against the food business operator or even against the enforcement officer if he/she is guilty of violating the prescribed code of conduct.

- Where can complaints be made?

An important question in this whole scenario is "Where can the consumer complain?" Thankfully, there are numerous mechanisms to complain.

The FSSAI has targeted all focal points for an active and reliable system for redressal. The consumer can complain directly on the helpline number, by email, or through the grievance portal of the FSSAI. The consumer can also complain to a district consumer dispute redressal forum.

### CONCLUSION

It is extremely important to eat safe food, and for that, adulteration must be prevented. A lot of legislation and amendments are made over time to combat adulteration. Apart from legislation, if the consumers keep an eye on what they are consuming and actively lodge complaints about such malpractices, reform can be made in the food industry.

# INTELLECTUAL PROPERTY IN BUSINESS-AN IMPORTANT TOOL

Garima Tyagi , LLM 1 Sem



IP is becoming an increasingly important business asset. Intellectual Property refers to the innovations as in the form of copyrights, trademarks and patents. Protecting the Intellectual property helps in allowing a company to grow by sharing their innovations and also by maintaining their rights as the owner.

Business owners must understand the importance of IP in order to effectively protect the company's assets. The business world is becoming more aware that IP protection is a huge factor of a company's success and value. IPR investment or getting an IPR will prevent the key resources of a company from getting abused by its competitors. Not surprisingly, these rights represent a very significant part of many businesses' net worth. According to Forbes Magazine, intellectual property represents more than 80% of a typical business' value. An increasingly significant commercial asset is IP. Innovations protected by copyrights, trademarks, and patents are referred to as intellectual property. A corporation can expand by sharing its discoveries and by retaining its ownership rights with the support of intellectual property protection.

Innovation and brand distinction are increasingly being used by businesses as a primary source of revenue as a result of the expansion of information technology and the service economy. Companies might get a competitive edge over rivals thanks to the creation of intellectual property. A business can maximise the utilisation of its assets by protecting its intellectual property and comprehending it in various ways.

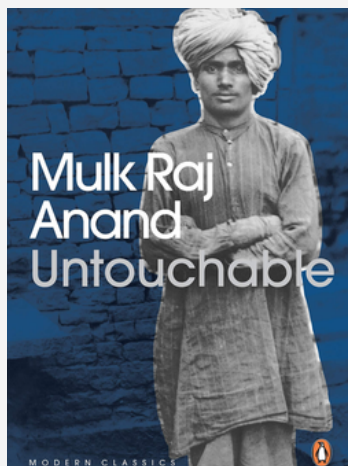
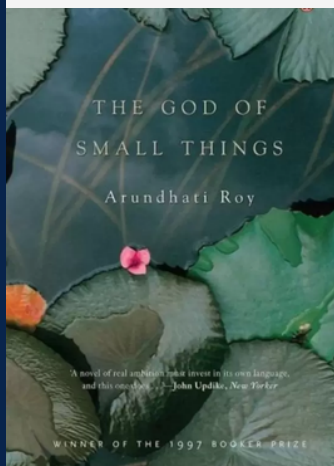
Legal protection of intellectual property is more important than ever before, because it turns the intangible assets in a business into exclusive rights, so competitors are unable to benefit from their innovations. IPR encourages and rewards innovations. It gives the owner of the property the opportunity to share their creations with limited competition and protects the company's competitive point of differentiation. It can also sometimes be an extremely valuable bargaining tool, and it can be sold for financial gain.

The sole authority to determine how and to whom a work may be distributed is held by the person who has been granted a patent or copyright. With the use of a trademark, a company may build a reputation with consumers and even grow its clientele. A business's most important assets may be at danger of infringement by rivals if it chooses not to spend money on legally defending its IP. If a company's assets aren't protected by the law, anyone can access them and use them to make money lawfully and freely. Nonetheless, future profits in a business may be affected by the acquisition of a new patent or copyright. There are many instances in which a company's value heavily increased overnight due to the acquisition of a patent. Investing in new IPs is now seen as a strong way to enhance a company's financial situation. Research, product development and marketing for intellectual property is an investment that every company should consider making



# Untouchability: Critical study of Arundhati Roy's *The God of Small Things* & Mulk Raj Anand's *Untouchable*

Dr. Seema Dagar  
Assistant Professor

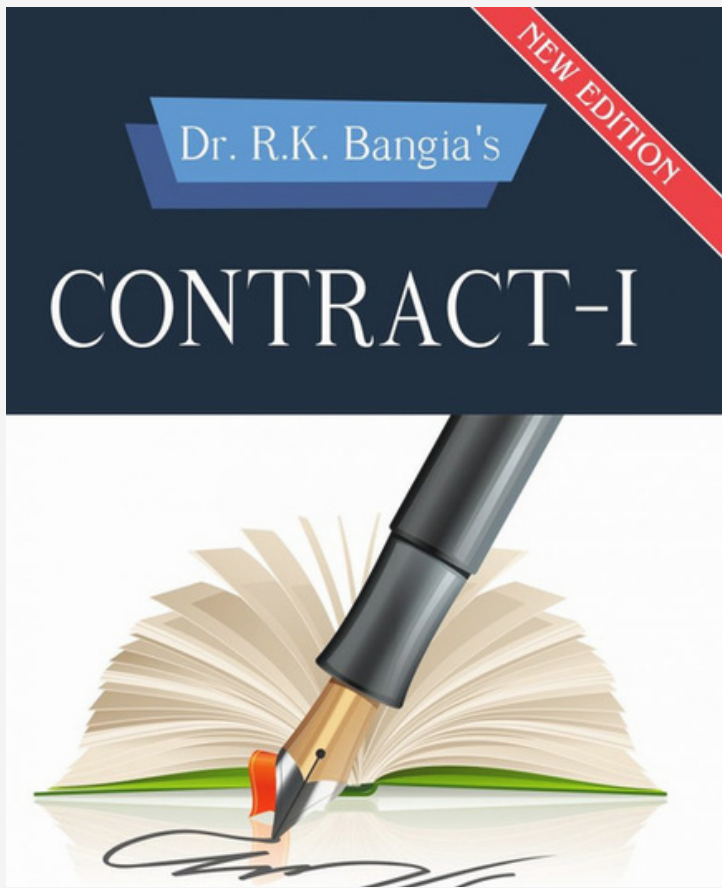


Arundhati Roy in her Booker prize novel *The God of Small Things* (1997) explores the cruelty of social caste system, discriminations, and how these small things affect the lower class and untouchables. According to Oxford Advanced Learner's Dictionary the untouchable is defined as "a member of the lowest-caste Hindu group or a person outside the caste system, contact with whom is traditionally held to defile members of higher castes." Velutha (Pravan), who is protagonist in the novel, is thought to be social animal in the society because he belongs to the untouchable community. The position of untouchables in the older days has been very bad as it is depicted in the novel when Mammachi tells her grandchildren about that "[p]aravans were expected to crawl backwards with a broom, sweeping away their footprints so that Brahmins or Syrian Christians would not defile themselves by accidentally stepping into a Paravan's footprint". Velutha crossed several lines to become something because he was not allowed to get educated with higher class students. Apart from learning how to read and write he becomes a trained carpenter. Further he becomes one of the members of communist party and participates in political march, which has been organized by Marxist labor union. Eventually he crosses forbidden line when he had an affair with touchable Ammu an upper class woman. Velutha is the most oppressed and downtrodden character of this novel. How the evil caste system engraved in the society

can be seen in Ammu's dream "He left no footprints in sand, no ripples in water, no image in mirrors" Velutha has been arrested by the police and charged for Sophie's murder though he was not the real culprit. Finally he was beaten to death just because he crossed the caste lines. Roy describes his death, "The God of Loss. The God of Small Things". Apart from the delineation of the untouchable, the novel has also depicted the miserable plight of women. This novel has transposed the patriarchy system in India where women are thought to be inferior. For example Mammachi defends Chacko by saying that he cannot help having a "Mans Needs" (160) in fact she knows about the visiting of harlots in his house. Mammachi often says that Chacko is "easily one of the cleverest men in India", a claim that Ammu dismisses by saying that "all Indian mothers are obsessed with their sons (27) and are therefore poor judges of their abilities" (54). In her novel, women may be victims to a patriarchal, conservative society with rigid norms and conventions but if they do not oppose it they are complicit upholders of the system and thereby become prisoners too. Velutha's voice is suppressed by higher class. Similarly, Mulk Raj Anand tried to voice the marginals through his literary works among them, *Untouchable* (1935) articulates the trials and tribulations of the life of Bakha (The protagonist), who is street sweeper. He was insulted everywhere throughout the novel. His sister Sohini is molested by the priest and when she screamed out of fear, the priest came out shouting the he has been defiled by an untouchable girl. When she told the whole story to Bakha he decides to take revenge from the priest, but Sohini stops him. They have realized their helplessness due to the limitations of their caste and decide to give up. The above mentioned discourse which delineates the subjectification and objectified treatment of those who do not hold the power structure but are controlled by the oppressive system of power structure.

# INDIAN CONTRACT ACT by R.K. BANGIA

Yash Vats & Chetna Vats, BBALLB 5th Sem



The book INDIAN CONTRACT ACT, starts itself from the very grounds traced from The Indian Contract Act, 1872, (bare act). It gives a serial wise explanation of the all the sections of the complete Act up-till the end for an easy understanding of the subject and uncomplicated referral from the said Act.

Chapter 1 outlines the Formation of Contract. It starts with defining contract and points out the various ways contracts could arise, the ingredients or essentials of a contract, its communication and the complete and comprehensive process of revocation of a contract. In the process it also touches land mark case laws such as Lalman Shukla v. Gauri Dutt and Carlill v. Carbolic Smoke Ball Co.

Chapters 2,3,4,5 and 6 further elucidate about essentials of a valid contract, i.e., consideration, capacity to contract, free consent of the parties to contract, legality of object and the said consideration and void agreements respectively. The chapters cover all the subjects including privity of a contract, subscription, position of a minor in participating in a contract, estoppels, minor's liabilities, positions of a person with unsound mind, coercion, duress, undue influence, fraud,

misrepresentation, mistake in contract and various agreements of restraint of marriage, trade, legal proceedings, ambiguous and uncertain agreements, wagers, etc. The author constantly compares and refers the English law with the said act due to its very origination from the same. Continuing which he features contingent contracts and its enforcement in chapter 7.

Chapter 10 provides about the quasi contracts or certain relations resembling those created by contract. Sections like reimbursement of money paid, obligation of a person enjoying benefit of non-gratuitous act, responsibility of finders of goods, liability of a person getting benefit under mistake or coercion are covered in the chapter.

In chapter 11, author elaborates remedies for breach of contract, giving a shed to explanation of damages, it's remoteness, measures, nominal damages and quiet importantly Quantum Meruit with sufferance of damages. The author emphasizes on contracts of indemnity and guarantee in the 12th chapter. Both the aspects of India and England are widely discussed in beginning of the chapter to give a comparative review. Chapter 13 shifts the attention of readers on to the bailment and pledge. Now the chapter specifically discusses about the essentials of bailment and pledge, rights and duties of bailee and pledgee, distinction between bailment and pledge and various pledges taken by mercantile agent, by person in possession under a voidable contract, by person with a limited interest, by seller in possession after sale and by buyer in possession after sale.

Chapter 14 describes agency, it's establishment, mode of creation, different kinds of agents. The chapter briefly talks about ratification and its essentials, relations of principles and agents, rights, responsibilities and liabilities of an agent, termination of agency and renunciation of agency by the agent.

Lastly in chapter 15 the author gives away a flying summary of the whole book comprising of all the chapters. The book is embraced with over a 1000 case laws to give uncountable episodes of applied knowledge in full measures. The book is a very simplified variant of an elaborative explanation of the bare Act. The most attractive part of the book remains that the author has tried to deliver various examples to make the subject as lucid as possible and the book is a quality choice for a law student.

# वीर सेनानी

-ग्लोरी सिंह BBA LLB 1

मरने के बाद भी जिसका जिस्म  
खुशबू - ए वतन फैलाएगा  
मिट्टी का कर्ज चुकाने जो  
मरकर के भी जी जाएगा,  
गिर कर के भी जो उठ जाएगा  
भारत माँ की संतान वह,  
देश का शहीद जवान कहलाएगा।

ए शत्रुओं ! कायरों की भांति  
क्या हड़पते हो मुल्क हमारा  
उठी बाजुएं वर्दीवाले की जिस दिन  
कंपन करेगी समस्त भूमि उस दिन  
जुबान पर इंकलाब का नारा लिए  
दिल में सरफरोशी की तमन्ना लिए  
गरजकर उठेगा शस्त्र हमारा  
होगा घोर विध्वंस तुम्हारा ।

विनाशकारी आग की लपटे  
उठेंगी स्वतंत्र गीत की धनियां बजेंगी  
वचन निभाएगा जब वह फ़ौजी..  
मातृभूमि के मान का!  
तिरंगे की शान का !  
स्वतंत्रता सेनानियों के बलिदान का !

हिन्दुस्तान ही जिसका धर्म है,  
हिन्दुस्तान ही जिसका जीवन  
स्वप्न भी जिसका तिरंगा था  
और कफ़न भी उसका तिरंगा है  
हाँ! अमर द्वीप इस भूमि का वह  
भारत माँ की संतान है ..  
भारत भूमि का मान है ।

एक सलाम हथेली पर जान रखने वाले उस  
हिन्दुस्तानी के नाम !  
एक सलाम दिल में हिन्दुस्तान रखने वाले उस सेनानी  
के नाम !

निद्रा पूर्ण करते तुम घर पे  
आखिरी श्वास लेता वह सरहद पे।  
ऋणी है हम उसकी शहादत के  
नतमस्तक नमन उस शहीद  
जवान को,  
अर्पित की जिसने रक्त की  
हर एक बूंद को।

जय हिन्द ! धन्यवाद!





What's waste for u is gold for me  
- A Rag Picker



Divyansh Saini  
BBALLB, 5th Sem

The Nomadic Truth of Grazing



Aryan Kaundal  
BBALLB, 5th SEM

One Deprived in the Hands of the Other



Aryan Kaundal  
BBALLB, 5th Sem

We lose our individuality in the very  
making of us as an individual



Yash Vats  
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Shubham Sharma  
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Mere fluctuating prices of vegetables  
remodel the monthly finances of some households



Divyansh Saini  
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Simran Kaur  
BBALLB, 7th Sem



Naman Jaggi  
BBALLB 9th Sem



## STUDENT'S ACHEIVEMENTS



**Aradhana (BALLB, 7th Semester)** is working as a Student Community Member of All India Human Rights Association (AIHRA) affiliated to United Nations and part of AIHRA's Research Team also. She is also a member in the Department of Publication at The Advocates League (TAL).

**Yagya Mehru (BALLB, 7th Semester)** has authored an article on legal website, Legal Service India, titled "Preamble: The Shepherd of the Constitution."

**Anshu Kumari, Aman Singh (BALLB) and Gaurav Kumar (BBALLB) -5th semester.** They Participated in 7th Justice Murtaza Husain Memorial National Moot Court Competition, Lucknow from 04th- 06th November 2022, qualifying Quarterfinals subsequently standing at 6th rank.

**Dakshita Singh (BA LLB, 5th semester)** has authored legal articles on "Constitutional Validity of Capital Punishment" published by Fastract Legal Solution and on "Gender Equality in Indian Armed Forces" published by Judicial Mascots.

**Kritika Srivastava and Shreya Kumar (BBALLB, 5th semester)** had attended the 'Ek Bharath Shreshtha Bharat National Camp' from 03 oct - 12 oct 2022.

**Simran Mishra (BBALLB, 5th semester)** has authored three research papers titled: Marital Rape: A Legal Infirmary; The Concept of Legal Personality; International Law: Evolution and Its Development for legallore.info.

**Pihu Agarwal (BBALLB, 5th semester)** has authored an article on the legal website- 'Lawomatic' titled "Twin towers: From nine years to going in nine seconds."

**Yash Vats (BBALLB, 5th semester)** has participated in the National Army Attachment NCC Camp representing the college and his NCC Unit 3DBN at 6th Rajput Regiment, Meerut Cantonment from 25th October 2022 to 5th November 2022 and attended NCC CATC camp in July this year at NCC Headquarters, Safdarjung enclave, Delhi.

**Aritrika Sarkar, Yash Vats and Ananya Kapur (BBALLB, 5th semester)** were awarded with Best Memorial in 16th Intra Moot Court Competition, 2022 by FIMT- School of Law.

**Chetna Aggarwal (BALLB, 5th Semester)** was awarded with the Best Researcher Award in 16th Intra Moot Court Competition, 2022 by FIMT- School of Law.

**Glory Singh (BBALLB, 1st semester)** won the Best Speaker Award in 16th Intra Moot Court Competition, 2022 by FIMT- School of Law.



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