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VIDYAVARDHAKA LAW COLLEGE

SHESHADRI IYER ROAD, MYSURU- 1

ASSESSMENT PERIOD 2019-20 To 2023-24

Criteria 3- Research, Innovations and Extension (150)
Key Indicator 3.2 - Research Publication and Awards (35)
***Metric No- 3.2.2** - Number of papers published per teacher in the Journals notified on UGC website during the last five years*

Submitted to

THE NATIONAL ASSESSMENT AND ACCREDITATION COUNCIL

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2019-20			
1.	A Critical Study on Empowering youth as a agents of peace	Sri Shivakumara H.S	International Journal of Research & Analytical Reviews
2.	State Jurisdiction in International Law: Densities of a basic concept	Dr. Boregowda S.B & K.L Chandrashekara	White black legal law journal
3.	A critical study on exceptions for extadition of Fugitive Criminal	Dr. Boregowda S.B	Bangalore University Law Journal
4.	A critical study on place of individuals in international law	Dr. Boregowda S.B	White black legal law journal
2020-21			
1.	Historical development of extraditon undr international perspectives	Dr. Boregowda S.B	White Black Legal, Law Journal
2.	A critical study on environment & sustainable development in India	Dr. Boregowda S.B	International Journal of Innovative practice & applied research
3.	The role of dual criminlity & extradition - A comparitive study	Dr. Boregowda S.B	VBCL Law review
4.	Emerging aviation safety issues - a challenges to 21st century	Dr. Sridevi Krishna	VBCL Law Review International Seminar
5.	A critical study on evolution of extradition laws in Indian context	Dr. Ramesh & S. B. Boregowda	International Journal of Legal Research and Studies
6.	Issues and challenges of higher education in India	Boregowda S. B.	Vidyawarta Interdisciplinary Multilingual Peer Reviewed Journal
7.	Contemporary problems of extradition in national and international perspectices	Dr. Ramesh & S. B. Boregowda	SS journal for legal studies and research.
2021-22			
1.	A critical analysis of reasons for adoption of children in India	Deepu P.	Legal OPUS
2.	A critical analysis of laws relating to marital rape in India	Indumathi M.J	Asian journal of multidisciplinary research & review
3.	Competition Provisions in Trade Agreements- An analysis on India's Negotiating Strategy	Dr.. Sridevi Krishna	International Journal of Research and Analytical Reviews

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4.	Invoking Force Majeure Cluse for non- performance of contract - A predicament created by the pandemic	Dr. Sridevi Krishna	Journal of Legal Studies and Research
5.	A Human Rights Approach of Right to health during pandemic	Dr. Prakruthi A.R	International Journal of advanced research in Science, communication & technology
6.	Problems of the maginalized sections with special reference to ageing women in India - a human rights approach	Dr. Prakruthi A R	International Journal of Legal Research and Studies
7.	Contemporary Issues of Indegenous Community in protection of biodiversity & their Intellectual Property Rights	Dr. Kumara N.J	International Journal of creative research thoughts
	2022-23		
1.	Problems of Internally Displaced Persons Protection through National and International Laws"	Dr.. Sridevi Krishna	International Journal of research & analytical review
2.	Socilogical perspective on ageing in India	Sri Rajesh M.C	International Journal of research and Analysis
3.	A study on role of youth in nation building	Sri Rajesh M.C	International Journal of research and analytical reviews
4.	Protection of rights of persons with disability - a judicial approach	Dr. Sridevi Krishna	Indian Journal of law and legal research
5.	Contemporary legal challenges in the protection of traditional knowledge in India	Dr. Kumara N. J.	Indian Journal of law and legal research
6.	A critical study on concept of state recognition in intenational law	Dr. Boregowda S.B	Al-Ameen Law review
7.	A critical analysis of Adoption of Orphan Children during COVID 19	Dr. Deepu.P	Online All India Reporter
8.	Judicial Interpretation of Education Institution & Hospital as an industry with special reference to Industrial Dispute Act, 1947	Dr. Deepu.P	VBCL Law Review
9.	Corporate Social Responsibility in India: Issues and Challenges	Dr. K.L Chandrashekara	Law Audience Journal
10.	A study of the Procedural safeguards and rights of the accused under Indian Laws	Dr. K.L Chandrashekara	VBCL Law Review
11.	A study on Transgender Legal Rights in India	Dr. Prakruthi A,R & Dr. Prashanth T.M	International Journal of Research & Analytical Reviews
12.	A critical Analysis of rights of migrants and refugees under international humanitarian law	Dr. Boregowda S.B	Law audience Journal
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16.	Intervention of NGOs through development of tribal community	Dr. Prashanth T M and Dr. Prakruthi A R	International Journal of Legal Research and analysis
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18.	Digital lending : need for prudential measures and addressing consumer protection	Dr. Deepu P	Bangalore University Law Journal
19.	Admissibility and relevancy of expert evidence with special reference to hand writing	Dr. Deepu P	RV Law Journal
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21.	The critical study of legal regime governing property rights of women - a human rights perspective	Indumathi M. J. & Dr. M. Suresh Benjamin	Asian Law & Public Policy Review
	2023-24		
1.	A critical study on theories and principles of punishment in India	Dr. K.L Chandrashekara	International journal of advanced research in technology
2.	Maternity benefit leave for contractual employees: judicial perspectives	Dr. Deepu P.	Legal Opus
3.	A study on impediments and trails of food safety and security in India	Dr. Prashanth T M and Dr. Prakruthi A R	International Journal of Legal Research and Studies
4.	Legal regime on right to privacy in India - a critical view	Dr. Kumara N. J. and Sivakumara H. S.	International Journal of Research and Analysis
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10.	A Preliminary Observed Self Evaluation Study of Statutory Tobacco Regulation Act In And Around Schools Of Mysuru District	Dr. Prashanth T.M, Dr. Kumara N.J and H.S. Shivakumara	International Journal of advances Research
11.	Implementing International Humanitarian law through ICRC- A way forward	Dr.. Sridevi Krishna	International Journal of Legal Development and Allied Issues

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12.	International legal instruments relating to prisoners' rights and their importance	Dr. Kumara N.J	International Journal of all research education and scientific methods
13.	Legal Regime on Violence against Doctors: need of an hour	Dr. Deepu.P	International Journal of All Research education and scientific methods
14.	Extraordinary power of the supreme court : curative petition	Dr. Deepu.P	International Journal for Multidisciplinary Research
15.	Role of NGO s in Protecting the Rights of Indigenous under ILO	Dr.Sridevi Krishna	International Journal for multidisciplinary Research
16.	The sociology of crime and deviant behaviour : emerging issues in criminal jurisprudence	Dr. K. L. Chandrashekhara	International Journal of advanced research in Science, communication & technology
17.	The landmark judgments of supreme court that shaped modern India	Dr. K. L. Chandrashekhara	International Journal of advanced research in Science, communication & technology
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20.	A study on sources of international law in the light of the article 38 of the statute of international court of justice	Dr. Boregowda	International Journal of Research and Analytical Reviews
21.	Subjects of international law : an authority based analysis	Dr. Boregowda	International Journal of advanced research in Science, communication & technology
22.	Theory of punishment and sentencing guidelines in India	Dr. K. L. Chandrashekhara	VBCL Law Review
23.	Protection of the human rights of women under international law - an analysis	Indumathi M. J.	International Journal of Research and Analytical Reviews

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A CRITICAL STUDY ON EMPOWERING YOUTH AS AGENTS OF PEACE

Shivakumara H S [1]

[1] Assistant Professor of Law, Vidyavardhaka Law College, Mysuru.

Abstract

Young people are frequently 'othered' in discussions about conflict. This is a dangerous practice as youths can play a very positive role aiding peace building in societies recovering from conflict. They also have multi-faceted roles. Youths can be heroes as well as victims, saviours and courageous in the midst of crisis, as well as criminals in the shantytowns and military entrepreneurs in the war zones. Yet, as a category, youth are often approached as a fixed group or demographic cohort. The positioning of youth in society has a bearing on their leadership potential and their possible role in peace building. The tension between young and old has been one of the key features of inter-generational shifts pertaining to the control over power, resources and people. For much of human social interaction, the category called 'youth' has been perceived as a historically constructed social category, a relational concept, and as a group of actors that is far from homogenous. A myriad of factors make childhood and youth highly heterogeneous categories in terms of gender, class, race, ethnicity, political position as well as age. Object of this paper is how youths are playing a vital role for building of peace, what are the actions taken by UNO in connection of youth for peace and how youth can solve the conflicts and establish peace in the universe.

Key Words: Youth, Security, Peace, UNO, Security Council, Development.

INTRODUCTION

Youth are among the first victims of radicalization and conflict. Their participation in the prevention and resolution of disputes is therefore essential for the building of sustainable peace. As political leaders closest to a country's youth, young parliamentarians have a key role in addressing drivers of conflict and contributing to solutions.

Building on UN Security Council resolution 2250 adopted in 2015, which sets out international commitments on youth, peace and security, we work with young parliamentarians to help galvanize their action to prevent violent extremism and contribute to reconciliation and peace building.

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[1] Assistant Professor of Law, Vidyavardhaka Law College, Mysuru.

UNESCO's Work on Media and Information:

Indispensable in promoting a culture of peace, tolerance and dialogue among cultures is a critical understanding of the functions of media, Internet and other information providers, their contribution to combating prejudices and cultural stereotypes as well as to dissolving barriers. Media and information literacy enables youth and other key stakeholders to acquire this critical understanding and necessary skills in order to engage and serve as a catalyst for open and well-informed dialogue. UNESCO is a global leader in promoting MIL, and the Organization's online training modules and resources in this field (such as the MIL Curriculum for Teachers, MIL Policy and Strategy Guidelines, MIL Assessment Framework, and Guidelines for Broadcasters on Promoting User-Generated Content) will critically contribute to this working proposal.

Global Citizenship Education

To enhance the quality, relevance and delivery of education, UNESCO supports Member States to integrate Global Citizenship Education (GCED) in their education systems. GCED promotes not only basic cognitive skills, but also non-cognitive skills that are important to building more peaceful, just and sustainable societies. It aims at equipping learners of all ages with those values, knowledge and skills that instil respect for human rights, social justice, diversity and gender equality, and that empower learners to be responsible global citizens. GCED is one of the strategic areas of work for UNESCO's Education Programme (2014-2017) and one of the three priorities of the UN Secretary-General's Global Education First Initiative (GEFI) launched in September 2012. Moreover, it is proposed as a target of the education goal for the future post-2015 development agenda.

Conclusion

Now a day's youth are playing a very important role in all the activities in the society. A society development is depends on youth. Even international institutions conducted different programmes for youth participation in peace building. Since 2000, the international community has been strengthening its commitment to achieve sustainable, comprehensive, and inclusive peace through women's inclusion and participation. The women, peace, and security (WPS) agenda set forth in UN Security Council resolution 1325 (2000) and seven subsequent resolutions, is evidence of the commitment to achieve sustainable, peaceful societies for all by the inclusion and participation of women in all aspects of conflict and post-conflict peace processes. That commitment has expanded to include young people. Several NGOs playing a role for improve the youth activities, through different activities people educated in the entire field. When peoples are educated then we can establish a peace world otherwise it's very difficult to see a universal peace in the world.

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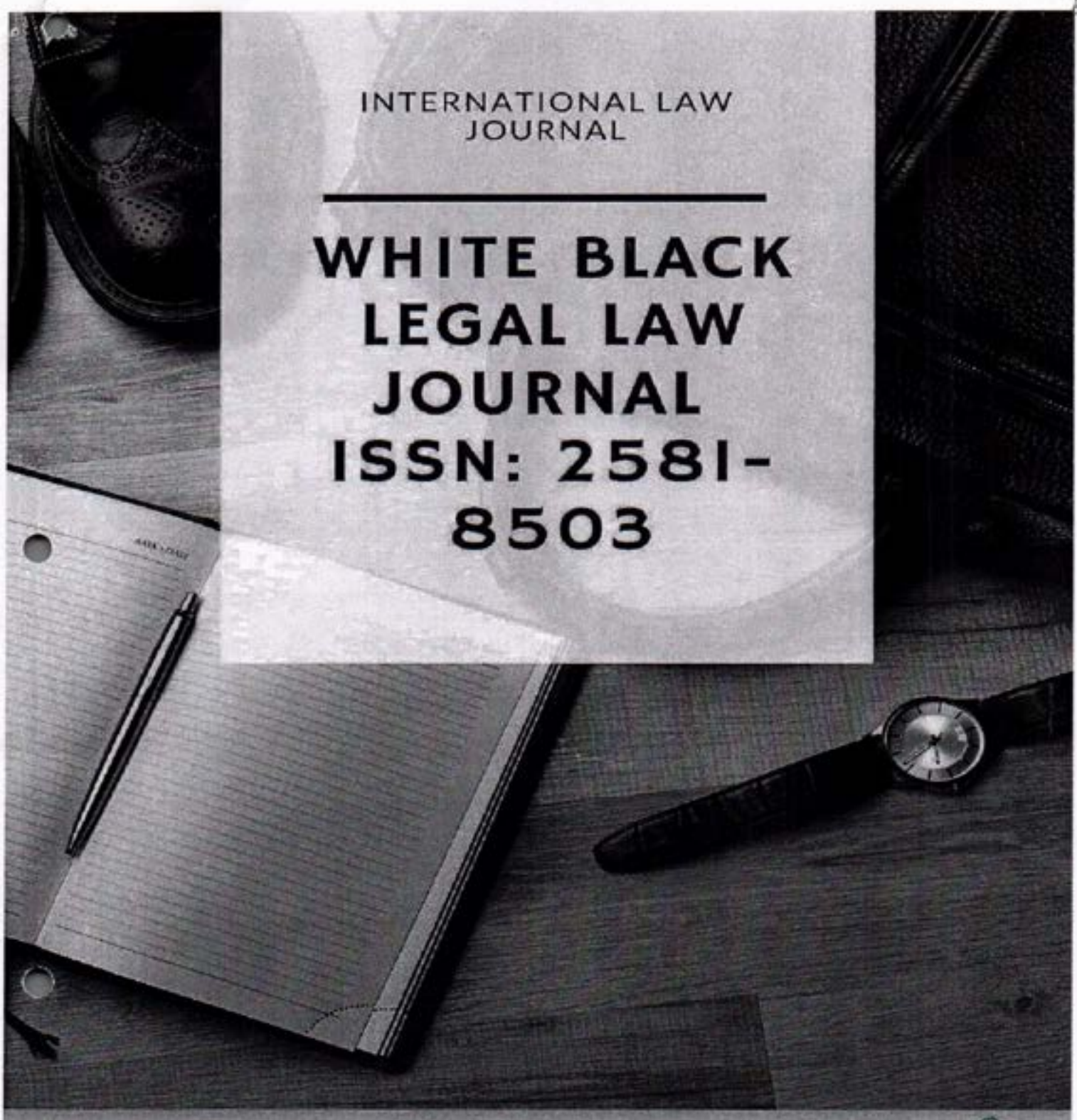

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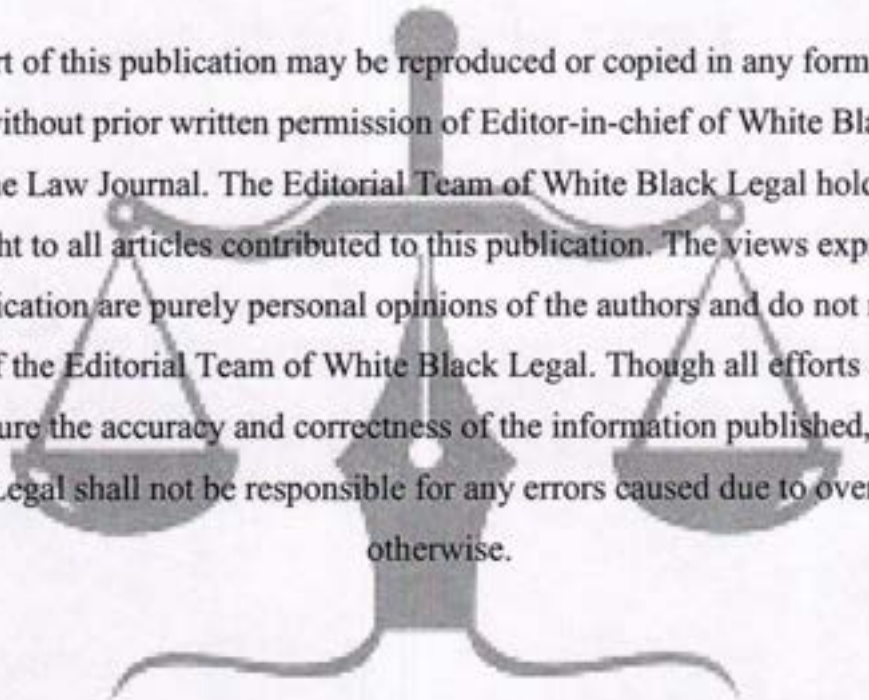

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State Jurisdiction in International Law: Densities of a Basic Concept

Authored by - Dr. BoreGowda S.B

& Dr. K.L. Chandrashekhara

Abstract

Each state has its own territorial jurisdiction over its people, property, etc. each state sovereign within its territories. It can make laws civil or criminal for its people. It is called territorial jurisdiction. Under international law all states are equal. Each state enjoys full freedom in its territory. It is due to reason that each state must survive. The internal law protects the law-abiding nationals of that country. The state punishes the wrong-doers, who go beyond the municipal law. Else, not only the peace and security of that country, but also of the entire world peace. When state is not under the control of some other sovereign state, it can exercise its sovereignty throughout its territory, because every state is sovereign in international level. It is the duty of every state should not intervene in the internal and external affairs of some other sovereign state.

A state regulates its jurisdiction by legislation through its courts or by taking executive or administrative action. State jurisdiction concerns both international law and internal law of a state. Each state has normally jurisdiction over all persons and things within its territory. The rules of state jurisdiction identify the persons and the property within the permissible range of state's law and its procedures for enforcing that law. They are not concerned with the content of a state's except in so far as it purports to subject a person to it or to prescribe procedures to enforce it. Object of this article is to find out who are immune from territorial jurisdiction, whether state can exercise its jurisdiction beyond its territory and the theory of extra territoriality applies to whom.

Key words: State, Jurisdiction, Sovereignty, International Law, Territory.

Introduction

A nation or territory considered as an organized political community under one government. According to Salmond *"state is a community of people which has been established for some objectives such as internal and external security"*. According to Article 1 of Montevideo Convention 1993, State as a person of international law should possess 5 ingredients, they are:

1. A permanent population
2. A defined Territory
3. Sovereignty
4. A Government
5. A capacity to enter into relations with other states.

The modern period has witnessed revolutionary changes in regard functions of state. One of the main functions of state is to maintain internal peace and order and protect it from external aggression. State should do work for benefit for public and state has to perform many social, economic, educational and cultural functions.

Different kinds of States

States can be divided into 5 types, they are:

(1) Confederation
(2) Federal State
(3) Condominium
(4) Vassal state
(5) Protectorate state

1. **Confederation**: it is formed by states that are independent in the international field. Under international law confederation has no international personality. The states forming confederation are not treated as international persons.

2. **Federal state**: generally a federal state is formed by the merger of two or more sovereign states. A federal state is an international person under international law. United States of America, Switzerland and India are good examples of federal states.

3. **Condominium**: is a territory where two or more states exercise sovereignty. New Hebrides is a good example of condominium. England and France had a joint sovereignty over New Hebrides.

was one of the Peruvian leaders against whom arrest warrant was issued. When this information received by Haya De La Torre, immediately he sought asylum to State of Colombia Embassy, situate in Lima capital of Peru. Colombia Government granted asylum on 03-01-1949. When this matter known by State of Peru, it requesting to Colombia Government to surrender Haya De La Torre because he did lot of rebellion activities against Peru State and also one of the main rebellion leader but State of Colombia refused to surrender or extradite him because he is not a criminal but he is a political offender and decided to take him to Colombia.at last this case came to International Court of Justice, it held that the principle of extradition will not applies to Political offender and The State of Colombia can give asylum to accused in its embassy situated in Lima, because it exercise its jurisdiction beyond its territory it's called extra territorial jurisdiction.

Conclusion:

Jurisdiction refers to the power of a state to affect persons, property, and circumstances within its territory. It may be exercised through legislative, executive, or judicial actions. International law particularly addresses questions of criminal law and essentially leaves civil jurisdiction to national control. In international level every state is sovereign and state cannot interfere in the internal and external affairs of another state.

It is the duty of every state should behave according to international law but when we saw the history; it gives lot of evidence for us regarding violation of international law. When United Nations was established its plays an important role to control the conduct of states, even though UNO, some powerful states are intervene in the affairs of small states. Therefore, regarding this United Nations should conduct an international convention and enact a rules, then only we can control the wrongful acts of sovereign state.

A CRITICAL STUDY ON EXCEPTIONS FOR EXTRADITION OF FUGITIVE CRIMINAL

*-S.B. Boregowda**

INTRODUCTION

The extradition law is a special branch of the law of criminal procedure. It deals with criminals and those accused or convicts of certain crimes with an intention to bring them to the system of criminal justice. The consensus in international law is that a State does not have any obligation to surrender an alleged criminal to a foreign State, as one of the principles of sovereignty is that every State has a legal authority over the people within its borders. It is true that there is no rule of international law, which imposes any duty on a State to surrender a fugitive, but since most countries desire the right to demand such criminals of other countries they have signed extradition treaties. Through by extradition treaties state surrendered the criminals to another State, therefore extradition is considered as an important tool to punish the criminal and bring back the fugitive offender before the judiciary. The object of this article is to: first, whether the rule of extradition is applicable universally; second, whether exceptions are there for extradition; third, whether the law of extradition is applicable to all types of crimesand lastly, to draw some conclusions on the future of the rule of extradition in potential new universal law.

MEANING OF EXTRADITION

Extradition is generally a matter of bilateral treaty. It has been held that there must be a 'formal treaty' not simply an agreement or notification. Extradition treaties provide a defined legal frame work for the return of fugitives between countries. Extradition treaties have provided the means to demand the surrender of suspected or convicted criminal from another State in which he has taken shelter. Extradition treaties confer a right on certain countries to ask for the persons who are alleged to have committed certain offences on their territories will be handed over to them for prosecution. The countries have the discretion power to refuse. Modern civilization demanded extradition as a rule and, as such, various treaties between States were concluded. In the early period, there were bilateral treaties but in global age it extended as multilateral treaties.

Extradition practice is based on international co-operation in criminal matters. Such practice is usually laid down treaties. At the time of enter into treaties both states can accept and adopt certain conditions for surrender of

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criminals. At the time of extradition of criminals, parties of the treaty should perform their function according to such stipulations mentioned in the treaty. For what types of crimes both states are agreed to extradite the criminal's, for such crime only extradition treaty is applicable not for other crimes. In modern era on the basis of reciprocity or bilateral treaty only criminals are extradited. Because we are in contemporary era also, we don't have international Law regarding extradition. Extradition treaty is one of the most important essential conditions for surrender of criminals. When there is no universal law for extradition, then States can free to adopt different type of conditions in extradition treaty. But what are its conditions or stipulations are adopted by states for extradition of criminals, some of the conditions are helps to fugitives to flee from the punishment. Lot of issues are there in the extradition treaties, because of these issues criminals enjoying their life in abroad. What are the issues are there in extradition treaty it can be discussed under the heading of essential ingredients or conditions for extradition.

In *Abu Salem Abdul Qayoom Ansari v. State of Maharashtra*[1], Justice P. Sathashivam observed that "extradition is the process whereby under a concluded treaty one State surrenders to any other State on its request, a person accused or convicted of a criminal offence against the laws of the demanding State, such demanding State is the competent authority to punish or try the alleged offender. Though extradition is granted in implementation of international commitment of the State, the procedure to be followed by the courts in deciding, whether extradition should be granted and on what stipulations, is decided by the municipal law of the land. Extradition is founded on the broad principle that it is in interest of civilized communities that criminals should not escape from the punishment and it is accepted as a part of the comity of nations that one State should assist to another State to bring back that criminal before judiciary". Especially in civilized era the practice of extradition plays a vital role to punish and bring back the fugitive before judiciary. One of the main objects of extradition is extradition acts as a warning to the criminals that they cannot escape from punishment by fleeing to another State. Because extradition has a deterrent effect. In global era extradited the criminals on the basis of bilateral treaty only and several States adopted the rule that without extradition treaty does not surrender the criminal who is physically present on its territory. Now a day's extradition is possible only when there is a bilateral treaty between the countries. Therefore, bilateral treaty is one of essential condition for extradition and treaties are regarded as

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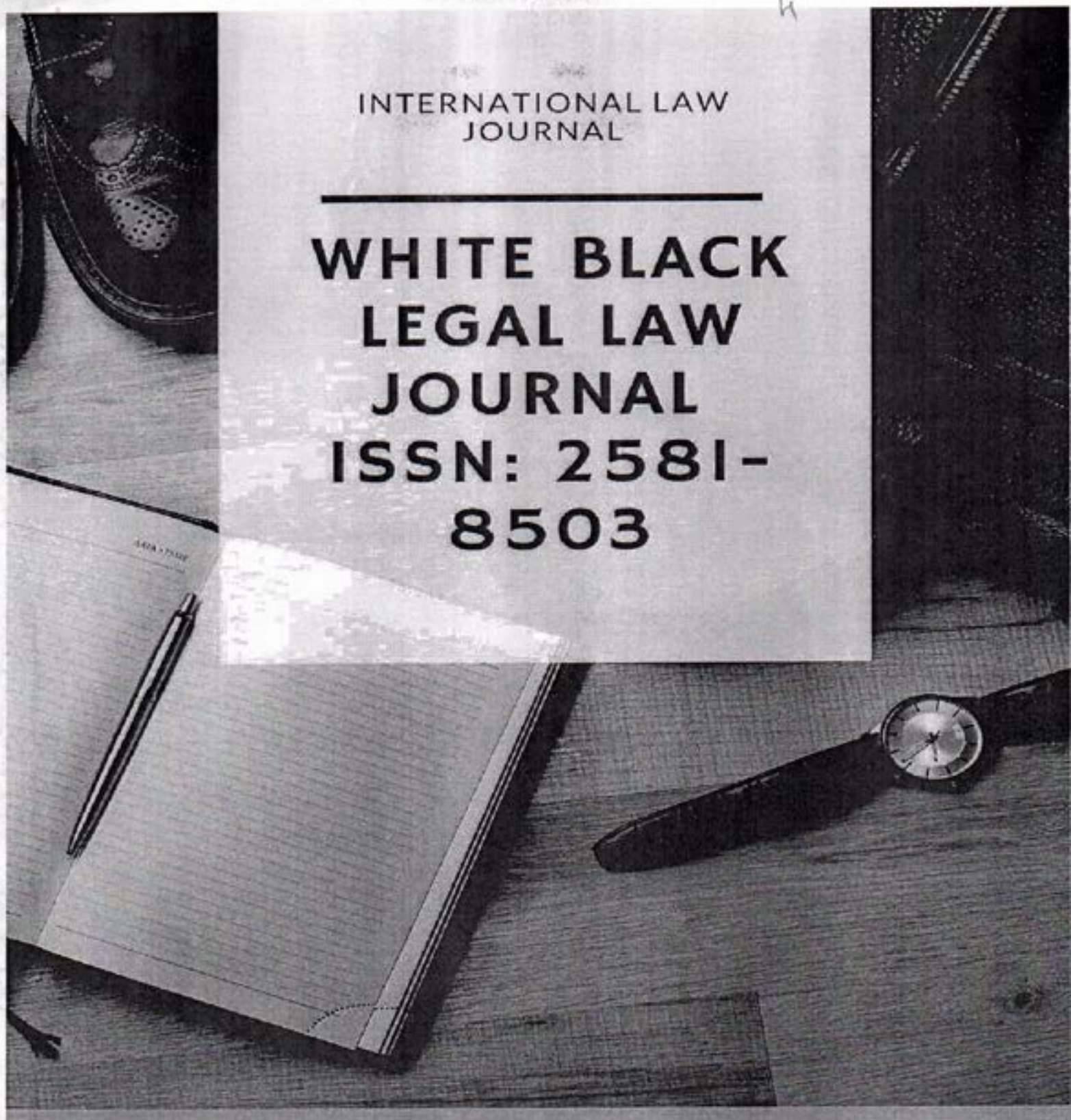
1 (2011) 11 SCC 214

magistrate shall conduct inquiry and submit the report to Central Government. But one of the lacunas in the practice is that it is necessary to follow what the report submitted by Magistrate. It means the whole discretionary powers vested in Central Government to surrender or reject to surrender of fugitive. Extradition is an act where a State surrender a person alleged or sentenced of committing an offense in another state, over to their prosecution. It is an accommodating (cooperative) law enforcement procedure between the states and depends on the engagements made between them. The extradition procedures are dependent on the law and practice of the requested State.in India unless proved the offence every accused is considered to be innocent. The process of extradition starts with request of foreign State for extradite of a person through by its diplomatic representative to the Government of India through Indian diplomatic agent in that State. If any mode is provided in the treaty, contracting States can follow such mode also. On the basis of certain grounds requested State can refuse to extradite the fugitive criminal because if offence is related to political, military, religious, double jeopardy and time bared limitation. But one of the lacunas is no one law will not define what is political crime in international level. At the time of extradition requested State will decide whether offence has a political character or not according to their own domestic law or practice. If it is political offence requested State denied the extradition. When there is this type of practice exists in the world, criminal can flee from the punishment. If requested State can refuse to extradite the fugitive criminal on the basis of natural justice. When states adopted their own practice regarding extradition then it's very difficult to bring back the fugitive criminal before the judiciary. Therefore all the States should have one type of mind set regarding extradition. Because crime is an evil in the society and it destroys the peace atmosphere in the world. Therefore universal law is needed for extradition. Even United Nation from 24th October, 1945 to till today it will not conduct single convention on Extradition. Regarding this U.N.O will enact a universal law and compel to all the States should follow. Otherwise States can adopt different municipal laws and different practices regarding extradition and it's create a lot of confuse. Even criminals also can escape from the punishment because of different practices adopted by the States for extradition.

CONCLUSION

In contemporary period crime is considered as an evil in the world. It is ...bligation on every State to punish the criminals. ... to punish the culprits and ... laws only we

can create fear in the minds of the people. Father of Modern international law Hugo Grotius said every State has the right to punish the criminal irrespective of nationality, because without punishment it's very difficult to establish the peace in the world. Therefore, he said it is the societal obligation of all the State to punish the criminal. But related to extradition of criminal,internal law and treaty provisions plays an important role because there is no universal law for extradition. UNO enacted Model Treaty on Extradition, 1990 and Model Law on Extradition, 2004 but it is not a universal law, it is only a model law for States to enact its own domestic law for extradition. Even today also States follow the procedure of extradition according to treaty rules and municipal law. But one of the lacunas in extradition is exceptions for extradition. It means what the offence is committed by that person, if it is a political crime, religious crime, military crime then extradition will not be applicable for extradition. Even the rule of double criminality also exemptions from extradition. Therefore, to remove all these faculties universal law is essential and then only injured State can bring back the fugitive offender before the judiciary otherwise it is very difficult to achieve the object of United Nation.Extradition is the deliver by one State to another of a person accused or sentenced of a crime outside of its own land and within the territorial jurisdiction of the other which being capable to try and penalize him requests the surrender. Extradition is the authority to hand over of a violator of law is utterly a right of the national Government. Therefore, all requests for surrender of fugitive must come from the executive authority of the requesting State, which means through its diplomatic representatives.



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A Critical Study On Place Of Individuals In International Law

AUTHORED BY-Dr. Boregowda S.B.
Assistant Professor
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Introduction

In modern era and especially after II World War, the evolutionary development and development of the universal legal system has begun a substantial growth in the importance of Humanitarian values in the process of development of International Laws. One of the most vital purposes of the International community is the safeguard of the freedom and dignity of all and to stop any all kinds of violence. The aim and objectives of the Universal Declaration of Human Rights (UDHR) and UN Charter have considered respect for Fundamental and Human rights as their priorities which is reflective under its various provisions and articles and is an essential part of Jus Cogens. The protection of both individuals and groups from any kind of violence, guaranteeing their freedom and dignity and it has become one of the essential concerns of the international community. The evolution of individual rights in International Law has been extensive.

Any entity which bears "international personality" is a subject of international law. Personality is the capacity to bear rights and duties under international law. Any entity which has no capacity to bear rights and duties under international law cannot become a subject of international law and therefore termed object of international law. Through by numerous conventions several rights are guaranted to Individuals. Therefore, in modern era individuals are also the subjects of international law.

[1] Dr. Boregowda S.B., Assistant Professor, Vidyavardhaka Law College, Mysuru.

Subjects Of International Law:

The word International Law was used for the first time by Jeremy Bentham in the year of 1780. According to him, international is a body of rules and principles which regulate the relations among the members of international community. In those period States are only the subjects of International law.

The word international law was defined by the Prof. Oppenheim in 1905. According to him, International law is the name for the body of customary and conventional rules which are considered legally binding by the civilized states in their intercourse with each other. According to him civilized states are only the subjects of International law. But this definition was revised by his followers Sir Robert Jennings and Arthur Watts in following words.

"International law is the body of rules which are legally binding on states in their intercourse with each other. These rules are primarily those which govern the relation of States, but States are not only subjects of international law. International organizations, and some extent, also individuals may be the subjects of rights conferred and duties imposed by international law".

Further "not only individuals but also certain territorial or political units other than States to a limited extent are directly the subject of rights and duties under international law. An international person is one who possesses legal personality in international law, meaning one who is a subject of international law so as itself to enjoy rights, duties or powers established in international law, and, generally, the capacity to act on the international plane either directly or indirectly through another state. The concept of international person is thus derived from international law. This law is the body of rules legally binding on states and sovereign independent states are the principal international persons[2].

States are primarily, but not exclusively, the subjects of international law. To the extent that bodies other than states directly possess some rights, powers and duties in international law they can be regarded as subjects of international law, possessing international personality. It is a matter for inquiry in each case whether and if so what rights, powers and duties in international law are conferred upon any particular body.

States may treat individuals and other persons as endowed directly with international rights and duties and constitute them to those subjects of international law. Although individuals cannot appear as parties before the international court of justice, states may confer upon them the rights of

[2] Sir Robert Jennings and Sir Arthur Watts, Oppenheim's International Law, Universal Law Publishing Co. Pvt. Ltd, 9th ed, 2003, p-120

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Conclusion

in modern era states are not only the subjects of international law, even individuals, international institutions and certain non-state entities are also the subjects of international law. At present individuals occupied a prominent place in international law, because without individuals no one represents the state in international level. Especially for individuals so many international conventions were conducted, through these conventions so many rights and benefits given to individuals. Thus slowly and gradually individuals are occupying an important place under international law. It may be therefore be concluded that individual has become a subjects of international law not having the same quality as a state but capable of ascertaining rights himself before some international tribunals although lacking procedural capacity to bring actions in most cases. The legal order will continue to be imperfect as long as it faces new challenges such as apartheid and modern technological advance and the individual as a subject of international law will continue to play an important role in the development of the law.

apprehended and punished. In any person is convicted of gathering and delivering defense information in order to aid a foreign government, you could be sentenced to life in prison or face a death sentence. Economic espionage can also lead to 15 years imprisonment and a fine up to $5 million.

- In modern era certain treaties and conventions have been entered by the states and conferred rights and duties directly to the individuals. The convention on the settlement of investment disputes between the state and the nationals of other states, 1965 is a conspicuous illustration for this.
- The International Covenant on Human Rights confers rights directly upon the individuals. These along with the U.N. Commission on Human Rights have enabled the individuals to send petitions even against their own states. An individual cannot file a petition before International Court of Justice, because states are the main subjects of international law and states can only file a petition before ICJ. It means on behalf of its nationals state can file a petition before ICJ.

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HISTORICAL DEVELOPMENT OF EXTRADITION UNDER INTERNATIONAL PERSPECTIVES

Dr. Ramesh & S.B. Boregowda

ABSTRACT:

Extradition is delivery of the accused by one Government to another. It may often happen; one may commit an offence in one state and may escape the bound of that state and to the other State. Now what that other State should do? Should he return the offender or retain him? The return of the offender is called extradition and to keep him without returning is called is asylum. The general, behind extradition lies the general wish of the world that an offence or crime must never go unpunished, every criminal must feel that it is not a good bargain to commit a crime. Requesting state is the best state to try and punish such criminal because more evidence is available in requesting State and he committed crime their only. Extradition is an action of international legal cooperation for the purpose of destroying illegal events, handing over a criminal from one State to another which brings competent to intend to punish him accordance with its laws. The roots of international cooperation for the suppression of crimes also go back to the very beginning of formal diplomacy. Surrender of criminal to demanding State to punish the criminal is not a new miracle in international relations. It had existed as early as the ancient time of the Chaldeans, the Egyptians, the Babylonians, the Chinese and the Indians. According to Roman law any citizen who said to have committed an offence against foreign ambassador within the Roman domains would be surrendered to letters State to be dealt with therein as the local authorities deemed proper. Various treaties contain different provisions related to surrender of fugitive criminals who had taken asylum in requested State. The first treaty between Ramasis II of Egypt and the Hittite prince Hattusili III on the subject on 1280 B.C. it was a peace treaty between two warring nations get provisions were made for the return of the criminals of one party who fled and were found in the territory of another[1].

The concept of extradition is not a new idea in international law. It is one of the oldest tools but it is very difficult to say when it is emerged. Generally the extradition was used for the first time in French decree of 19th February, 1791[2] but did not appear in any French extradition treaty prior to 1820. Professor Verzijl, Netherland international author, on the other hand holds different provision and according to him this term had been used in a convention of 1781 between the king of France and the Bishop of Basel, dealing with offences which might be

[1] Sathyadeva Bedi, 'Extradition in International Law and Practice', Discovery publishing house, New Delhi, 1st ed, 1991, p.2 to 3.

[2] https://books.google.co.in dated on 11-06-2020 at 08:10 pm.

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provisions, have sometimes misinterpreted them to mean that the extraditing State should actually try the case.

CONCLUSION:

In global era when information technology and computerization is developed, territories or area or boundaries of the States have lost their values. Crimes are increasing day by day and spreading throughout the globe. Therefore, in cases where the fugitive escapes from the territorial jurisdiction of the State, than through by one mechanism only former State may bring back the fugitive offender from foreign State where criminal or fugitive can took shelter. That mechanism is popularly known as extradition. The concept of extradition is not a new idea in international law. It is one of the oldest tools to bring back the fugitive before judiciary. Extradition is based on the broad principle that it is in the interest of civilized communities that criminals should not flee from the punishment and state should take assistance from another State towards bringing fugitives to justice. The general desire of all States is to ensure that serious crimes do not escape from the punishment. Britishers gave much contribution for development of legal system in India. Even today also we have several British laws with small modifications. For example, Indian Penal code, 1860, Indian Contract Act, 1872, transfer of property Act, 1872, Indian Evidence Act, 1872, land Acquisition Act, 1894 etc. related to extradition in their period Britishers enacted three Acts, they are (1) United Kingdom extradition Act, 1870, (2) Fugitive offenders Act, 1881, and (3) Indian extradition Act, 1903 but when India got independence from Britishers, Government of India enacted one new Act for extradition in 1962 it is popularly known as Indian extradition Act, 1962 but it was amended in 1993. In global level one of the main problems is absence of universal law. Regarding extradition every States enacted their own law on extradition, adopted different practices and impose different conditions on requesting State. When States adopted different practices it's very difficult to extradite the criminals and criminals also can flee from the punishment. Therefore universal law is essential and every States should follow the universal law and International Criminal Court should have the jurisdiction over extradition issues.

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PEER REVIEW PANEL

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A CRITICALLY STUDY ON ENVIRONMENT AND SUSTAINABLE DEVELOPMENT IN INDIA

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Earth provides enough to satisfy every man's needs, but not every man's greed."
- Mahatma Gandhi

ABSTRACT

The sustainable development is now deeply embedded in both National and International scenario, it is a big Global problem: therefor India has also keen concern on the protection of environment, development and sustainable development. The depletion of natural sources, industrialization, and urbanization, development of science and technology and also tremendous growth of population are major threat to human survival. Ecology is common heritage for all human being the need of society increase day by day and its effect on the natural sources and environment, natural sources are limited and irrecoverable. Therefore it is a pious, moral and legal obligation and duty on Government, judiciary and citizens of India to protect, conserved and preserved the natural resources and environment with sustainable development .The Indian judiciary and Government have emerged as most important tool for promoting sustainable development with protection of environment and natural sources.

Introduction

Sustainable Development is a multidimensional concept. It is widely accepted as a new policy goal to govern human life .The etymological meaning of sustainable development is any development which is on-going. It evokes the idea of preservation and nurturing. In simple words, it is conservation of environment and development together. Both economically and ecologically sustained development is Sustainable Development. The term indicates systematic way of planning of development. Social, economic and environment all these components concept of sustainable development. The term sustainable development was coined at the time of the Cocoyoc Declaration on Environment and Development in the early 1970's. Since then it has become a trade mark of international organization dedicated to achieve beneficial development. But For the first time, the doctrine of "Sustainable Development" was discussed in the Stockholm Declaration of 1972. Thereafter, in 1987, the World Commission on Environment and Development submitted its report, called "Our Common Future", which is also known as Brundtland G.H.Brundtland the prime minister of Norway chaired the commission where in an effort was made to link economic development and environment protection. In 1992, Rio Declaration on Environment which is regarded as a significant and a milestone set a new agenda and

Development codified the principle of Sustainable Development

The doctrine of 'Sustainable Development' had come to be known in 1972 in the Stockholm declaration. It had been stated in the declaration that: "Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and wellbeing and he bears a solemn responsibility to protect and improve the environment for present and future generation". But the concept was given a definite shape in a report by world commission on environment, which was known as 'our common future'. This definition emanates from Our Common Future, also known as the Brundtland Report of the World Commission on Environment and Development in 1987. "Development that meets the needs of the present without compromising the ability of the future generations to meet their own needs". The goal of which is to achieve balance/harmony between environment sustainability, economic sustainability and socio-political sustainability. To meet the challenges of continuing growth without destroying the environment, planning for sustainable development is crucial.

The protection of environment is needed for sustainable development. The Industrial pollution, degradation of forests, depletion of ozone layer, the greenhouse gases results in global warming and climate which will have an adverse impact on environment and human health. There is a need for conservation of Biodiversity, protection of wetlands and prevention of environmental pollution, promotion of ecological balance enables sustainable development. There are several provisions provided in Indian Constitution for Protection of environment. There are certain legislations enacted viz. Environment Protection Act, Wildlife Preservation Act, Biodiversity Conservation Act, water and Air pollution prevention Acts etc. The Judiciary playing a vital role in protection of Environment. Through Judicial Activism the Supreme Court can issue directions under writ Jurisdiction under Article 32 of Indian Constitution. The United Nation Organisation passed several UN conventions like Ramsar Convention on protection of wetlands, and UN convention on Biodiversity etc. World Environment Day is being celebrated across the world on 5th June every year.With the ever growing economies and the need and greed for more, the doctrine of Sustainable Development becomes the most relevant principle in today's times. The doctrine of Sustainable Development has most commonly been defined as development that meets the needs of the present, without compromising the ability of future generations to meet their own needs. It contains two key concepts:

- The concept of needs, in particular, the essential needs of the world's poor, to which overriding priority should be given; and
- The idea of limitations imposed by the state of technology and social organization on the environment's ability to meet present and future needs."[1]

For the first time, the doctrine of "Sustainable Development" was discussed in the Stockholm Declaration of 1972. Thereafter, in 1987, the World Commission on Environment and Development submitted its report, which is also known as Bruntland Commission Report wherein an effort was made to link economic development and environment protection. In 1992, Rio Declaration on Environment and Development codified the principle of Sustainable Development.

India being a growing economy has seen rampant industrialization and development in recent past, which resulted in adverse impact on the environment. Witnessing such degradation, the Supreme Court of India in a bid to protect the environment,

played a significant role in shaping and adopting the doctrine of Sustainable Development. This crusade for safeguarding the environment was led by Justice Kuldip Singh, who famously came to be known as the 'Green Judge'.

The doctrine of Sustainable Development was implemented by the Supreme Court in the case of Vellore Citizen Welfare Forum vs. Union of India[2]. The Petitioners therein had filed a petition in public interest under Article 32 of the Constitution of India against the pollution caused by discharge of untreated effluent by the tanneries and other industries in the river Palar in the State of Tamil Nadu. In the instant case, the Supreme Court held that the precautionary principle and polluter pays principle are a part of the environmental law of India. The court also held that: "Remediation of the damaged environment is part of the process of 'Sustainable Development' and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology."Keeping in mind the risk to environment and human health due to unchecked and rampant industrialization and the decisions taken at the United Nations Conference on the Human Environment held at Stockholm in June, 1972, as well as United Nations Conference on Environment and Development held at Rio de Janeiro in June, 1992, to both of which Conferences India was a party, the legislature enacted the National Green Tribunal Act, 2010 (Act). Vide the Act, the National Green Tribunal (NGT) was established for effective and expeditious disposal of cases involving multi-disciplinary issues relating to environment.

Sustainable Development Goals

The United Nations Conference on Sustainable Development in Rio de Janeiro in 2012 laid down seventeen Sustainable Development Goals (SDGs) to encounter the urgent environmental, economic and political challenges being faced by the world. Seventeen goals were set: to end poverty; zero hunger; quality education; gender equality; clean water and sanitation; affordable and clean energy; decent work and economic growth; industry innovation and infrastructure; reduced inequalities; sustainable cities and communities; responsible consumption and production; climate action; life below water; life on land; peace, justice and strong institutions and partnership for the goals. One can see that these goals are achievable only when nations forget their boundaries and work together as global citizens. One of the major goals is to combat climate change, which would entail climate action, industry innovation and infrastructure, use of affordable and clean energy and building sustainable cities and communities.

Combating Climate Change

Climate change is a global phenomenon, which transcends national boundaries. Emissions anywhere affect people everywhere and hence it's a global issue, which requires global solution. International cooperation between all nations is required to help developing nations become green or low-carbon economies. The rich nations, such as USA (one of the most polluting nations, having the largest per capita carbon emission) must help developing nations such as India, in moving towards low-carbon economies. The rich countries have a larger role to play and must commit to lowering their carbon footprint and help the developing nations monetarily and by way of exporting technical know-how to developing nations. Commitment to Climate Change can be secured from all Nations basis principles of "climate justice" and principles of equity and common but differentiated responsibilities and respective capabilities.

Paris Agreement

In order to address climate change, countries adopted the Paris Agreement at Conference of the Parties (COP 21) held in Paris on 12.12.2015. In the agreement, all countries have agreed to work to limit the global rise in temperature rise to well below 2 degrees Celsius pre-industrial levels, and moreover, strive to lower it to 1.5 degrees Celsius. The Paris Agreement was adopted by 185 nations in December and will come into force when 55 countries, which contribute to at least 55% of total global emissions, ratify the Agreement. This Agreement is open for signatures at the United Nations Headquarters in New York from 22.04.2016 until 21.04.2017 by States and the regional economic integration organizations that are Parties to the United Nations Framework Convention on Climate. The implementation of the Paris Agreement in letter and spirit is essential for the achievement of the Sustainable Development Goals, as set by the United Nations. This Paris Agreement provides for climate actions to be implemented by ratifying nations, which will reduce emissions and build climate resilience. The Paris Agreement is based on voluntary action and commitment made by each country based on its respective national circumstances being Intended Nationally Determined Contribution (INDCs) and does not impose legally binding emission reduction targets like the Kyoto Protocol. Though the emission reduction targets are not legally binding, the process of regular review and submission of INDCs is binding.

India's Role

India submitted its INDC on 01.10.2015 prior to the Conference of Parties in Paris and ratified the Paris Agreement on 02.10.2016 on the birth anniversary of Mahatma Gandhi. India's INDC is ambitious and shows strong commitment to combating climate change. India's % share of global Annual emission is 5.7%, whereas USA's share is 15.1% and China's 28.6%. Thus, even though on a global scale India is not a part of cause of problem, it has through its INDCs shown its commitment to be a part of the solution.India's INDC emphasizes that in order to reach its commitment it's most important that the means and funds for implementation be provided by developed nations, technology transfer and capacity building. It also estimates that at least $2.5 trillion (at 2014-15 prices) will be required for meeting India's climate change actions between now and 2030.

India in its INDC has committed primarily to reduce emission intensity of its GDP by 33-35% by 2030 from 2005 levels; achieve about 40% cumulative electric power installed capacity from non-fossil fuel based energy resources (mainly renewable like wind and solar power) by 2030; and to create an additional carbon sink of 2.5 to 3 billion tons of CO2 equivalent through additional forest and tree cover by 2030.

Conclusion: Given that a large population of India is dependent upon agrarian economy, and lives in vast coastal areas and Himalayan regions, India is highly vulnerable to adverse effects of Climate change. However, India also has 30% of its population under poverty; 20% living without proper housing; 25% living without electricity and is a growing economy, thus economic and infrastructural development is critical too. Thus, in this milieu it is most important that development projects be encouraged and while being conceptualized, the doctrine of Sustainable Development be kept in mind. In order to maintain a balance between development and environment, the principle of Sustainable Development which encompasses the 'Precautionary Principle' must be followed while envisaging a project. This would prevent any anticipated environmental impact a project may have by following and incorporating mitigating measures. Right from the stage of selection of site, to adopting efficient and environmental friendly measures at each stage and facet of construction to avoid or minimize environment de-gradation, to providing mitigatory measures and monitoring the impact of a project on the environment/eco-system and thereafter

providing for restorative action in case of any degradation is imperative in today's pro- environment climate and is also the need of the hour. The developers today must be conscious of the environment and adopt a green, pro- environment, scientific and energy efficient mind-set for each stage of a project. These measures may increase the over-all expenditure of the project, but in the longer run the benefits would surpass such costs. The Indian Government in furtherance of its INDCs and National Action Plan on Climate Change incentivizes developers and promotes use of green and energy efficient measures and these incentives can be used by developers to off-set any additional green costs. Undeniably, Sustainable Development is the need of the hour. With the advent of energy efficient technology, a harmonious marriage between development and environment is possible. It is time that each one of us adopt an 'energy-efficient and green' mind-set and use the natural resources available equitably, judiciously and save them for our future generations, as the best way to predict future is to create it.

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their villages, rural India's dependence on NREGA wages for survival is expected to increase manifold. The MGNREGA can be used to effectively reduce rural distress, by making some changes in its design and implementation.[28]

CONCLUSION

The commitment of India to attain the millennium goal of NO POVERTY is unquestionable. The Government of India has initiated myriad policies supplementing and complementing the initial pledge of the Constitution of ushering in social revolution. Various empowerment programmes such as skills development, start up, micro financing, etc., are pressed into service. In the technology driven world, the government is determined to ride on technology and has already initiated steps by linking AADHAR to social security benefits to see that theywill definitely reach the targeted beneficiaries. By mandating transparency and accountability through law, and consolidated efforts on the part of policy makers, policy implementers and policy interpreters SDGs are destined to be transformed into reality. The MGNREGA along with the National Food Security Act, 2013 may turn out to be game changers, provided, those in charge of implementing these laws discharge their roles responsibly or the alert citizenry equipped with the laws of transparency, accountability and timely delivery of service laws will compel them to discharge their responsibility through the means of enforcement. The invaluable observationsofDr.Rajendra Prasad made in the concluding session of the Constituent Assembly squarely apply to poverty alleviation regime also:

"Whatever the Constitution may or may not provide, the welfare of the country will depend upon the way in which the country is administered. That will depend upon the men who administer it."[29]

28 Rajesh Mit and SarojMahapatra, "NREGA in the times of COVID-19", https://idronline.org/nrega-in-the-times-of-covid-19/accessed on 31-7-2020.

29 H.R.Khanna,supra note 5, p.176.

THE RULE OF DUAL CRIMINALITY AND EXTRADITION: A COMPARATIVE STUDY

Dr. Ramesh* & S.B. Boregowda**

ABSTRACT

The father of modern international law "Hugo Grotius" in his book "De Jure Belli ac Pacis" said that 'it is the duty of each state either to punish the criminals or return them to the states where they have committed a crime'. Basic principle is that in international law every state has the right to punish the criminals either he committed a crime in the country or outside the country. If the state is incapable to punish, then it can surrender or handed over the criminal to another state where that person is committed an offence. In modern world a state can surrender/transfer / extradite the criminal to another state on the basis of bilateral treaty, it's popularly known as extradition. The rule of dual criminality is one of the essential conditions for extradition of fugitive criminal. The dual criminality is one that is more or less uniformity applied in law of extradition and worldwide basis. However, the particular construction differs from jurisdiction to jurisdiction, often quite considerably. The purpose of this article is to: first, whether the rule of dual criminality is followed by all the states; second, analyse the interaction between extraterritorial jurisdiction over criminal often as and double criminality; third, without consider the rule of double criminality requested State could not surrender the criminal; and lastly, to draw some conclusions on the future of the rule of dual criminality in potential new universal extradition law.

Key Words: Extradition, Dual criminality, Crime, Requested and Requesting State.

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MEANING AND DEFINITION OF EXTRADITION

The term extradition is derived from the Latin word 'Ex Traditio', it means to 'give up', to 'surrender', and 'deliver of criminals' or 'handed over' of fugitive. Generally, extradition means Surrender of criminal for prosecution. Extradition is the legal process by one country hands over a fugitive to another country where that person has been accused or convicted of a crime[1]. From olden period to till today several states adopted and accepted the extradition. Extradition is not a rule but it depends upon the will of the state. The first and foremost important condition of extradition is the existence of an extradition treaty between the territorial state and requiring state. Some states, such as the United States, Belgium and the Netherlands require a treaty as an absolute precondition. In order to provide assistance to states interested in negotiating and concluding bilateral extradition agreements, the UN General Assembly on December 14, 1990 adopted a model treaty on extradition by adopting resolution. Even though both states have extradition treaty, requesting state should submit the evidence to territorial state, when territorial state is satisfied then only it can surrender the criminal otherwise it can rejected to surrender. Extradition is the formal surrender of a person by one state to another state for prosecution or punishment. Extradition means the delivering up of a person by one state to another as provided by treaty, convention or national legislation. The sole object of extradition is to secure peace in the society. If that criminal is not extradited, he may be dangerous to another state also where he is taken refuge and he may become most dangerous to entire world. Therefore, countries co-operate with each other by extraditing the criminal offenders to keep peace in the world.

The principle of "Aut dedere aut judicare" requires that a state in which a person committed a dangerous international offence, such as killing, offence against humankind, war crimes and the offence of belligerence, is present must either penalize the criminal or surrender him. The intellectual for this is that those crimes, widespread and systematic, are the concern of the international community as a whole and the criminal must not go without punishment.

States can act only within their territory. The executive forces of one state cannot violate the territorial integrity of another state. In case a person wanted of a criminal by a state is present in another state, through by request only demanding state can bring back the fugitive from requested state on the basis of certain conditions, because international law will not impose any obligation to any state to surrender the criminal. There is no universal law on extradition because there are two complications about extradition which have prevented the growth of a uniform rule on the subject. They are the

1 S.K.KAPOOR, INTERNATIONAL LAW &HUMAN RIGHTS166,(16thedCentral Law Agency2012).

variations in the definitions of crime adopted by different countries and exceptions for extradition. The Indian Extradition Act 1962 does not define what Extradition is? But it is a mechanism to bring back the fugitive to the state where he escaped after committing a crime/ after being convicted. Generally Extradition means the surrender by one state to another state at its request. A person accused of or convicted of certain kind of criminal offence an individual after committing a crime in a state may run to another state in order to escape prosecution by the state where he committed the crimes. The escape of an offender may thus frustrate the effort of a state to punish the offender.

In the words of Prof Oppenheim "extradition is the delivery of an accused or a convicted individual to the state on whose territory he is alleged to have committed or to have been convicted of a crime, by a state on whose territory the alleged criminals happens to be for the time being"[2].

According to Starke the term extradition denotes the process whereby under treaty or upon a basis of reciprocity one state surrenders to another at its request a person accused or convicted of criminal offence committed against the laws of the requesting state[3].

Edward Collins says, Extradition is the delivery of an accused or a convicted individual to the state on whose territory he is alleged to have committed or to have been convicted of a crime, by the state on whose territory the alleged criminal happens to be for the time being.

In Daya Singh Lahoria V. Union of India[4] the Supreme Court of India defined Extradition as follows: Extradition is surrender by one state to another of a person desired to be dealt with for crimes of which he has been accused or convicted and which are justiable in the courts of the other state. In Justice Kuldip Singh in Rosiline Geroge v. Union of India[5] the Court stated that, the term 'Extradition' denotes the process whereby under a concluded treaty one state surrenders to any other state at its request, a person accused or convicted of a criminal offence committed against the laws of the requesting state being competent to try the alleged offender.

Extradition is an accepted legal process, which is generally adopted by the states to bring such criminals back and acquire jurisdiction over fugitives in order to preserve peace, law and order, and security within their state. Extradition is useful for the following two reasons.

1. Severe offences do not go unpunished (must be punished)

2 OPPENHEIM, INTERNATIONAL LAW631(9thed, Person Education PteLtd.,2003).
3 J.G.STARKE ,INTRODUCTION TO INTERNATIONAL LAW, 352(4th ed,Adithya Book Pvt Ltd. 1994).
4 AIR 2001 SC 1716,(2001)
5 V.K.BANSAL,LAW OF EXTRADITION IN INDIA, 21(1st ed, LexisNexis Butterworth's2008).

2. Demanding State may have good proof to penalize the offender or criminal.

Above two reasons shows that crime is evil in the society and each state should punish the criminal because no one criminal do not go unpunished and which state is requesting to another state to extradite the criminal, it should have better proof to punish criminals. Because without evidence no one state will not extradite and no one authority will not punish the criminal.

OBJECT OF EXTRADITION

The object of extradition is to restore a fugitive or criminal to the jurisdiction of a state, in accordance with treaty obligations, which intends to prosecute or punish him for the violation of its laws. The rights of a citizen not to be sent out to foreign jurisdiction without strict compliance with law relating to extradition are valuable rights. Object of Extradition are

- To punish the criminals;
- To give justice for Injured State;
- To protect the valuable rights of states;
- To prevent criminals who flee from a jurisdiction to escape from punishment;
- Criminals are surrendered as it safeguards the interest of the territorial State;
- Extradition is based on mutual cooperation;
- Extradition is a step towards the achievement of international coordination in solving international disputes.
- To protect the objects of U.N.O. (to maintain peace and security throughout the world).
- Extradition acts as a warning to the criminals that they cannot escape from the punishment by fleeing to another state. Extradition therefore has a deterrent effect.
- Extradition is done because it is a step towards the achievement of international co-operation in solving international problems of a social character.

The State is always supreme and it has the freedom and right to enact suitable law to suppress and penalize the lawbreakers and anti-social elements which violates its municipal or domestic law. A State is a sovereign within its region but a State cannot implement its rule outside its area. However, in certain cases, Indian Penal Code may have extraterritorial jurisdiction as well. Section 2 of Indian Penal Code deals with the intra territorial jurisdiction of the code. It makes the code universal in its application to every person in any part of India for every act or omission contrary to the provisions of the code. Section 2 of Indian Penal Code

provides punishment of offences committed within the territory of India. It means if any person committed a crime within the territory of India, authority has the right to punish the criminal. Section 3 and 4 of Indian Penal Code deals with the extraterritorial operation of the code. Section 3 of the Indian Penal Code provides that if any citizen of India does an act beyond the territory of India which is not an offence in that State but it is an offence in India, he will liable to be prosecuted in India under Indian Penal Code. Section 4 of Indian Penal Code provides when an offence is committed outside of India but the offender is found in India, then

- Surrender the offender for trail in the State where the offence was committed
- (Extradition) or;

He may be tried in India (Extra territorial jurisdiction)

Section 13 of the Model Law on Extradition, 2004 provides extradition may be declined, if the crime for which it is demanded or requested has been committed beyond the territory of the demanding or requesting State and the law of (State adopting the law) does not allow trial for the same crime when committed beyond its territory. It means extradition may be rejected, if the crime has been committed outside the territory of requesting State and the law of requesting State does not allow for prosecution for the same offence when committed outside its territory. Therefore, where an individual commits an offence, the State has the right to punish, as no other right to punish him. When one person commits a crime in one State and he run to another State and took asylum it's very difficult for former or first State to punish him because he took shelter in another State. According to customary International law State cannot exercise its power in the area of another State. It means if first or former State wants to punish him there should be an international cooperation or mutual cooperation between two States otherwise it's very difficult to punish the criminal because, international law will not impose any obligation on State to surrender the criminal to another State. In Abu Salem Abdul Qayoom Ansari v. State of Maharashtra[6], Justice P. Sathashivam observed that "extradition is the process whereby under a concluded treaty one State surrenders to any other State on its request, a person accused or convicted of a criminal offence against the laws of the demanding State, such demanding State is the competent authority to punish or try the alleged offender. Every State exercises its jurisdiction over all the persons living in their territory but when a person after committing a crime may flee away to another country for saving himself. In such situation from where that criminal has escaped, that State is helpless to exercise its jurisdiction to punish the wrongdoer. This event is very vital for maintaining peace and order. In such cases, peace and order can be maintained in the

6 (2011) 11 scc 214

State through by international assistance between the States. As it is a social principle to punish the criminals. By extradition only a State can hand over the criminal from one State to another State and punish the criminal. This type of arrangements is happened in international level through by cooperation otherwise it's very difficult.InAbu Salem Abdul Qayoom Ansari v. State of Maharashtra[7] justice A.K. Ganguli held that extradition has five essential ingredients. They are (a) Reciprocity or Interchange (b) Double or Dual criminality (c) Extraditable offence (d) Rule of Speciality and (e) Non inquiry.

DOUBLE OR DUAL CRIMINALITY

Rule of "Double Criminality" is also one of the essential conditions for extradition. States approved extradition under this rule which is usually amalgamated in the extradition treaties. Double Criminality means a crime basing upon which the State requesting the extradition should also have been confirmed as an offence in the State-extraditing. It means what the offence committed by that offender in requesting State and it is also an offence where that person present. No person is to be extradited or surrendered or handed over if his crime is not an offence under the criminal law of State –extraditing. Therefore, his crime should be an offence in both requesting and requested States because Nature of crime is different from one State to another.

For example, (i) Bigamy is an offence in western Countries. But it is not an offence in Gulf Countries, namely United Arab Emirates, Iraq, Kuwait, Saudi Arabia, Qatar and Oman. Bigamy is allowed in Gulf Countries according to Islam. Therefore, a man committed bigamy in Britain and fled away to Saudi Arabia, cannot be extradited. Because bigamy is an offence in Britain but it is not an offence in Saudi Arabia.

(ii) Murder is an offence in every country including Asia, Europe, and Africa etc. If a man commits a murder in 'A State and run to 'B' State. 'B' State may extradite that criminal to 'A' State because Murder is an offence throughout the world.

(iii) If a man commits an offence relating to narcotic drugs in 'J' State, and ran away to 'B' State, that 'B' State may extradite that criminal to 'j' State.

Oppenheim defines the rule of Double criminality. According to him it means no person is to be extradited whose deed is not a crime according to the criminal law of the State, which is asked to extradite as well as the State, which demands extradition[8]. It means what the wrongful act done by a person in one State than he ran to another State, if first State wants to extradite from Second State. That wrongful act is a crime in both first and second States. The extradition can simply be defined as an action of which a

7 V.K.AHUJA, PUBLIC INTERNATIONAL LAW 94(1sted, lexis nexis, 2016).
8 OPPENHEIM, INTERNATIONAL LAW, 701(18th ed, Pearson Education Ltd. And Tomoko Hudson, 1985).

person is suspect or sentenced within the jurisdiction of one State that Constitutes a crime in that State and the State where that person is found, when we saw the above definition rule of Double Criminality should have four elements.

(i) The act must have been committed within the jurisdiction of demanding State.

(ii) It must be a crime in the demanding State.

(iii) It must be a crime in the State where that person physically present (State-extradited)

(iv) That crime should be mentioned in the extradition treaty between two States (requesting and requested State)

In Factor v. Laubenheimer[9], British Government wanted extradition of Factor on the charge of getting London money which he knew to have been dishonestly gained. When extradition was applied Factor was residing in the State of Illinios in the US. The crime for which Factor was accused was not a crime in Illinios. The US Supreme Court Said that this act did not prevent extradition, according to criminal law of the US the offence was punishable. Above the facts and decision shows that if States have good relations with each other, State can surrender the criminal in reciprocity or good faith in the absence of treaty. What the crime committed by Factor if it is not an offence under the law of State of Illinios but if it's an offence under the criminal law of United States, he can be extradited because State of Illinios is a part of the territory of United States.

Belgium was the first state which passed extradition legislation in 1833. In India, our Government enacted the extradition Act in 1962; before 1947 India was not a sovereign and independent State because India was a colonial State. Until 1947 it was under the control of Britishers. Before that three acts were enacted by British Government. Such as United Kingdom Extradition Act, 1870, the Fugitive offenders Act, 1881 and the Extradition Act, 1903[10]. When India got independence from Britishers then Indian government enacted the new statute in 1962 with new changes, rules and practices it's popularly known as Extradition Act 1962.Extradition is based on the broad principle that it is in the interest of civilized communities that criminals should not go punished and on that account it is recognised as a part of the comity of nations that one state should ordinarily afford to another state assistance towards bringing offenders to justice. The general desire of all states to ensure that serious crimes do not go unpunished. Frequently a state in whose territory criminals have taken refuge cannot prosecute or punish them purely because of some technical rule of criminal law or for lack of jurisdiction.

9 78 L Ed 315: 290 US 276 (1933)
10 V.K.BANSAL,LAW OF EXTRADITION IN INDIA 1(1sted, LexisNexis Butterworth's Wadhwa.2008).

extradition.In model treaty what grounds are mentioned for surrender or refuse to surrender the criminal, other than such grounds also States adopted their own grounds in their domestic law and treaties. For example, Political offender, Military criminality, Double jeopardy, failure to produce sufficient evidence, Religious criminality, Rule of Speciality, etc. but in modern era numerous States adopted different types of grounds for extradition of fugitive offender and denial of extradition. Therefore removal of all these problems universal law is essential and should be followed by all the States.

HUMAN TRAFFICKING: VICTIMS PERSPECTIVE

Dr. D.Rangaswamy*

ABSTRACT

Victimology is the core and emerging area of the criminal justice system in the recent past. A considerable amount of interest has been paid to the victims of crime to protect them against the devastating impact of the crimes committed against them. The Anglo-Saxon criminal justice system centered on the interest of the criminals completely ignored the status of the victims of crime for a remarkable period in India.The physical, mental, and psychological agony of victims, due to the impact of crime in general, human trafficking in particular is not adequately addressed by the legal regime of the country. It is a bad state of affairs that the victims of human trafficking, just like the victims of other crimes, are overlooked and their grievances are regarded with loose sense. All the existing laws relating to human trafficking have given negligible interest to the compensation component of victims of this heinous crime. The Cr.P.C provision relating to the rights of the victim of the crime is also proved to be impotent in wiping out the misery of the victims. The compensation, redressal, and rehabilitation dimension of the existing laws relating to victims of human trafficking is relatively trivial. In this context, the present paper is an effort to explore the unaddressed distress of the victims of human trafficking. The paper concludes that there is a need for the amelioration of the law relating to victims of human trafficking in the backdrop of the emergence of state liability.

Key Words: Human Trafficking, Victim, Victimology, Redressal, Rehabilitation, Compensation

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EMERGING AVIATION SAFETY ISSUES- A CHALLENGE TO 21ST CENTURY

Dr.Sridevi Krishna*

"There is simply no substitute for experience in terms of aviation safety"

- Chesley Sullenberger[1]

ABSTRACT

The development of century has increasingly brought a daunting aviation safety challenges throughout the globe. The skies are more filled with the air transportation and the travelling public is growing ever since the new stakeholders entered the aviation market. They are more demanding of safety in skies. New operational procedures and technology have been introduced systematically and slowly. Air safety is the basis of public confidence in the air transport industry and maintaining the confidence of public is a necessary condition for the growth of aviation industry and also the world economy. Safety today is posing a threat to the industry and has put the sector on lot of pressure, especially since the outbreak of pandemic. The industry and the government of many countries are looking for new, safer ways to increase the movements of planes in the sky and this requires a level of safety enhancement in the aviation industry. This paper analyses the international obligation of safety standards in light of current challenges posed to commercial aviation safety and also discusses the emerging problems faced by the commercial aviation sector, which has threatened aviation safety today.

* Assistant Professor, Vidyavardhaka Law College, Mysuru.

1 www.brainyquotes.com

Key words: Air Space, Safety, Security, Commercial Aviation

INTRODUCTION

The signs of safety are all around us. The type of lines painted on roads and signs of speed limits are set according to conditions presented by different stretches of road. Even in buildings fire extinguishers, sprinklers and emergency exit signs are common. Sealed packaging standards are to be met in order to ensure food safety. Even motor vehicles too have brakes and air bags for the safety of driver. The electronic devices are protected through antivirus software and e-information can be protected through password so that their access is denied by other users. Similarly security at airports is installed in order to ensure safety of passengers from carrying any dangerous objects into plane. No matter what the context is, both safety and security requires constant vigilance. It is one of the important aspects in aviation sector today and certain minimum standards are laid down in this regard. For Example- flight attendants are trained to promote prompt evacuation of passengers during cabin fires, ramp agents wear reflective vests to reduce the chance of being run over by vehicles, pilot call outs help in ensuring that everyone in the flight is aware of emerging problem that may impact safety, fluids are prevented from being carried on board, cockpit doors are reinforced to prevent forced entry, and passengers are screened to prevent from carrying harmful weapons on board aircraft. Safety is the number one priority for aviation and it will continue to be so.[2] But it is important to know whether Aviation is really safe? The answer to this goes with the acronym USHRI (Ultra-Safe High- Risk Industry). Generally aviation is extremely safe and most reliable form of transport in terms of saving travel time and safety.[3] But still safety comes along with the risk and this risk is the combination of the severity of a dangerous condition or event and the probability of that event happening. It may be an accident or any act of threat to life of a person travelling in a plane. In terms of safety and security these risks expose an air traveler to a high-risk which requires a special concern to be studied.

INTERNATIONAL LAW ON SAFETY OBLIGATIONS

Safety and Security are paramount consideration in any invention meant to serve the public. But traditional International Law is bilaterally minded, it does not generally oblige states to adopt a certain conduct in the absolute except to which such obligations under a treaty or customary law is concerned. The development of contemporary aviation law has gone beyond traditional bilateralism and it's focused more on community interest. Generally the states under any convention or treaty do not have any interest of their own.[4] They merely have one common interest i.e. the

2 CALIN ROVINESCU, CHAIRMAN, IATA,(2015); STEPHEN K.CUSICK,ET.AL., COMMERCIAL AVIATION SAFETY, (McGraw Hill, 6 th Edt.,2018), At 2

3 Id., At

4 Advisory Opinion, ICJ Reports(1951),15,At 23

system. Unusual attitude, speed, acceleration or failure would trigger an alert. There would also be an automatic, deployable flight recorder. The flight recorder would separate automatically from the aircraft in the event of an accident. There would be an improved coordination and information sharing and enhanced training of emergency teams.[15]

Another threat faced by aviation industry in 21st century is Cyber threats. Incidents happening recently demonstrate that terrorists are interested in targeting the aviation sector. In 2011, radio hackers spoke on the frequency of British air traffic controllers, giving fictitious instructions to pilots and making fake distress calls. Another incident in the same year concerning internet security company Pure Hacking executed an infiltration on an airline network. In just one attack, the tester was able to completely compromise an airline network, which included capturing credit card numbers, plans, communications and databases. But, there are no strict regulations mandating the industry to report cyber security threats and incidents. The European Aviation Safety Agency has recently established a special committee to flight the continuously changing landscape of cyber threats against aviation. The threat seems daunting and immediate, although it should be noted that, to date, no cyber attacks has successfully hacked a commercial airliner's system while in flight. But this does not mean that hackers would not target an aircraft's networks, ground-based systems, navigation and cabin entertainment. The field of software safety and security will likely receive significantly more attention in the near future to protect commercial aviation safety.

Today, the outbreak of pandemic has created a new challenge to aviation industry. The impact of coronavirus and governmental travel reactions sweep throughout the world, many airlines have probably been driven into technical bankruptcy, or are substantially in breach of debt covenants. The shutdown and return to service have led to many changes to the operating environment. These will continue to evolve until we reach to normal. The organizations need to address management of changes effectively and regulators need to engage with their organizations to ensure safe and effective. If the complex aviation system restarts, new hazards will undoubtedly emerge. Currently, there are substantial number of exemptions, extensions and safety buffers. The European Union Aviation Safety Agency have identified six safety issues like Management Systems; Human Performance; Training, Checking And Recency; Outdated Information; Infrastructure and Equipment; Financial Impacts On Safety which are need to be addressed by respective member states.[16] Globally at this juncture there is a need for cooperation among the states. Failure to coordinate will result in protectionism and less competition in industry. An unstructured and

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15 Werfelman.L. 'Aero Safety World', (June, 2015) , State of Mind, at 12-15
16 https://www.easa.europa.eu

nationalistic outcome will not be survival of the fittest. It will mostly consist of airlines that are the biggest and the best supported by their respective governments. The system will bring nationalism which would not better support and serve the needs of 21st century world.

CONCLUSION

The future of aviation safety is difficult to predict, but we are able to extrapolate from emerging trends to explore probable upcoming developments in commercial aviation safety. Aircrafts should be designed with enhanced safety and security systems and new safety management policy should be adopted to ensure safety in aviation. All such sophisticated developments will continue making commercial air travel the safe form of public transportation, which will be expected by an increasingly demanding public that is intolerant of accidents and serious incidents. Apart from grappling with health challenges of coronavirus, governments should coordinate to save the industry from being ruined.

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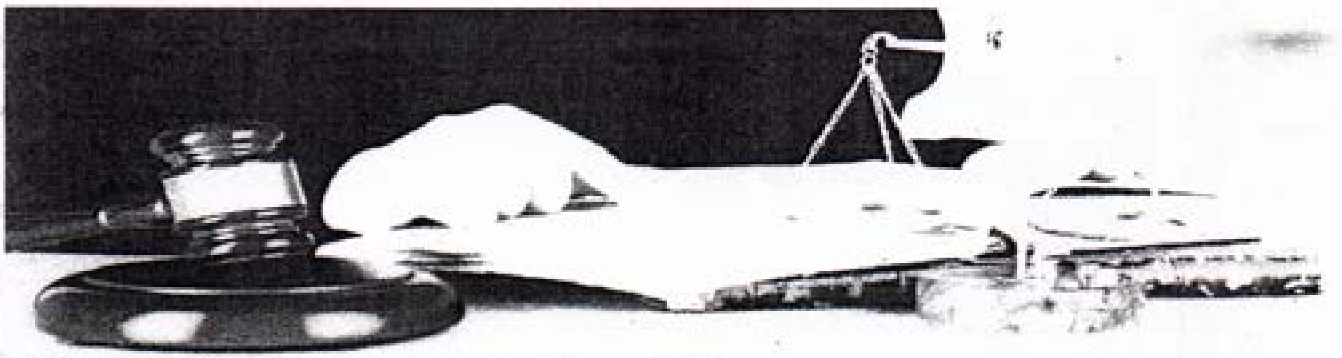

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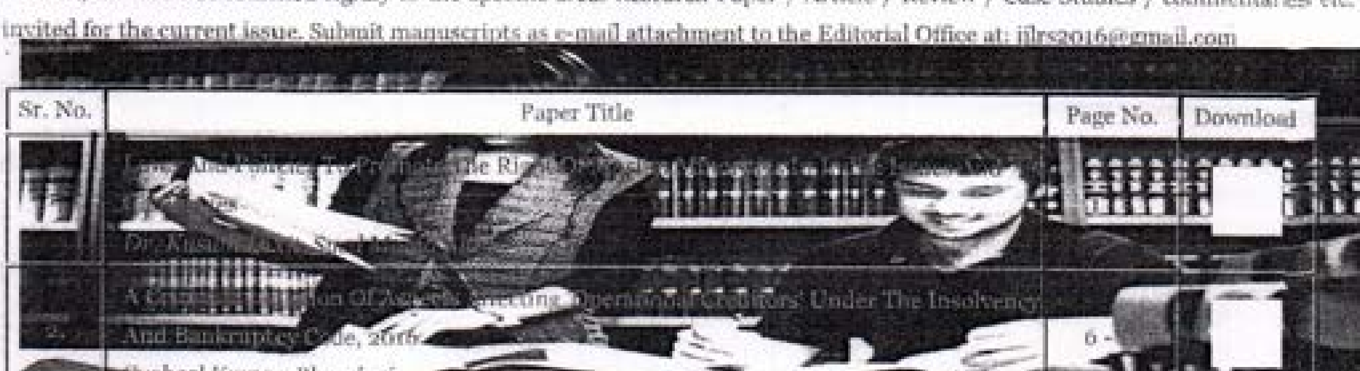

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A CRITICAL STUDY ON EVOLUTION OF EXTRADITION LAWS IN INDIAN CONTEXT

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INTRODUCTION

States as organised socio political societies came into existence to secure happiness and security for the people which are the final object of any human associations. To secure this object, States should have particular duty not only to protect their nationals and to maintain international peace and security within their boundaries by enacting suitable legislations. For promotion of good will, justice and harmony of human society States should have mutual cooperation with each other. When State is supreme, it has the freedom and right to enact suitable law to suppress and penalize the lawbreakers and anti-social elements which violates its municipal or domestic law. A State is sovereign within its region but a State cannot implementation its rule outside its area. Therefore, where that individual committed an offence, that State only has the right to power, as no other right to punish him. When one person committed a crime in one State, he run to another State and took asylum than it's very difficult for former or first State to punish him because he took shelter in another State. According to International law State cannot exercise its power in the area of another State. It means if first or former State wants to punish him there should be an international cooperation or mutual cooperation between two States otherwise it's very difficult. Because international will not impose any obligation on State to surrender the criminal to another State. In global era when information technology and computerization is developed, territories or area or boundaries of the States have lost their values. Crimes are increasing day by day and spreading throughout the globe. Internet crime, terrorism, financial fraud, murder etc. is also rising gradually anonymous. In the present scenario crime has no boundaries or limitation but States criminal law had its own boundaries. Territorial jurisdiction plays a vital role in bringing a criminal to justice. Therefore, in cases where the fugitive escapes from the territorial jurisdiction of the State, than through by one mechanism only former State may bring back the fugitive offender from foreign State where criminal or fugitive can took shelter. That mechanism is popularly known as extradition. To come out this problem the principle of extradition is introduced and it plays an important role to bring back the fugitive or criminal before judiciary. In view of the ever-increasing threat to the world by social anti-elements, terrorism etc., and the law of extradition has a key role to play in brought back the fugitive before judiciary to alter of the law. With the incredible growth in the competence of international transport, flow in global terrorism and communication, extradition has expected importance. Extradition is called as remissio, redditio, restitution or deditio. Extradition in general is a surrender of a fugitive by one State to another in pursuance to a treaty or agreement. Extradition is the handover of a fugitive offender by one State to another State on demand of the latter for surrender. This is a tool to bring back the fugitive to the State from where he escaped after committing crime. Extradition is an accepted legal procedure, which is usually accepted by the States to bring such criminals back and acquire jurisdiction over fugitives in order to preserve peace, law and order, and security within their State. However, States are facing certain difficulties in bringing back fugitive criminal within their jurisdiction. In **Kubic Dariusz v. UOI**[1] Supreme Court held that the system of extradition of criminals represents an act of legal assistance by requested State to requesting State with the goal of carrying out a criminal trial- finding and arresting an alleged criminal in order to bring him to court or for executing sentence. The system is based on the principle of humanities,

[1] AIR 1990 SC 605,(1990) 1 SCC 568

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An extradition treaty spells out the term of an extradition. It includes a list of crimes for which a fugitive can be extradited. It is reciprocal in terms of conditions. Generally, an extradition treaty for successful extradition requires that

- The offence is serious
- Prima facie there is sufficient evidence to proceed against the fugitive
- Principle of dual criminality;
- Possibility of fair trail to the fugitive if surrendered and
- The fugitive will get sentence proportionate to the offence[27].
- Punishment for offence shall not less than one year.

Before an application for extradition is made through the diplomatic channel, two conditions are as a rule required being satisfied:

- There must be an extraditable person.
- There must be an extradition crime[28].

But in case of extradition as a general rule that the extradition proceedings shall not applicable for political offender, Religious offender & Military offender because all these offences are not considered as a crime.

The object of extradition is to restore a fugitive or criminal to the jurisdiction of a state, in accordance with treaty obligations, which intends to try or punish him for the violation of its laws. The rights of a citizen not to be sent out to foreign jurisdiction without strict compliance with law relating to extradition are valuable rights.

Object of Extradition are

- To punish the criminals
- To give justice for Injured State
- To protect the valuable rights of states
- To prevent criminals who flee from a jurisdiction to escape from punishment
- Criminals are surrendered as it safeguards the interest of the territorial State.
- Extradition is based on mutual cooperation.
- Extradition is a step towards the achievement of international coordination in solving international disputes.
- To protect the objects of U.N.O. (to maintain peace and security throughout the world).
- Extradition acts as a warning to the criminals that they cannot escape from the punishment by fleeing to another state. Extradition therefore has a deterrent effect.
- Extradition is done because it is a step towards the achievement of international co-operation in solving international problems of a social character.

CONCLUSION

Each state exercises complete jurisdiction over all the persons within its territory. But a different problem arises when a person after committing crime runs away to another country. In such situation, peace and order can be maintained only when there is international cooperation among the states. There is, therefore, a social need to punish such criminals. In order to fulfill this social necessity, the principle of extradition has been recognized. With the international cooperation or treaties only states can punish the criminals. Otherwise he will become a dangerous to the world. But one of the lacunas in the principles of extradition is conditions. Some of the conditions of extradition are very helpful to criminals to flee from the punishment. Extradition is not a rule; it depends upon the will of extraditing state. Each state opines strongly that it has a right to give asylum for criminal because one of the main duty of U.N.O. member is to obey the object of U.N.O. otherwise it will affect peace atmosphere of the world. Therefore it is necessary to enact universal law otherwise criminals flee from the punishment and very difficult to give justice for injured states.

[27] J.G.Starke Introduction to International law. Adithya Book Pvt Ltd. New Delh,4th Ed.1994,P.350
[28] Ibid P. 354

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Issues and Challenges of Higher Education in India

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Abstract:
After more than 70 years of independence, India's higher education system has still not been developed fully. It is evidenced by its poor performance in institutional rankings (not a single Indian university in top 100 universities of the world), the poor employment status of its students, poor track record in receiving national awards and recognition, poor share in research funding and so on purpose of this Article is first to find out the issues and challenges in higher education, secondly what are the programmes are organised by Government for development of Higher education, thirdly what are the remedies are introduced by Govt. for issues of higher education. Moreover, the status of state public universities that produce over 90% of the graduates in India is more dismal. Higher education means different things to different people. If we talk about higher education in terms of level, it means to gain higher educational qualification by the teaching-learning process in the higher educational institutes such as colleges and universities. Moreover higher education imparts knowledge, develops the student's ability and also give him/her a wider perspective of the world around.

***Key Words**: Higher Education, Governance, Education, Universities, institution*

Introduction:

Higher education becomes input to the growth and development of industry and also seen as an opportunity to participate in the development process of the individual through a flexible education mode commonly stated reasons for these observations are1

- **Enrollment:**

According to the All-India Survey on Higher Education (AISHE) report 2018-19, the Gross Enrolment Ratio (GER) in Higher education in India is only 26.3%, which is quite low as compared to the developed as well as, other developing countries.

- With the increase of enrollments at the school level, the supply of higher education institutes is insufficient to meet the growing demand in the country.

- **Quality:**

- Ensuring quality in higher education is amongst the foremost challenges being faced in India today.
- However, the Government is continuously focusing on quality education. Still, a large number of colleges and universities in India are unable to meet the minimum requirements laid down by the UGC and our universities are not in a position to mark their place among the top universities of the world.

- **Political Interference:**

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1https://www.mhrd.gov.in/higher_education

India's higher education system is the third largest in the world. The University Grants Commission is its main governing body and also oversees accreditation for higher learning.

The Indian higher education system has expanded at a fast pace by adding more than 20,000 colleges and more than 8 million students in a decade and as of today, India has more than 800 universities, with a break up of Central, State, Deemed **and** Private universities along with many institutions established and functioning under the State Act, and Institutes of National Importance - which include AIIMS, IIT's and NIT's among others.

Other institutions include Government Degree Colleges **and** Private Degree Colleges, including exclusive women's colleges, functioning under these universities and institutions. Colleges may be **Autonomous,** i.e. empowered to examine their own degrees, up to the PhD level in some cases, or **Non-Autonomous,** in which case their examinations are under the supervision of the university to which they are affiliated; in either case, however, degrees are awarded in the name of the university rather than the college.

The emphasis in the tertiary level of education lies on science and technology. Indian educational institutions by 2004 consisted of a large number of technology institutes. Distance learning and open education is also a feature of the Indian higher education system, and is looked after by the Distance Education Council. Indira Gandhi National Open University is the largest university in the world by number of students, having approximately 3.5 million students across the globe.

Some institutions of India, such as the Indian Institutes of Technology (IITs), National Institute of Technology (NITs), Indian Institute of Science, Indian Institutes of Management (IIMs), International Institute of Information Technology (IIIT), University of Mumbai and Jawaharlal Nehru University have been globally acclaimed for their standard of education.

Conclusion: Higher education system plays an important role for the country's overall development which includes industrial, social, economic etc. Indian higher education system is third largest in the world. The role of Indian higher educational institutes such as colleges and universities in the present time is to provide quality based education in the field of education, research etc. to empower youth for self sustainability. This paper includes the key challenges that India is currently facing in higher education and also includes some initiatives taken by the government to meet those challenges.

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Contemporary Problems of Extradition in National and International Perspectives

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Abstract:Global criminal actions have converted as universal problem. To battle these problems there should be an international cooperation among nations to punish criminals and reduce the crime rates in the world. With reference to the overhead declaration in its Article 1, the United Nations Model Treaty on Extradition, 1990 gratifies States to extradite the fugitive offender on the basis of an agreement or treaty[1]. Butat present even in absence of treaty also States can transfer or surrender or extradite the fugitive criminal on the basis of reciprocity or good faith. No State interferes in the affairs of another sovereign State because; every State is sovereign in its territory. It meansit follows from the simple proposal that one State may not do an act of control upon the territory of another sovereign State that a sentenced or suspected criminal who makes good his flee from the territory of the State where the offence was done to the land of another sovereign State is exempted from the confiscation by the authority of the former State.The purpose of this article is to: first, at present what are the contemporary problems of extradition in national and International perspectives; second, whether conditions for extradition helps to fugitive offender to flee from the punishment; third, without extradition treaty a state cannot extradite the criminal to requesting state and lastly, draw some conclusions on the future of the rule of extradition in potential new universal extradition law.

It follows from the simple proposal that one State may not does an act of control upon the territory of another sovereign State that a sentenced or suspected criminal who makes good his flee from the territory of the State where the offence was does to the land of another sovereign State is exempt from the confiscation by the authority of the former State. Even today, also several States failure to bring back the fugitive criminal before the judiciary. Because what are the procedures and conditions are adopted by the States for extradition, it is very difficult to fulfill and follow. These practices and conditions some time helps to fugitive criminal to flee from the punishment. Therefore, universal law is essential for extradition, then only we can see the conflict less extradition in the world. Under customary international

[1] Art-1 of the United Nations Model Treaty on Extradition, 1990 provides that State should extradite the criminal on
the basis of treaty

the "D" company. In 2003 he was designated as a global terrorist. For capture of him India and United States announced a reward of US$ 25 million for his role in the 1993 Bombay bombings and killed more than 200 peoples.. According to Government of India he is in the city of Karachi, Pakistan[22]. The Unites States Government has confirmed in a London Court that the most wanted criminal or terrorist for India, Dawood Ibrahim and "D" company are based in India, UAE and Karachi, Pakistan. During the ongoing proceedings of extradition of 51 year old Jabir Motiwala in west Minister Magistrates Court in London. He was one of the right hand people of Dawood Ibrahim and he was arrested in London in 2018, August. Because he was accused of plan to commit extortion, blackmail, A-class drugs trafficking and money legalizing. Before west Minister Magistrates Court in London the accused jabber Motiwala admitted that Dawood Ibrahim is the head of the "D" Company and it is situated in Karachi, Pakistan. Several times Government of India requested to State of Pakistan to surrender Dawood Ibrahim but State of Pakistan refused the requests of State of India and held that he is not in PakistanDawood Ibrahim is the chairman of the "D" company. He did lot of unlawful acts or crimes in different States. He was born in 26th December, 1955. He is an underworld don in Mumbai. Dawood is wanted on the charges of terrorism, extortion, targeted killing, murder and several other cases. In 2003 he was designated as a global terrorist. For capture of him India and United States announced a reward of US$ 25 million for his role in the 1993 Bombay bombings and killed more than 200 peoples. In 2011 FBI and Forbes declared Dawood Ibrahim was named three on the world's top ten most wanted fugitive criminal. According to Government of India he is in the city of Karachi, Pakistan[23]. The Unites States Government has confirmed in a London Court that the most wanted criminal or terrorist for India, Dawood Ibrahim and "D" company are based in India, UAE and Karachi, Pakistan. During the ongoing proceedings of extradition of 51 year old Jabir Motiwala in west Minister Magistrates Court in London. He was one of the right hand people of Dawood Ibrahim and he was arrested in London in 2018, August. Because he was accused of plan to commit extortion, blackmail, A-class drugs trafficking and money legalizing. Before west Minister Magistrates Court in London the accused jabber Motiwala admitted that Dawood Ibrahim is the head of the "D" Company and it is situated in Karachi, Pakistan. Several times Government of India requested to State of Pakistan to surrender Dawood Ibrahim but State of Pakistan refused the requests of State of India and held that he is not in Pakistan. In these circumstances then the question how injured State can bring back the

[22]https://enconmictimes.indiatimes.com on 08-09-2019 at 9.00 pm.
[23]https://enconmictimes.indiatimes.com on 08-09-2019 at 9.00 pm.

fugitive and punish the fugitive criminal. Sometimes on the basis of reciprocity or good faith States can extradite the criminal without extradition treaty.

Conclusion: It is the social obligation and responsibility of every State to punish the criminals. Now a day's States enacted plenty of legislations to punish the culprits and reduce or lessen the crime rates. Father of Modern international law Hugo Grotius said every State has the right to punish the criminal irrespective of nationality because without punishment it's very difficult to establish the peace in the world. Therefore, he said it is the societal obligation of all the State to punish the criminal. But related to extradition of criminal domestic law and treaty provisions plays an important role because there is no universal for extradition. United Nations was established on 24th October, 1945. From 1945 to till today UNO will not conduct single convention on extradition, therefore States adopted different types of practice in extradition. It means States enacted their own laws for extradition and treaty provisions. Even at the time of enter into treaty, treaty parties have the liberty to accept conditions or stipulations according to wish. When States adopted different types of practice, conditions and follows their domestic law, then it's creating lot of contemporary problems for extradition. Therefore to repeal the contemporary problems, UNO should enact Universal law and all the States of the world should follow that law at the time of extradition.

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A critical analysis of reasons for adoption of children in India

Mrs. Deepu P. *

Introduction

Family plays an important role in society. Almost everyone would have spent at least sometime as member of a family and those who have not enjoyed family life have suffered a lot on their life span. Living with family brings many advantages to an individual.

The presence of a family is an essential component of every human being's life, starting from the stage of infancy up to old age. For a child, family is the first agent of socialization and the influence of the family on the child during its formative years has a great impact on their life. The atmosphere at home, as seen in terms of the discipline and sound relationship pave the way for a child to learn socially accepted forms of behavior. Further the child will also learn to cope with pressures and responsibilities both inside and outside the home.[1]

Meaning & Definition of Adoption

The concept of adoption is concerned it as very difficult to define in words. The concept of adoption has changed over a period of times in its form, purposes and objects because it is natural that as human thought proceeds the concept and organization of social institutions is also advanced and get modified. In most of ancient civilizations and in Southern Indian cultures as well as, the purposes served by adoption differed substantially from those emphasized in modem times. The continuity of male line had been the main goal of adoption among Hindus. The importance of male heir along with the religious and economic consideration made it more popular among the Hindus. During the olden days, only the son could be adopted and welfare of the adoptee was the primary concern than the welfare of the adopted.

Adoption has always been considered as a wonderful opportunity to provide the child with home and the parents a child. It offers an excellent alternative to institutional care for an abandoned, destitute or neglected child in an atmosphere of happiness, love & understanding which only a family can provide.

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1 DasharathaRamaiah.K: " The Child's Personality - Impact of the family", (Social Welfare Department, Bengalure,1976) at P 31-33.

The New Encyclopedia Britannica: Adoption is the act establishing a person as parent to one who is not in fact or in law his child. Thus adoption signifies the means by which a status or legal relationship of parent and child between persons who are not so related by nature is established or created[2].

According toWorld Book Encyclopedia: adoption is a process by which people take a child who was not born to them & raise him or her as a member of their family.[3]

Section 2(2) of Juvenile Justice (Care and Protection of Children) Act, 2015: Adoption means the process through which the adopted child is permanently separated from his biological parents & becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to be biological child[4].

Section 2(3) of Central Adoption of Resource Authority: Adoption means the process through which the adopted child becomes the lawful child of his adoptive parents with all the rights, privileges & responsibilities that are attached to a biological child.[5]

Adoption in Indian Mythology:

Hindu mythology contains several visions concerning adoption. Anthropologically and historically speaking they represent attitudes and value system of human history. They may not be adoptions in the true sense but they represent the concept of adoption. i.e., of bringing up someone else's child as one's own.

Indian tradition has its characteristic paradoxes. The religious epics abound with examples of babies that were born in one place and brought up elsewhere by non-biological parents. Sita in the Ramayana and Krishna, Karna, Shakuntala in the Mahabharata are some of the know names. The story of Krishna, which is often quoted as a narrative in which there is total acceptance of the notion that an adoptive mother can love and care for non-biological offspring, so establishes the reciprocation of the love by the child.[6] The fact that Krishna is referred to as Yashodanandan appears very crucial to the notion of adoption and entitlement. The story of Karna in the Mahabharata has more in common with the practice of adoption as it exists today. Karna's story also portrays the intense loyalty of the adoptee to the adoptive parent.[7]

2 R.H.Kersley:, "The new encyclopedia Britannica", (Vol-I Edinburgh , Scotland 1768), at P 105

3 Joseph R Nolan and M.J Connolly "The World book Encyclopedia", (Vol-IChicago,Illinois) at ,P 66

4 C.P.Veena,: "Law relating to Juvenile Justice (Care & Protection of Children) Act ,2015", (C. Jammandas&Co,Educational& Law Publishers, Mumbai 2017) at P 14

5 153rd Law Commission Report on Inter- country adoption.

6 Krishna was the son of Deviki and Vasudeva but was brought up by yashoda and Nand. The popularly enacted Krishna Leela depicts Yashoda's live for her mischievous son. It also elucidates Yashoda's right to discipline her naughty and disobedient son. The story of Krishna epitomizes the joy derived from raising a child not necessarily of one's own blood. The satisfaction of maternal need and feelings is evident from the story.

7 Karna was the son of Kunti, who belonged to the ruling class. He abandoned because Kunti was an unwed mother and feared social ostracism. A poor charioteer and his wife, who did not have their own child, brought him up. Kept completely in the dark about his noble parentage, when Karna ultimately came to know of it be continued to maintain loyalty to his adoptive parents by severing all his birth ties.

There are several other tales in Hindu mythology that suggest that the concept of raising a stranger's child has always existed children were brought up by sages or rishis; girl children were brought up and given in marriage to princes and kings, indication a child – centeredness in adoption. The myth of Shakuntala and Andal assume importance as examples of female adoptions. They were both considered goddess earth's gift to their respective parents.[8]

Adoption in present Era:

Nowadays the demand for children in adoption has been increased but 1,991 children, including 1,322 girls available for about 20,000 prospective adoptive parents. The reason is that many of the child care institution which have not been registered with central adoption resource authority[9]. According the Child adoption resource information and guidance system out of ten prospective adoptive parent's only one child is available for adoption. Further, some of the unscrupulous child adoption agencies have made India international baby shopping center[10] children are sold abroad by providing false information about them and without assuring their security. The total disregard for the welfare of the children makes them mere commodities in the adoption market. The adoption guidance provides that children should be preferred for Indian adoptive parents rather than foreign adoptive parents. But in reality the agencies never prefer children being offered for Indian adoptive parents. At present there is no uniform law for adoption. The institution of adoption has received a more attention to Hindu because they always considered it as a means of salvation.

Reasons for Adoption in India

Adoption is a very personal decision for prospective parents, it's very difficult to point out one or two reasons because the reasons for adoption are differ from person to person and family to family. Generally the couple unable to bear a child after a long time of marriage they go for adoption. A close look at the data on adoptive parents reveals that a majority of them adopt because they cannot have biological children. In most cases, the reason for non-conception is a problem identified with the woman. In only a few instances is it acknowledged that the man is responsible. The reasons for infertility in women are recognized as a lack of ovulation, blocked fallopian tubes, low hormone levels and repeated abortions. In men the reason generally given is low sperm count.

The reasons for adoption can be discussed in two ways

1) conventional reasons 2) Non-conventional reasons

[8] The maiden who was Shakuntala revealed to the king the secret of her birth. Her real sire was Vishwamitra, the holy sage who had been a Kshasriya and was made a Brahmin in reward for his austerities. It came to pass that Indra become alarmed at his growing power. So Indra commanded Menaka, the beautiful apsara, to disturb the mediation of the holy sage. In time, Menake became the mother of a baby girl whom she cast on the river bank. Then Kanwa found and took pity on the child. He said, she will be mine, my own daughter.

[9] The Economic Times on August 5th, Bangalore edition, 2018,at p 6.

[10] Frontline,June 3,2005, at P 4

Conventional Reasons:

There are two fold objects of adoption. The sonless man adopts a son for spiritual benefits. The dattakaputra perpetuates the family line and the name of the ancestors of the adopter. So behind the act of adoption these two objects are hidden. A sonless person solved all secular and religious problems by the adopted son. [11]

Non-conventional Reasons:

1. Genuine love for children: Although it may sound a bit unrealistic, there are many couples that adopt children due to their love for young ones. Their love for children is so compelling that they adopt children, irrespective of whether they have natural heirs or not.

2. A couple with two or more children of the same sex: If a couple already has two boys, they may crave for a girl child or vice versa. With no control over the sex of a natural child, they fear trying again. But they find it much safer to go ahead and adopt a readymade child of the opposite sex. Some couples adopt children out of their specific choice of sex/gender of the child. They may even adopt two children of both the sexes and complete the family.

3. A couple with only one child: Sometimes the single child feels the loneliness. However, a couple, especially the mother, may not have the energy to go through the entire process of pregnancy and childbirth to pander to the needs of this only-lonely child. It seems much simpler to adopt a second child and complete the family.

4. To control the population: Some people genuinely believe that the world does not need any more children. They feel for the children who do not have families and home. Therefore, they decide to adopt children from this overpopulated world. What a noble thought it is one of the most touching ways of serving the social cause.

5. For the joy without the labour.: You may heard of this joke that adoption in a healthy couple is the height of laziness. If a couple can produce a child, then it is pointless to adopt, many feel. But one of the more serious note, some women are genuinely scared of labour pain and the process of pregnancy or some women do not want to lose their figures after child birth. In this connection the couple adopts children and experiences the joy of parenthood without the pain.

6. To help out a friend or a relative: There can be a specific reason behind adoption. For example, a couple wanted to help out a friend who had fallen on bad days. Therefore, they decided to adopt his son. Sometimes, some couples are blessed with twins. They do not know how to handle two infants at a time then, childless couple who wants to adopt one of the twins.

7. People involved in their careers: Some couples do not have the time, energy or the inclination to go through the process of childbirth. They find more convenient to go in for adoption. In some cases, the biological clock of career-oriented women may run out, and they may be compelled to adopt.[12]

[11] SS.Desai: Mulla "Principles of Hindu Law",(Lexis NexisButterWorths ,Nagpur, 2010) at ,P 752

8. Contraceptive Pill: Using of contraceptive pill like Mala- D or other methods in order to avoid pregnancy before or after the marriage leads for repeated abortion. Even before and after regularly causes detrimental to have children in future many couples opt for IVF or any other methods but when it is not successful finally they go for adoption.

9. Single person who wants to experience parenthood: Nowadays due to many reasons men and women are scared about the marriage and they decided to remain single. In the mean while single person is also eligible to adopt a child legally. In this regard, without marriage they can enjoy the parenthood by adoption.[13]

Based on above reasons the researcher pointed out some celebrities who have adopted i.e. SusmitaSen – Renee, MithunChakravarthy- Ishani, Salim Khan – Arpitha, SubhasGhai- Megha, Dibakar Banerjee – Herla, Shobhana – Ananthanarayani, ReveenTandon- Pooja and Chaya, Nikhil advani – Keya, KunalKohli – Radha, SandipSoparkar – Arjun. Further the researcher enlighten that, Rajesh Khanna (Famous Bollywood actor), Nelson Mandela,(South African's first black president), Bill Clinton,(42nd President of USA), Dave Thomas (KFC), Steve Jobs(Founded apple Inc) are instances of adopted children.

Consequences of Adoption of Child:

Adoption ordinarily terminates the rights and responsibilities of the natural parents to the child. The death of an adoptive parent does not restore the rights of the natural parents.

Adoption creates the same rights and responsibilities between a child and adoptive parents as existed between natural parent and child. An adopted child is entitled to the same rights as a natural child. Statutes usually provide that adopted children can inherit from adoptive parents in the same capacity as natural children & conversely, adoptive parents can inherit the property of an adopted child who predeceases them.[14]

Conclusion:

The traditional approach for adoption was institutionalization of destitute, neglected, marginalized children and children in especially difficult circumstances. This approach resulted in the child being separated from family environment. The trend today is towards non institutional services. During the last few decades the significant role that a family plays in a child's nurture and his or her physical, psychological, mental and social growth and development has been increasingly realized. The non-institutional approach to children in crisis situation is upheld globally as it meets the

[13] Indian Parenting, " Beautiful reasons for adoption" (Nov 24, 2017,11.30 P.M)http://www.indiaparenting.com/home-/3_85/ten-beautiful-reasons-for-adopting-a-child.html

[14] GunaPanettieri and Philip S. Hall: " The Single Mother's Guide to Raising Remarkable Boys" (Adams Media, an F+W Publications Company, USA, 2008) at P155

[14] "Consequence of Adoption", law. jrank.org,(Oct 26, 2017, 10.35PM) http://law.jrank.org/pages/4100/Adoption-Consequences-Adoption//.

child's right to a family. Every child has a right to family. This can be achieved by strengthening the family as a unit, by providing counseling and support services. When the child's own family cannot look after him or her, substitute service based care should be arranged. The final objective is towards the institutionalization of the child.

The concept and practice of adoption in India has changed significantly from the past. Adoption in the earlier time was parent centered, the needs of the parents being the primary consideration. The practice was to adopt children from within the family or kinship group. Beginnings from the 1960's changes have taken place at the social, legal and practice levels of the adoption. The traditional practice of institutional care being offered to an increasing number of orphaned, destitute children was replaced by non-institutional approaches of finding family based alternatives. Adoption is considered the best alternative for children deprived of biological families. The practice of placing unrelated children in adoption through agency intervention began in the early seventies. In this connection the following laws are governing the adoption of the child, care and protection the children. In spite of these laws the peoples are not aware of it.

In the existing Indian set – up, adoption of a child never serves the purpose of adoption as intended by the International Convention. More than that, the existence of country – wide rackets involved in inter- country adoption exploiting the loopholes of the existing rules explain how the best interest of the children are being oppressed.

* * * *

A CRITICAL ANALYSIS OF LAWS RELATING TO MARITAL RAPE IN INDIA

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ABSTRACT

Marital rape is an aspect of marriage that is solely not taken care of by the present existing laws. In spite of the increased recognition of various Penal laws in India, the Marital Rape has generated in the past two to three decades. There is a need for a special law on marital rape in India. There are many descending opinions on the idea of marital law, few are that criminalization of marital law would flaw the institution of marriage and courts aren't supposed to interfere within what goes around with a husband and wife. Women have been given with the right to fight for protection, but her own husband, who she married with full belief, tries to hurt and torture her by having a forceful sex without her consent which ultimately spoils her health and well-being. Marital rape is not only the chief concern in the field of women's rights at the moment, but it also violates several constitutional provisions at the same time. Somebody rightly pointed out that a country's growth and development can be assessed by looking at the position and respect that it gives to its women. In this paper, the researchers would like to give out the scope of marital rape in India, the laws that it violates, an analysis as to why has not been legalized yet and why it should be legalized and a final note on conclusion.

Key words: Marital Rape, Penal laws, Women's Right, Criminalization

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of patriarchal subjugation and most of the times, because of their economic dependency, the women victims don't come forward with their sufferings. Taking into account the laws of other countries in comparison to the Indian nation, India is far behind from taking a step to create an exclusive law for MARITAL RAPE at the moment. Till a new law comes into being, the provisions from IPC and the Indian Constitution could be used as a defense. However, in the changing times every law needs to go through a change as one is discovering new things every day and human mind is constantly evolving. Thus, till a new law is in place, one can use the existing provisions. After a scrutinizing study one can bring a new law in place for Marital Rape or add relevant sections to IPC or the Domestic Violence Act.

ENDNOTES

[i] VANDANA, Sexual Violence Against Women-Penal Law and Human Rights Perspectives, 3 (2009). Lexis Nexis Butterworths Wadhwa Publishers, Delhi.
[ii] Bodhisattwa Gautam v. Subhra Chakraborty (1996) S. C. 922(India)
[iii] INDIAN PENAL CODE section 375 (45 of 1860) reads: —A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions: —
First.— Against her will.
Secondly.—Without her consent.
Thirdly.— With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.
Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.
Fifthly.— With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.
Sixthly.— With or without her consent, when she is under sixteen years of age.
Explanation Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.
Exception. —Sexual intercourse by a man with his own wife, the wife not being under fifteen years of age, is not rape.
[iv] INDIAN PENAL CODE Section 376A. Intercourse by a man with his wife during separation.—Whoever has sexual intercourse with his own wife, who is living separately from him under a decree of separation or under any custom or usage without her consent shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.
[v] INDIAN PENAL CODE1860, Section 376(1).
[vi] INDIAN PENAL CODE (1860), Section 376A
[vii] INDIAN PENAL CODE , Exception to Section 375
[viii] The Protection of Women From Domestic Violence Act, 2005, Acts of Parliament Section 3 Explanation 1 (ii).
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[xxiii] Haryana v Prem Chand, (1990) S. C. C. 538 (India)
[xxiv] Queen Empress vs. Haree Mythee , (1891) Indian Law Review 18 Cal. 49
[xxv] Emperor vs. Shahu Mehrab ,(1917) S.C.C 42(India)
[xxvi] Saretha vs. T. Venkata Subbaih , (1983) A.P 356 (India)
[xxvii] AIR (1991) S .C. 207 (India).
[xxviii] Supra note 21
[xxix] Joseph Shine v. Union of India, 2018 S .C. C. 1676 (India)
[xxx] id

COMPETITION PROVISIONS IN TRADE AGREEEMENTS – AN ANALYSIS ON INDIA'S NEGOTIATING STRATEGY

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Abstract

The process of globalization is considerably driven by trade and investment liberalization. In global market, there is an increase in interdependence of the economies ever since the reduction of trade and investment barriers, increased market access coupled with advances in international communication, transportation, trade facilitation and knowledge based services. There is increase in trade in unprecedented way alongside a sharp increase in foreign investment. Firms are increasingly organizing their operations on a global scale and trade is getting internationalized where they are more exposed to regulatory systems and business practices of different countries. There is a recent trend towards trade agreements that include trade related competition provisions. However there are large differences across these trade agreements in terms of how the competition provisions are addressed. The international community has tried and tested various approaches to effectively tackle competition issues with a global dimension. These include efforts to achieve multilateral agreements within WTO, incorporating competition provisions within FTAs, signing bilateral agency contracts and informal cooperation between competition agencies. In this context, this paper focuses on competition provisions in trade treaties, highlighting few FTAs and RTAs. An analysis on these draws a conclusion that cooperation in implementing competition laws is immensely helpful.

Key Words: Liberalization, Competition, Trade Treaties, Bilateral Agreement

INTRODUCTION

In recent years, countries across the globe have been engaging in trade agreements at bilateral and regional level to forge deeper economic relations. Conventional bilateral agreements focused on removal of tariff barriers and wider markets for goods. However, in recent years, there is a trend towards agreements that include a broader list of trade related issues: trade in services, investment, intellectual property, trade facilitation, competition, and so on.[2] Competition policy and its related aspects have become relevant today because with the inflow of foreign products and companies, there are new challenges such as anti-competitive behaviour by Multi-national Corporations and international cartels. In such a scenario, incorporating competition issues in bilateral agreements/ Free Trade Agreement (FTAs) ensures that anti-competitive business practices do not hinder market access and dilute the benefits of such bilateral agreements.[3] India is also following the same path of entry into bilateral FTA/PTA as evidenced by Indo- Sri Lanka, Indo-Chile, Indo-Bhutan, Indo-Thai FTA and Singapore Comprehensive Economic Co-operation Agreement etc. These agreements have focused on elimination of tariff barriers, co-operation in financial services, investment and other areas of economic co-operation to ensure greater market access for India's goods and services through preferential deals. India has been fairly cautious in excluding competition provisions in its bilateral treaties. However, increasingly there is a feeling that issues such as market domination and role of Competition Commission should also be included in these bilateral treaties. This is considered important for providing a

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[2] NAFTA, MERCUSOR were some of the earliest trade agreements covering wide range of issues such as trade in goods and services, intellectual property, investment, government procurement, free movement of business people, competition, and a dispute settlement mechanism

[3] As of 4 January 2019, 291 RTAs are in force.

CONCLUSION

In terms of implementation of Competition provisions in trade agreements, there is very little experience. The level of implementation of Regional Competition provisions tends to be low, particularly in developing countries. This is because most of the developing countries still lack a competition law or the law being of recent origin. They suffer from low institutional capacity of domestic competition as well as weak competition culture impacting potential for cooperation. Even in terms of applicability it cannot be taken as 'one size fits all' as there is a wide heterogeneity of participating countries in terms of size, level of development or maturity of their competition systems or even the existence of competition law.

Thus, involving competition authorities in the negotiation of RTAs is good to make the competition provisions more effective. A successful competition law regime at least in one member state, can act as a catalyst to the adoption of competition clauses in trade agreement and for its successful operation. For one state it can serve as a basis for competition law advocacy and also accumulated knowledge can be built upon, in operating the agreement. Also, sufficient resources are important precondition for an operational regional competition authority. Insufficient resources often result from wider macro-economic conditions in member states such as deep poverty, regional conflicts or natural disasters and competition law often is not a priority. This fact strengthens the need to determine, from the outset, whether indeed it is in a country's or a region's interest to invest in competition law. This depends upon the government wish as to what to do first?

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INVOKING 'FORCE MAJEURE' CLAUSE FOR NON-PERFORMANCE OF CONTRACT- A PREDICAMENT CREATED BY THE PANDEMIC

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ABSTRACT

The drastic ill effect of pandemic is felt by almost all the sectors of the industry. Globally the governments declared lockdown to control the spread of deadly virus. The borders of all nations are closed and as result trading activities has come to a standstill. There is an increasing financial burden coupled with an impending uncertainty, over the performance of commercial contracts and this has led to the breach of agreed obligations. The impact of COVID-19 has incapacitated the parties to fulfill their respective obligation under the commercial contracts, as it calls for a diverse nature of resources and services for its performance. In this background this paper ponders over the force majeure clause to be invoked as a defence for non-performance of contract keeping in mind the consequences of such situation. An analysis of present Indian laws on non-performance of contract is also discussed in the light of present policy measures undertaken by the authorities.

In most of the cases where performance of a contract becomes impossible, the party that has received any advantage under such contract at the time when the agreement is discovered to be void, is required to restore such advantage to the person from whom the same was received. This is expressly enacted under Section 65 of the Contract Act. However, this is not an absolute rule. The extent of restitution will depend on a case to case basis, involving an analysis of several factors, such as expenses incurred by the non-breaching party.

Further, parties to contract are free and can expressly provide that the risk of supervening events shall be borne by one of them, or apportion it, or deal with it in various ways such as suspension of performance, compensation, refund, restitution or discharge. Ultimately, if a Party fails to agree on the event being a Force Majeure event, or fails to comply with the provisions of the Agreement under the applicable Force Majeure provisions, or attempts to establish a claim of frustration of contract in presence or absence of a force majeure clause, parties will need to look into the contract and assess legal risk and remedies in terms of litigation or arbitration of the dispute arising out of such disagreement.[xxii]

CONCLUSION

Thus, it can be said that invoking force majeure clauses would depend on the contractual terms. Also, it is critical to understand the commercial operations and transactions of the company in the relevant industry and sector as to the ambit of contractual clauses dealing with impossibility of performance. The judicial interpretation of contracts in disputes involving unforeseen events is most of the times dependent on the nature of the contract and the language of the terms. It is therefore prudent for the parties to know their respective rights and protect themselves on either side of performance, allocate risk properly, formulate proper strategy for renegotiation and save the intention specified in the contract through proper legal advice. The government should also be proactive and take necessary steps to rectify the defects in amended Specific Relief Act.

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[xxi] *Supra* note 14
[xxii] *Supra*

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A Human Right Approach of Right to Health During Pandemic

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I. Introduction

The right to live isn't the absence of death; it's living a life with good health and human dignity.' Human rights are fundamentally linked to global health in the context of the COVID-19 pandemic. Human rights law guarantees everyone the right to the highest attainable standard of health and obligates governments to take steps to prevent threats to public health and to provide medical care to those who need it. The language and principles of human rights relate to the rights that support the survival and basic wellbeing of communities and individuals, including their rights to life, health and an adequate standard of living. Human rights law also recognizes that in the context of serious public health threats and public emergencies threatening the life of the Nation, restrictions on some rights can be justified when they have a legal basis, are strictly necessary, based on scientific evidence and neither arbitrary nor discriminatory in application, of limited duration, respectful of human dignity, subject to review, and proportionate to achieve the objective.

The scale and severity of the COVID-19 pandemic clearly rises to the level of a public health threat that could justify restrictions on certain rights, such as those that result from the imposition of quarantine or isolation limiting freedom of movement. At the same time, careful attention to human rights such as non-discrimination and human rights principles such as transparency and respect for human dignity can foster an effective response amidst the turmoil and disruption that inevitably results in times of crisis and limit the harms that can come from the imposition of overly broad measures that do not meet the criteria.

II. Concept of Human Rights and Health

2.1 Human Rights

Human rights have been defined as basic moral guarantees that people in all countries and cultures allegedly have simply because they are people. Calling these guarantees "rights" suggests that they attach to particular individuals who can invoke them, that they are of high priority, and that compliance with them is mandatory rather than discretionary. Human rights are frequently held to be universal in the sense that all people have and should enjoy them, and to be independent in the sense that they exist and are available as standards of justification and criticism whether or not they are recognized and implemented by the legal system or officials of a country.

Human rights are the basic rights and freedoms that belong to every person in the world, from birth until death. They apply regardless of where you are from, what you believe or how you choose to live your life. They can never be taken away, although they can sometimes be restricted – for example if a person breaks the law, or in the interests of national security. These basic rights are based on shared values like dignity, fairness, equality, respect and independence. These values are defined and protected by law.

2.2 Right to Health

"The right to the highest attainable standard of health" implies a clear set of legal obligations on states to ensure appropriate conditions for the enjoyment of health for all people without discrimination. The World Health Organization defines the term "Health" is a state of complete physical, mental and social well-being and not merely the absence of disease or sickness and the concept of medical care means the diagnosis, treatment, and prevention of disease, illness, injury, and other physical and mental impairments in humans. The right to health is closely

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V. Conclusion

Many countries have halted some or all international travel since the onset of the COVID-19 pandemic but now have plans to re-open travel. This document outlines key considerations for national health authorities when considering or implementing the gradual return to international travel operations. The decision-making process should be multisectoral and ensure coordination of the measures implemented by national and international transport authorities and other relevant sectors and be aligned with the overall national strategies for adjusting public health and social measures. The gradual lifting of travel measures (or temporary restrictions) should be based on a thorough risk assessment, taking into account country context, the local epidemiology and transmission patterns, the national health and social measures to control the outbreak, and the capacities of health systems in both departure and destination countries, including at points of entry. Any subsequent measure must be proportionate to public health risks and should be adjusted based on a risk assessment, conducted regularly and systematically as the pandemic situation evolves and communicated regularly to the public.

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PROBLEMS OF THE MARGINALIZED SECTION'S WITH SPECIAL REFERENCE TO AGEING WOMEN IN INDIA – A HUMAN RIGHTS APPROACH

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Abstract– **In the contemporary society ageing women face miserable conditions in their life due to social and traditional family structure they are forced to live with several restrictions hence they find themselves marginalized and isolated all the time. In India, the life expectancy has steadily gone up from 32 years at the time of independence to over 66.8 years (male: 65.77 and female: 67.95 years) in 2011, as women live longer than men, most of them have to live a life of a widow in their silver years. Ageing women lead a marginalized life and many of them live a neglected and miserable life. Most of the research studies shows there is gross of violation of human rights to ageing women but still due to family sentiment and social values, these people are doesn't reveal the situation which they faced in the four walls of the home. Almost all ageing women face health, financial, emotional, abuse, discrimination and easily target by the criminals specially ageing women, hence we need to focus on human rights issues concerning ageing women in order to ensure respectful, more comfortable and healthy environment for them to live. The present study focus upon the human rights of ageing women in Indian scenario and how for laws and government policies to ensure human rights protection among ageing women.**

Key Words: Ageing women, Problems of ageing women, Human rights, National and International Laws.

INTRODUCTION

The Nature philosophy says everyone who is born has to grow old. One has to grow old and live with the discomfort, disabilities and infirmities normally associated with old age. Living with old age means living with problems this become a serious social problem with development of medical sciences and health care system. In India, the life expectancy has steadily gone up from 32 years at the time of independence to over 66.8 years (male: 65.77 and female: 67.95 years) in 2011, as women live longer than men, most of them have to live a life of a widow in their silver years this compels the state to seriously look and provide them human rights protection and social security benefits within the means and bounds of the State's revenue capacity.

POPULATION OF AGEING WOMEN IN INDIA

Population ageing in recent years show that ageing population is not a balanced one as the female ageing are higher than male elderly. At the age of 60 men out of number the females whereas as the age grows female outnumber the male. The 80+ population projection reveals that by 2016 men figure 36, 13,000 where as women figure 53, 46,000 (Bose) i.e. 0.7% of the total populations will be elderly females. Maximum old population is in the category of 60-64 (3.1%) which declines as the age increases.

HUMAN RIGHTS VIOLATIONS OF AGEING WOMEN

Ageing problem is a major problem across the world, as the population of ageing is growing due to increase in health facilities. Among the ageing person, ageing women are most vulnerable group of the society suffering from socio-economic and health problems. The extents of problems of ageing women are more if they are widows. There are innumerable problems faced by the ageing women, i.e. loss of social status, economic insecurity, lack of respect in the society and family, and if widow, the worries, depression is more causing more health problems. Ageing women have to face age related discrimination, mistreatment, harassment and abuse in their life due to lack of awareness about their rights and support system available for them in old age. Indian women have always been introvert by nature, that's why they are vulnerable and soft target of wrong doers.

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Contemporary Issues Of Indigenous Community In Protection Of Biodiversity And Their Intellectual Property Rights

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Abstract.

Since the time immemorial indigenous and local communities are treasure of traditional knowledge around the world. Indigenous knowledge has gained over centuries and is part of local culture and environment and it transmitted orally from generation to generation. In the context of biodiversity traditional knowledge refers to the know-how, skills and practices evolved and adopted by local and traditional communities over centuries regarding maintenance and use of natural resources. It covers medicinal and other properties of plants and animals, the manner of using them for healthcare and other essential needs. Indigenous and local communities are real natural resource managers and contribute to nation in conservation and sustainable use of biodiversity resource. They helps to regulate human interactions with the natural environment and secure intergenerational equity. Their skills and techniques provide valuable information to the global community and a useful model for biodiversity policies. Indigenous people identifies natural resources in biodiversity which contains medicinal values through skill and techniques which is useful for our society. Such skills and techniques should be protected under intellectual property law. Present intellectual property law has not recognised intellectual property rights of indigenous community. Hence this research article will discuss contemporary legal as well as policy issues in protecting intellectual property rights of indigenous and local community.

Introduction:

Man is by nature is a social animal. He may be in the culture of indigenous community or in non-indigenous culture but surrounded by biological diversity. Biodiversity is therefore the natural biological capital for our life support system. Our survival depends on the web of life created by the interactions of the millions of different animals, plants, fungi, and other microscopic organisms that share the Earth with us. Biological diversity renders invaluable services for human well-being. Our ecosystems services, particularly the ones that provide food, fiber, freshwater, pollination of crops, livelihoods, protection from natural disasters and significantly contribute to human health. Over 1,00,690 species of fauna and 47,480 species of

flora have been documented in the 10 BZs of the country. This diversity is hosted by many types of terrestrial and aquatic systems namely forests, wetlands, grasslands, deserts, coastal, and marine ecosystems.

There is an infinite emotional bonding between Indigenous community and biodiversity since time immemorial. Some plants and trees have greatest significance in tribal culture. The life of non-tribal or life of our modern society is also associated with biodiversity which has different bio- geographical areas. However, the local communities particularly, members of tribal sections largely depends on these natural resources for their day-to-day living, they protect the biological resources with their traditional knowledge and their own sustainable development strategy.

In contradiction, present day's biodiversity is under great pressure because of our neo-modern life style, rampant urbanization, technological and industrial developments, proliferation of environment-unfriendly economic activities such as inappropriate mining, appropriation of wetlands for construction etc., are indeed the main reasons that damage the sustainability of such ecosystem services and degradation of environmental and natural resources which ultimately impacts on life of indigenous habitats. Thus, this article will enlighten on contemporary issues on traditional knowledge of tribal community and their Intellectual Property Rights.

Who are Indigenous Tribes?

Inhabitants or indigenous of forest or hill areas are identified as tribal. They are also known as Adivasi (adi means first, original and vasi means dweller, inhabitant). They have been also given self-identity with the modern concept of indigenous people. In the Asian context, the term "indigenous peoples" is generally understood to refer to distinct cultural groups, such as "Adivasis", "tribal peoples", "hill tribes" or "scheduled tribes", while some indigenous peoples in Africa are referred to as "pastoralists", "vulnerable groups" or "hunter-gatherers"[1]

Traditional knowledge of tribal inhabitants:

Traditional knowledge is the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over centuries and adapted to the local culture and environment, it is transmitted orally from generation to generation. Traditional Knowledge (TK) in the context of biodiversity refers to the know-how, skills and practices evolved and adopted by local and traditional communities over centuries regarding maintenance and use of natural resources. The range of this knowledge is vast. It covers medicinal and other properties of plants and animals, the manner of using them for healthcare and other essential needs, insights into the intrinsic value of biodiversity for environmental and human purposes and manner of conservation and sustainable use of the elements of biodiversity. Its ethical norms help regulate human interactions with the natural environment and secure intergenerational equity.

Traditional knowledge can make a significant contribution to sustainable development. Most indigenous and local communities are situated in areas where the vast majority of the world's genetic resources are found. Many of them have cultivated and used biodiversity in a sustainable way for thousands of years. The contribution of indigenous and local communities to the conservation and sustainable use of

[1] Office of the United Nations High Commissioner for Human Rights [OHCHR], 2013, p.7

promoting grassroots knowledge, innovations, value addition and protection including through IPRs of the traditional and local knowledge documented by it and its field organizations. Honey Bee Network associated with NIF has documented more than 1,00,000 ideas, innovations and TK practices.

Intellectual Property Rights and Traditional Knowledge

The Traditional Knowledge Digital Library (TKDL) is pioneering initiative in India under the joint collaboration of Council of Scientific and Industrial Research (CSIR) and ministry of Ayush, to prevent exploitation and to protect Indian Traditional Knowledge at the 14 Patent offices worldwide. The access of the database is given to patent offices worldwide that have signed non-disclosure access agreements with CSIR. The CSIR-TKDL unit also files third party observations and Pre-grant oppositions on patent applications related to Indian traditional Knowledge based on the TKDL evidences. So far 265 Patent applications have been either withdrawn/deemed withdrawn or amended or set aside on the basis of TKDL evidences. The People Biodiversity Register (PBR) is a tool for formal recording and maintenance of comprehensive information on availability and knowledge of local biological resources, their medicinal or any other use. The CSIR-TKDL Unit has signed a Non-Disclosure Agreement with NBA of PBR information. The above initiatives of government not clear in recognising TK holders under patent regime and to provide exclusive economic benefits. The contribution of TK to global pharmaceutical industry is infinite but TK holders are not recognised so far.

Concluding remarks:

Indigenous community traditional knowledge has ancient roots and an integral to the identity of tribal community and its preservation is paramount importance for their social and physical existence. This knowledge is an outcome of their emotional connection with their local biodiversity that is plants, fungi, animals, and other endemic biological resources. They are conservers and reservoirs of TK and its discoveries, development, and preservation of wide variety of medicinal plants and healthy herbal formulations. As such TK plays important role in global economy. Hence, the rights and interests of the holders of traditional knowledge who provide source for their Patents must also be respected. Existing legal framework relating to IPR should be flexible in recognising and rewarding all stakeholders. Proactive legal and policy initiatives are in need at present days in protecting the economic rights of indigenous people traditional knowledge and their skills and techniques.

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Problems of Internally Displaced Persons- Protection through National & International Laws

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ABSTRACT

The war and conflict create a high level of internal displacement and refugees who are prone to various human rights violations. Estimating this number globally is difficult and also impossible to keep the record. Regular monitoring is not possible for a country when there is no coordination from central and state governments. The nature, frequency and extent of the causes of internal displacement are so varying that it would be a herculean task to monitor and record them. Political sensitivities at state level prevent the release of such data on the exact nature and extent of displacement. The majority of cases in which people have been forced to flee their homes are the consequences of governmental pursuit of political goals and development objectives. Alongside development –induced displacement new casual factors are also emerging. In a global scenario if cold war days caused displacements through armed conflicts fueled by big powers, in South Asia the so called post-cold war destruction conflicts have generated displacement since a long time. This paper explores the issue of protection of Internally Displaced Persons under both national and international laws. An analysis on migrant workers displaced recently during COVID-19 has been carried out and also focuses on theoretical and legal provisions dealing with the people who have suffered due to conflict induced displacement. The paper brings out few suggestions which is needed to alleviate the difficulties of those population affected.

KEY WORDS: Internally Displaced, National Laws, International laws, Pandemic, Community

INTRODUCTION

People are forced to flee or leave their homes particularly in situations of armed conflict are generally subject to heightened vulnerability in a number of areas. Displaced persons suffer significantly higher rates of mortality than the general population. They also remain at high risk of physical attack, sexual assault and abduction, and frequently are deprived of adequate shelter, food and health services.

The overwhelming majority of internally displaced persons are women and children who are especially at risk of abuse of their basic rights. More often than refugees, the internally displaced tend to remain close to or become trapped in zones of conflict, caught in the cross-fire and at risk of being used as pawns, targets or human shields by the belligerents.[2]

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[2]https://www.ohchr.org/en/special-procedures/sr-internally-displaced-persons/about-internally-displaced-persons#:~:text=Displaced%20persons%20suffer%20significantly%20higher,shelter%2C%20food%20and%20health%20services.

environment, access to documentation, restitution of property rights, delivering basic necessities, services and livelihood to those affected.

Looking to the West, according to the Internal Displacement Monitoring Centre, IDPs have had to either return to their place of origin or locally integrate in their place of displacement but return to a third location has not been exercised in most of the situations as seen in Bosnia and Herzegovina. In contrast countries like Georgia and Afghanistan have changed their respective policies. Lastly, the Representative of the UN Secretary General on Human Rights of IDPs[21] has supported the view that if the living conditions in a third place provide livelihood opportunities then the displaced communities would be in a better position to return their place of origin whenever it becomes possible.

The Indian Supreme Court has taken a humanitarian view of the situation of IDPs. It ruled in the *Vishaka* case[22] that in case any International convention is consistent with any of the provisions stated under the Constitution then such convention must become part of the provisions so as to enlarge their meaning and to promote the object of constitutional guarantee. It has also supported the view that in circumstances where there is no specific *law, rule, regulation or instrument* providing for the way in which the IDPs are to be regulated, then such gaps must be filled by setting out the minimum standards for their *protection, rehabilitation and relocation* in order to ensure basic human rights.

Overall, a holistic and inclusive approach involving enhanced communication, humanitarian assistance and most importantly multi-sectoral collaboration with IDPs initiated by national and local governments is the need of the hour.

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SOCIOLOGICAL PERSPECTIVE ON AGEING IN INDIA

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INTRODUCTION

Individuals are inseparable with all the problems they faced during life time. The aging process among the senior citizens of today should not be viewed as of biological and medical concern alone but of social, economic, psychological and demographical importance as well in a coordinated manner, which is the main concern of the sociological perspective approach. Further financial problem seems to be urgent, but the social psychological adjustments also need to be looked into. The problems of the senior citizen are steadily increasing in their magnitude and are generally the outcome of physical, social, economic, cultural, and psychological factors, hence the right approach to handle the senior citizen problems is coordinated, integrated and a comprehensive base which is the unique feature of the all perspective approach to the aging problems in the present research study. Aging is an index of deteriorating health. It may be fast or slow depending on the state and physical health of the senior citizen. It becomes a problem in respect of certain senior citizens if it becomes fast. The reasons for slow and fast aging relate closely to the social scenario.

SOCIOLOGICAL PERSPECTIVE OF AGEING

Old age has in fact been important area of sociological research that a whole new field of specialization called gerontology has come into existence. The aging process among the senior citizens of today should not be viewed as of biological and medical concern alone but of social, economic, psychological and demographical importance as well in a coordinated manner, which is the main concern of the sociological perspective approach. Durkheim's[2]

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[2]Émile Durkheim was a French sociologist who rose to prominence in the late 19th and ea... Along with Karl Marx and Max Weber, he is credited as being one of the principal founders of m... sociology. Chief among his claims is that society is a *sui generis* reality, or a reality unique to itself and irreducible to its composing parts. It is created when individual consciences interact and fuse together to create a synthetic reality that is completely new and greater than the sum of its parts. This reality can only be understood in sociological terms, and cannot be reduced to biological or psychological explanations. The fact that social life has this quality would form the foundation of another of Durkheim's claims, that human societies could be studied scientifically. For this purpose he developed a new methodology, which focuses on what Durkheim calls "social facts," or elements of collective life that exist independently of and are able to exert an influence on the individual.

concept of the 'Unison with the social bond'[3] furnishes the sociological perspective for the study of ageing problem among the different categories of senior citizens. This sociological perspective being comprehensive in nature combining, social, psychological, economical and cultural factors, can well explain the aging problems of the senior citizens. According to Durkheim's view point so long people of any class, age, gender and creed are closely knitted with social bond, they are hale and hearty and feel lesser the pinch of ageing in the case of senior citizens. The moment the senior citizens feel socially isolated and disintegrated from the social bond, they begin to experience fast ageing which becomes a problem. The retired persons experience fast ageing if they are deprived of the continuity to work. The senior citizens who remain actively involved in social interaction even after their retirement do not experience fast aging problems. One of the important bases of social bond in every society is religion. Those who have been all-through religious minded and maintain this tendency even after 60 years of age or retirement do not feel the problems of fast ageing. Further, those who emotionally feel the loss of social status and prestige or feel socially isolated and economically in secured after retirement or 60 years of age, they experience fast aging problems.[4]

However, there are some changes in the above values in the Indian family system. Changes always happen with the generation especially younger generations. Yet in total these values are still part and parcel of the Indian family system. From the very beginning of birth, the human children are tied down with their parents or grandparents intrinsically and remember forever their love and affection and their warmth of their mother breasts as a yardstick of their life. They experience it in a sustained internal state of mind that brings them up into the main sphere of their life. So, when they become adult, a social beings and a s responsible entity of the family of the society as a whole, they respect their elders, obey them and acknowledge their authority both at the household as well as at the wider level of the society. Deviance of the younger from this is not normally accepted by the Indian tradition either in simple or in complex societies.

[3] The first and most important element of social bond theory is **attachment**, which refers not only to interpersonal relationships but also to social and cultural standards. For example, the earliest and most influential attachment that a person can form is with their parent or parents, who presumably help us to form an understanding of the world around us. Through this attachment, we learn what to expect from others in our culture and what is expected of us in return. Overtime, we come to internalize these cultural norms as a part of our individual and collective identities, which establishes a kind of shared understanding of social boundaries that keep us from focusing entirely on ourselves or whatever it is that we want at any given moment. A person that does not form strong attachments to others, however, may come to feel like an outsider and, therefore, will be less likely to internalize or recognize the importance of these social boundaries.

[4] D.P. Saxena" Sociology of Ageing", Concept publishing company, New Delhi., 2006. Pp. 4 -5.

Finally, new standards of behaviour, new ways of spending time and money and the like provide specific grounds for conflict between the generations. The disagreements which would have remained suppressed in the past are now openly expressed. Unless the older generation remain silent, suppressing its feelings of disapproval before the young, it risks to verbal argument and contradictions, within their cultural framework, this constitutes the antithesis of appropriate modes of intergenerational communication.

CONCLUSION

Aging is inevitable. Hardly anybody is prepared for it. All elderly are not similar, because the young population is heterogeneous. While physical capabilities decline by aging, one gains knowledge and experience, thus gets wiser.One can enjoy old age if one is realistic in one's approach towards life. Change is inevitable. Physical care is to follow the principles of health and nutrition and regular physical activity.Socioeconomic status determines the general level of existence. The middle class, sometimes spend all their savings in trying to establish their children in life that they have no reserve for their own needs or medical care. The children, generally, find it difficult to accommodate old parents in their lives because the spouse and their own children take precedence! Therefore, the parents must reserve resources for their old age, while raising their family. Some parents hand over all their physical possessions including immovable property hoping that their children will look after them. In a large number of cases, they are proven wrong. Hence, one may will the property to the children but should remain in charge of one's own affairs till one is alive.Many, elderly like to live with their families and assume the role of advisors, which is resented by the younger generation. Vanprastha, according to the scriptures is the age to get involved with study and gather knowledge and disseminate knowledge. With these principles the details would differ with different individuals.Old age homes are very much the need of the hour. They may be luxury for those who can afford to pay, and semi paying or free supported by the philanthropists and the government. The aged, who are alone, would feel safer in the home for the aged. Those, living with families may also live here and visit the families, off and on.The old and disabled may need help and care from an attendant. That is what presents a real challenge, for which different solution have to be evolved. In a developing country like India, funds for care of the aged have to be arranged and long-term policies need to be evolved, so that a peaceful aging is assured. Every budget of the government should set aside a small percentage for the care of the aged, especially for those, who cannot look after themselves. It is not an impossible goal.

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A STUDY ON ROLE OF YOUTH IN NATION BUILDING

Rajesh.M.C[1]

ABSTRACT

Youth, in general, play a very important role in the development of any country. They are the future leaders of the country and through their participation and contribution; they can help shape the nation's destiny. There is no question that youth involvement in national development is essential for success. The country's young people have always played an active role in defending their rights and fighting for social change. Through protests and grassroots campaigns, they have frequently forced their governments to take notice of their demands. The recent uprising in India's universities displays just how vital youth engagement is to national development. The movement began as a protest against the government's decision to scrap special status granted to universities under the Constitution. However, it quickly evolved into a much broader campaign against government policies and corruption. The protests were successful in galvanizing support from across society. Young people from all corners of the country participated in rallies and sit-ins, calling for democratic reform and greater transparency in government affairs. Youth movement helped bring about significant changes to India's political landscape. Student activism is an essential component of any democracy. It is through peaceful protest that young people can make their voices heard and demand change from their government. Moreover, student activism can also serve as a foundation for future political involvement by promoting civic education and encouraging active citizenship. Object of this article is how youth are participating in developing the nation, what are the factors are playing in youth development and if any changes are happen in youth movement..

INTRODUCTION

A beautiful saying of Nelson Mandela that, "Youth of today are leaders of tomorrow" is true and applicable in each and every aspect. The youth lays the foundation of development for any of the nations. Youth is that stage in the life of an individual, filled up with several capabilities and potential of learning along with performing.

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Youth, in general, play a very important role in the development of any country. They are the future leaders of the country and through their participation and contribution; they can help shape the nation's destiny. There is no question that youth involvement in national development is essential for success. The country's young people have always played an active role in defending their rights and fighting for social change. Through protests and grassroots campaigns, they have frequently forced their governments to take notice of their demands. The recent uprising in India's universities displays just how vital youth engagement is to national development. The movement began as a protest against the government's decision to scrap special status granted to universities under the Constitution. However, it quickly evolved into a much broader campaign against government policies and corruption. The protests were successful in galvanizing support from across society. Young people from all corners of the country participated in rallies and sit-ins, calling for democratic reform and greater transparency in government affairs. Youth movement helped bring about significant changes to India's political landscape. Student activism is an essential component of any democracy. It is through peaceful protest that young people can make their voices heard and demand change from their government. Moreover, student activism can also serve as a foundation for future political involvement by promoting civic education and encouraging active citizenship. Object of this article is how youth are participating in developing the nation, what are the factors are playing in youth development and if any changes are happen in youth movement.

Role of Youth: youth as a power and tool or weapon of the society, they can participate in changing of the society,

- The youth is filled up with mind talents and creativity. If they raise their voice on any issue, are successful in bringing the transformation.
- Youth are considered to be the voice of the nation. The youths are like raw material or resources to the nation. The way they are shaped, they are likely to emerge in the same manner.
- Different opportunities and empowering youth procedures must be adopted by the nation, which will enable the youth to make career-oriented in various streams and fields.
- Youths are aimless, confused, and directionless, and therefore are subject to guidance and support so that, they can be smart enough to pave their own path to success.
- Youth are always facing several failures in their life and each and every time it appears as if there is a complete end, but again rises with a fresh attitude for exploring with some new goal.

Major Problems/Challenges Faced by Youth in India

The number of youths in India is almost the highest among all the countries, therefore there must be proper planning and decision making for their proper development and success. But unfortunately, the youth in the country is tackled up with several problems which are listed below:

significant contributions to the culture on all levels. Despite their important contribution to the development process, they have been underappreciated by society. Youths have also been left out of crucial socioeconomic decisions in society. Youths have been abused by their elders in different fields, and they are often the lowest beneficiaries. Problems faced by the youth of India Unemployment, underemployment, and poverty are some of the factors that discourage young people from achieving their full potential for their own personal and societal gain. Unemployment and underemployment are widespread in our society as a result of a shortage of affordable and high-quality education and training. Youths have also been burdened by elders' and conservative adults' governance issues. There is a lack of cultural support and inspiration for youths to pursue careers in creative fields. Women face sexism, marginalization, and violence based on their gender, as well as unequal access to education and leadership opportunities. Discrimination based on gender has prevented young women and girls from participating in socioeconomic activities. It is critical to provide equal opportunities to youths in order to achieve long-term growth. Youth are the future Youth is not only today's companion, but also tomorrow's king. Youth are bursting with energy and eagerness to learn, act, and accomplish. They are social actors capable of bringing about revolutionary changes and improvements in society. Youth engagement is essential for achieving any potential goals of prosperity, development, stability, and security. Similarly, youth play the most important role in the growth of our nation. Our nation's advancement in science, technology, finance, health, and creativity will require the zealous and sincere involvement of our youth. Youth should be channelled for growth, using their energy, imagination, enthusiasm, commitment, and spirit. To ensure youth engagement in national growth, parents, civil society, and the government must promote and support them. Providing high-quality education, job opportunities, and youth empowerment are critical to the country's growth and development. Youths have the right to receive an education, engage with others, and ask questions about fairness, equality, and opportunity.

Role Models for the Young Generation

Youths' contribution to the nation's growth and development is not fully appreciated or maximized. In a number of areas, our country's youth are making a difference as politicians, advocates, and role models. Young leaders' enthusiasm and motivation are critical for driving progress toward our country's long-term growth. Youths are often unequipped to use their full potential due to a lack of direction, encouragement, and appreciation from government and other policy makers, which has a negative impact on their lives and society. Young people are the most valuable tools for bringing about positive change in society because they are encouraged and empowered citizens. They have the ability to play a key role in the nation's growth and development.

Indian Youth and Unlocking its True Potential

In the entire world, India's youth have the largest population. This gives India an edge over other countries. The developed wealthy countries of the world have an increasing senior citizen population. Additionally, after 75 years of independence Indians are getting more and

more educated, this is giving lots of employment opportunities to India youngsters. India is also advancing in many areas of science and business[3].

Indian youth hold the key for the advancement of India and also for the entire world to an extent. Youth must be encouraged and given access to excellent health, training, and education if they are to be effective leaders, inventors, and innovators who can change the world. When the Youth are employed and generating money rather than being dependent on anyone, the economy of the nation will grow.

Youth has the ability to fix the majority of the issues that our country is now experiencing. The only thing today's youth require is the opportunity to succeed. Through several demonstrations against violence against women and corruption, we have seen how the youth can bring people from all ethnic groups together. Youth decides which path a nation undertakes at the turn of every decade.

Conclusion

Youth is that period of life that enhances with power and feeling to do anything for self. Youth have a different perspective for any of the opinions and situations. Youth's positivity and craziness towards any aspect lead to several research and inventions. Therefore it can be stated that youth are the future of our nation. They are playing a major role in the progress and development of the nation. When the madness in youth is over with the onset of understanding and maturity, it is the sign of the ending of youthfulness. As a result, we must harness the power of our youths for the advancement of our country. We must harness their boundless creativity, creative ideas, and unique perspectives. Youth is without a doubt the nation's most prized asset, and the sooner we recognize and harness their full ability and strength, the faster our country can progress and develop.

[3] https://www.smilefoundationindia.org/blog/role-of-youth-in-nation-building/ at 2:45pm on 21-03-2023.

PROTECTION OF RIGHTS OF PERSONS WITH DISABILITY – A JUDICIAL APPROACH

Dr. Sridevi Krishna, Assistant Professor, Vidyavardhaka Law College, Sheshadri Iyer Road, Mysuru

ABSTRACT

"Every person with disability is an individual who is differently abled"

In today's competitive world people are recognized and praised for their talent, creativity and enthusiastic approach to their life. Every person in this world is born different with different capacities to exhibit himself to the outside world. The approach to world differs from person to person and is set on his ability too. The persons with disability are always seen as different from others which is of course evident through the kind of disability he suffers. The conceptual understanding of persons with disability today is not based on sympathetic approach but it is rights based approach. This new kind of approach is based on providing equality in participation, non-discrimination against other persons and accountability. The international conventions too support the overall protection of this vulnerable section of the society. The United Nations Conventions on Rights of Persons with Disability was drafted with explicit, social development dimension. It takes a new approach to the movement of persons with disabilities as "subjects with rights" rather than "objects of charity". It makes them to be active in society who can claim their rights and who can make their own decisions for their lives which is also based on free consent. The convention adopts various categories of persons with disabilities and reaffirms that persons with disabilities must enjoy human rights and fundamental freedoms. It ensures overall protection of rights of persons with disability. India being a signatory to this convention has enacted disability laws and policies in consonance with the convention with an aim to protect the rights of persons with disability. The judicial approach to the protection of their rights is remarkable. The study is carried out with the support of secondary data where an attempt is made to analyze the Rights of Persons with Disabilities Act, 2016 and analysis of latest case laws is made to know the judicial approach to protect their rights. In concluding the analysis the paper brings out few suggestions to improve the participation of this vulnerable group.

Key words: Disability, Rights, Vulnerable, Equality, Accountability

with a view to provide them equal opportunities, protection of their rights and full participation in society. The RPWD Act, 2016 is landmark legislation for people with disabilities which deals specifically with rights and entitlement of the persons with disabilities comprehensively. They are now entitled to enjoy all rights and live with dignity equally with others. Subsequently, no persons shall be discriminated on the basis of disability and they are also entitled to have access to appropriate information on reproductive and family planning. The persons with disabilities can also own any property; take decisions particularly in financial and other economic transactions on equal basis with others. Chapter-16 of this Act provides for penal provision for its violation, but lack of sensitization needs to be addressed. Another provision related to accessibility is also significant as it mandates accessibility in transport, information and communication technology and also accessibility even to private establishments and The *Vikash Kumar* case marks the Supreme Court's first serious engagement with the concept of reasonable accommodation under the PwD Act, and it brings some important principles to ensure that the Act can fulfil its role in advancing substantial equality under the Constitution. It has laid down a strong and durable foundation for future cases which the judiciary may deal with. Even there is need to change the mind-set of our society by creating awareness, providing equal opportunity in education and employment sector for full participation in the society. It is important that the government develops human resources for the purpose this Act and introduce disability as a component for all education courses to cover all sections of the society. If the Act is implemented in the right way, it will definitely bring a positive change in the lives of people who are differently abled.

CONTEMPORARY LEGAL CHALLENGES IN THE PROTECTION OF TRADITIONAL KNOWLEDGE IN INDIA

Dr. Kumara. N.J., Assistant Professor of Law, Vidyavardhaka Law College, Mysuru

ABSTRACT

Man is by nature is a social animal. He may be in the culture of indigenous community or in non-indigenous culture but surrounded by biological diversity. Biodiversity is therefore the natural biological capital for our life support system. Our survival depends on the web of life created by the interactions of the millions of different animals, plants, fungi, and other microscopic organisms that share the Earth with us. Biological diversity renders invaluable services for human well-being. Our ecosystems services, particularly the ones that provide food, fiber, freshwater, pollination of crops, livelihoods, protection from natural disasters and significantly contribute to human health. Over 1,00,690 species of fauna and 47,480 species of flora have been documented in the 10 BZs of the country. This diversity is hosted by many types of terrestrial and aquatic systems namely forests, wetlands, grasslands, deserts, coastal, and marine ecosystems and indeed the local communities, indigenous or tribal communities are the treasure of traditional knowledge on all such areas biological resources.

There is an infinite emotional bonding between Indigenous community and biodiversity since time immemorial. Some plants and trees have greatest significance in tribal culture. The life of non-tribal or life of our modern society is also associated with biodiversity which has different bio-geographical areas. However, the local communities particularly, members of tribal sections largely depends on these natural resources for their day-to-day living, they protect the biological resources with their traditional knowledge and their own sustainable development strategy.

In contradiction, present day's biodiversity is under great pressure because of our neo-modern life style, rampant urbanization, technological and industrial developments, proliferation of environment-unfriendly economic activities such as inappropriate mining, appropriation of wetlands for construction etc., are indeed the main reasons that damage the sustainability of such ecosystem services and degradation of environmental and natural resources which ultimately impacts on life of indigenous habitats.

Few policies of states and central government by which evacuation of indigenous, local and tribal community from their natural habitats to other areas effect on their traditional knowledge. Apart from this, traditional knowledge of such community has not recognised under present intellectual property laws as compared to patent etc. Thus this article will enlighten on current issues on rights on Traditional Knowledge of tribal community as well as Intellectual Property Rights.

Introduction:

Traditional Knowledge (TK) in the context of biodiversity refers to the know-how, skills and practices evolved and adopted by local and traditional communities over centuries regarding maintenance and use of natural resources. The range of this knowledge is vast. It covers medicinal and other properties of plants and animals, the manner of using them for healthcare and other essential needs, insights into the intrinsic value of biodiversity for environmental and human purposes and manner of conservation and sustainable use of the elements of biodiversity. Its ethical norms help regulate human interactions with the natural environment and secure intergenerational equity.

Traditional knowledge can make a significant contribution to sustainable development. Most indigenous and local communities are situated in areas where the vast majority of the world's genetic resources are found. Many of them have cultivated and used biodiversity in a sustainable way for thousands of years. The contribution of indigenous and local communities to the conservation and sustainable use of biodiversity goes far beyond their role as natural resource managers. Their skills and techniques provide valuable information to the global community and a useful model for biodiversity policies. Such traditional knowledge of indigenous and local communities should enjoy the economic benefits. But their rights have not effectively been recognised as rights been needs protection in contemporary world. This research article explores the ideas of authors which are articulated this work based on secondary data and it will enlightens on concerned stakeholder to take appropriate affirmative legislative measures in safeguarding the rights of indigenous and local communities for their traditional knowledge.

Meaning and definition of Traditional Knowledge:

Traditional knowledge is the knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over centuries and

regime has not effectively protecting such an indigenous knowledge related to biodiversity which includes agriculture, medicinal, ecological related knowledge; and also for the protection of other traditional knowledge relating to folklore. Separate effective sui generis system or alternative law, is therefore necessary to protect traditional knowledge indigenous as well as local communities.

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EDITOR'S MESSAGE

Greetings and warm welcome,

It gives me immense pleasure to launch this VII volume of Al-Ameen Review 2021-2022. Al-Ameen Law Review is a scholarly publication focusing on legal issues, providing vital insights regarding recent laws which lead to strong analysis and understanding of the laws.

This law review is a compilation of outstanding article authored by principals, Law Professors, Research Scholars, and other legal Professionals. It has wide circulation ranging from Supreme Court judges Library, High Court Judges Library, Law Universities within India, Law Firms and Advocates.

For this volume of Law Review we had an overwhelming response from entire legal fraternity. We would like to thank all the contributing authors for providing such rich variety of outstanding articles on broad range on interesting legal topics. It is their generous contributions of time and effort that made this issue possible.

I would like to express my considerable appreciation to the Al-Ameen Law Review Editorial Board for their effort.

I would also like to thank Imprints for designing the outstanding cover of this volume of Law Review.

I would like to encourage all our readers to share their views to this volume.

We appreciate your support and are happy to have you as our reader.

Best regards

Dr. Waseem Khan.M.I

Editor-In-Chief,

Principal, Al-Ameen College of Law,

Bengaluru

In India the present position regarding death sentence is quite a balanced one. But the wide judicial discretion given to the court has resulted into enormously varying judgment, which does not portray a good picture of the justice delivery system. What is needed to be done is that the principle laid down in cases like Bachan Singh or Machchi Singh have to be strictly complied with, so that the person convicted for offence of similar nature are awarded punishment of identical degree.

A CRITICAL STUDY ON CONCEPT OF STATE RECOGNITION IN INTERNATIONAL LAW

Dr. Bore Gowda S.B[193]

Abstract:

A new state is born out from an existing State or an old State which disappeared and comes with a new name or by splitting an existing State into two States. If a new state enjoys certain rights, privileges and obligations then it must get recognition as a state, which is very essential. However, there are some minimum criteria required before a State is considered to be a State. A State must get the De Jure (when a state is legally recognized) recognition for considering a State as a sovereign State. Political thought plays an important role in this decision whether to grant recognition or not. For recognition as a State, it must enter into relations with the other existing States. The elements, theories, and processes are reflected in this article. This article is mainly focus on legal consequences of recognition and non-recognition, procedure for withdrawal of recognition, recognition of state and government.

State is not only an institution with international legal standing but they are the primary subjects of International Law and possess the greatest range of rights and obligations. States are considered as an international person and have lot of responsibility. To recognize a community as a State is to declare that it fulfills the conditions of statehood as required by international law. If these conditions are present, existing States are under the duty to grant recognition. In the absence of an international organ competent to ascertain and authoritatively to declare the presence of requirements of full international personality, States already established fulfill that function in their capacity as organs of international law. In thus acting they administer the law of nations. This rule of law signifies that in granting or withholding recognition States do not claim and are not entitled to serve exclusively the interests of their national policy and convenience regardless of the principles of international law in the matter. Although recognition is thus declaratory of an existing fact, such declaration, made in the impartial fulfillment of a legal duty, is constitutive, as between the recognizing State and the new community, of international rights and duties associated with full statehood. Prior to recognition such rights and obligations exist

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only to the extent to which they have been expressly conceded or legitimately asserted by reference to compelling rules of humanity and justice, either by the existing members of international society or by the community claiming recognition.

If any entity wants become a state in international level or recognized as a state in international level, it should satisfy some conditions. Article 1 of the Montevideo Convention, 1993 provides that for a state to be recognized the following conditions must be fulfilled. They are

(a) Permanent Population
(b) Defined Territory
(c) Sovereignty
(d) Government
(e) That State should have the capacity to enter into relations with other sovereign State.

According to John Kelson for a State to be recognized the following elements should be possessed. Such elements are

(a) Must be politically organised;
(b) Have control over definite territory;
(c) Must be permanent;
(d) Must be independent.

If any entity wants to enjoy the benefits of International law, it should be recognized as a State. Otherwise it and its nationals cannot enjoy the benefits of International law.

Political Recognition of State

- Political act in recognition is used to support or to reject a state or a government which is new in an international community.
- Mixture of fact and law and the establishment of particular factual conditions and compliance with relevant rules are the process of creating new States.

- Criteria of Statehood are laid down in the Montevideo Convention, which provides that State must have a permanent population, a defined territory and a government and the capacity to conduct International relations.
- Recognition of State is a political act based on interest and assessment made by States individually, but legal arguments are important.

Generally Recognition means Acknowledgement of the status of an independent state. In the words of Prof. Oppenheim, "In recognizing a state as a member of international community the existing state declare that in their opinion the new state fulfills the conditions of statehood as required by international law[194]. Recognition of state means acknowledgement as an international political entity by another state. Recognition helps a state or government enormously by all means. Even though a state or government already exists before recognition, the acknowledgement brings more power to the system.

In International Law the term recognition refers to the formal acknowledgement by one state that another state exists as a separate and independent Government.

Theories of Recognition: there are two theories which attempts to explain the process of recognition

(a) Constructive Theory
(b) Declarative Theory.

- (a) **Constructive Theory:** This theory is coined by Hegel and Oppenheim. According to Prof. Oppenheim, "a state is and becomes an international person through recognition only and exclusively.

Constitutive theory gives utmost importance to process of recognition. According to this theory recognition is the most essential element. When one entity possesses elements of statehood, it cannot become a state in international level. It means if any entity wants to become a state in international level it should possesses essentials of statehood and it should be recognized as a

[194] Oppenheim's International Law, Sir Robert Jennings & Sir Arthur Watts, 9th ed, Pearson Education, 2003, p.127

state by already existing state. A political entity becomes a state only after obtaining recognition[195]. Even though it has essentials of statehood, that entity could not become a state in international law, without recognition. Propounders of this theory are Hegel, Anziloti, Holland, Oppenheim, etc. Examples: India-1947, Bangladesh-1971 (India & Russia) East timore-1999 (it consisting of 3 lakhs people) U.N.O. According to this theory, for a State to be considered as an international person, its recognition by the existing states as a sovereign required. This theory is of the view that only after recognition a State gets the status of an International Person and becomes a subject to International Law. So, even if an entity possesses all the characteristics of a state, it does not get the status of an international person unless recognised by the existing States.

This theory has been criticised by several jurists. Few of the criticisms of this theory are:

- This theory is criticised because unless a state is recognised by other existing states, rights, duties and obligations of statehood community under International Law is not applicable to it.
- This theory also leads to confusion when a new state is acknowledged and recognised by some of the existing states and not recognised by other states.

This theory does not mean that a State does not exist unless recognised, but according to this theory, a state only gets the exclusive rights and obligations and becomes a subject to International Law after its recognition by other existing States.

Declaratory theory: Declaration means a document formalizing matters to be made known publicly. While constitutive theory utmost importance for process of Recognition. The declaratory theory does not give any importance to the process of recognition. According to this theory recognition of a state is formal one. It has no legal effect as the existence of a state is a mere question of fact. It means when one political entity possess essential elements of statehood, voluntarily declared itself in international level that I have possessed all the elements of statehood therefore today onwards Iam a state. Its shows that recognized by another state is not necessary. Propounders of this theory: Hall, Wagner, Brierly and pit corbet and fisher etc.

[195] K.C Joshi, International Law & Human Rights, 4th ed, EBC, Delhi, 2019, p.79

The declaratory **theory of statehood** has also been criticized. This theory has been criticized on the ground that this theory alone cannot be applicable for recognition of a state. When a state having essential characteristics comes into existence as a state, it can exercise **international rights and obligations** and here comes the application of declaratory theory, but when other states acknowledge its existence and the state gets the legal rights of recognition, the consecutive theory comes into play.

Types of Recognition

Recognition can be divided into two types. They are

1) Defacto recognition (Temporary)

2) Dejure recognition (Permanent)

1) Defacto recognition: It is nothing but temporary Recognition. Defacto recognition is a provisional recognition of existing states to a new state. It is the first stage of recognition. It is an actual recognition, but may be withdrawn by recognizing state at any time.

Examples: Israel is the best examples of this. Several states give de jure recognition and some states gives de facto recognition.

Taiwan: Taiwan is the best examples of this. Even today also several states given Defacto recognition for Taiwan. Even lost its membership of U.N.O. Also till today it survives as a state

2) De jure Recognition: is final, complete and law full. Diplomatic relations are exchanged. It is final recognition.de jure recognition may be give directly and sometimes it may be given after de facto recognition. De jure recognition is final and irrevocable. De jure recognition is granted when in the opinion of the recognizing state the recognized state possesses all the essential requirements of statehood and is capable of being a member of the international community[196].

As pointed out by Prof H.A.Smith, the British practice shows that three conditions precedent are required for grant of de jure recognition of a new state. Three conditions are

1. A reasonable assurance of stability and permanence.
2. The government should command the general support of the population.
3. It should be able and willing to fulfill its international obligation.

[196] S.K. Raghuvanshi, Tandon's Public International Law, 18th ed, 2017, Allahabad Law Agency, p.84

Express Recognition

- When an existing State identifies a new State expressly by official declaration or notification, then it is considered to be a expressed form of recognition.
- Express recognition can be expressed through formal means such as sending or publishing declaration or statement to the opposite party.
- It can also be expressed through personal messages from the head of State or from the minister of foreign affairs.

Implied Recognition

- When an existing State identifies a new State through any implied act then it is considered as implied recognition. There is no formal statement or declaration issued.
- The recognition through implied means may vary from case to case. The actions required for implied recognition must be ambiguous and there shouldn't be any doubt in the intention of the State who recognises a new State.

Conditional Recognition

- Some conditions are attached to the recognition of the State to obtain status as a sovereign State. The conditions attached may vary from State to State such as religious freedoms, the rule of law, democracy, human rights etc.
- The recognition of any State which is already associated with the essential conditions are needed to be fulfilled for the status of sovereign State, but when any additional condition is attached then it is Conditional Recognition.
- Jurists criticise conditional recognition. It was criticized on the ground that recognition is a legal procedure and nothing additional condition can be attached unless the conditions are recognised by law.

Legal Effects of such recognition

When a state acquires recognition, it gains certain rights, obligations and immunities such as.

1. It acquires the capacity to enter into diplomatic relations with other states[197].
2. It acquires the capacity to enter into treaties with other states.
3. The state is able to enjoy the rights and privileges of international statehood.
4. The state can undergo state succession.
5. With the recognition of state comes the right to sue and to be sued.
6. The state can become a member of the United Nations organization.

Recognition of government:

For any statehood, the government is an important element. When a state is formed, its government changes from time to time. When the government changes as an ordinary course of political action, the recognition of government by the existing state is not required but when the government changes due to any revolution, then its recognition by the **existing state** is required. For recognising the new government established out of revolution, the existing states need to consider that:

1. The new governments have **sufficient control** over the territory and its people or not.
2. The new government is **willing to fulfill the international duties** and obligations or not.

When the existing states are satisfied that the new government resulting out of the revolution is capable of fulfilling the conditions as mentioned above, then the new government can be recognised by the existing states.

Withdrawal of Recognition: – Withdrawal of recognition may be explained as under:

1. Withdrawal of de facto Recognition: – Withdrawal of de facto recognition is possible under international law only on the ground that if the recognized state has been failed to fulfil the pre requisite condition for statehood. In such a case the recognizing state may withdraw from the recognition by communicating a declaration to the authorities of recognized stated or by a public statement.

[197] Ian Brownlie, Basic Documents in International Law, 4th ed, Clearedon press, Oxford, 1995, p. 217

2. Withdrawal of de jure Recognition: – There are different views about the withdrawal of de jure recognition. But according to the strict letters of international law and by the virtue of some conventions in this behalf, it is evident that the withdrawal of de jure recognition is not valid in any case. Though recognition is apolitical act but de jure but it by nature and status it is a legal oriented. But some jurists think that de jure recognition may be withdrawn, because it is a political act. But in fact it is not so. Only those de jure recognitions may be withdrawn where a state subsequently loses any essential of statehood. In such a case the state withdrawing from recognition shall send his express intention to the concerned authority issue a public statement to that extent[198].

Conclusion:

The recognition of the State is an essential procedure, so that the State can enjoy the rights and privileges as an independent community under International law. The recognition is it De Facto and De Jure, both provide rights, privileges and obligations. When a state gets De Facto recognition, its right, privileges and obligations are less but when De Jure is recognised by the State it gets absolute rights, liabilities and privileges. The recognition of the State has some political influence on the International Platform. The recognition of the state is an essential procedure so that it can enjoy all the privileges of statehood community under international law. There is a controversy between Consecutive Theory and Declaratory theory of Recognition by different jurists, but we can conclude that the theory followed for recognition is in between the consecutive and declaratory theory. The recognition being either de facto or de jure, it provides rights, privileges and obligations. When a state gets its de facto recognition, the rights, privileges and obligations are less but when it is recognised de jure, it gets absolute rights, liabilities and privileges. The recognition of the state is too much politically influences on the International platform. There have been many instances where the powerful states create obstructions in recognition of a newly formed state. It can even be withdrawal when the recognising state feels that the new state is not fulfilling the prerequisites for being a sovereign state. The recognition can be done either by express form or implied form and its mode, i.e., de facto and de jure recognition varies from case to case basis. There are many situations where powerful States

[198] K.C.Joshi, International Law & Human Rights, 4th ed, EBC, Delhi, 2019, p.85

create difficulties in recognition of a newly formed State. This can be withdrawn when any State does not fulfil the conditions for being a sovereign State. De Jure and De Facto recognition may vary from case to case. De Jure recognition can be given directly to the State; there is no necessity of De Facto recognition even if De Facto is considered as the primary step to achieve De Jure recognition.

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EDITORIAL

Dear Readers,

It gives me immense pleasure to bring to your front the new issue of the flagship journal of Vaikunta Baliga College of Law, Udupi. This VII[th] issue of VBCL Law Review highlights some emerging trends in the sphere of law. Since the stream of law is like an ocean, the incidents which occur in our day-to-day life can arouse the attention of the legal fraternity. The areas for the study of law widen and go deeper when we attempt to explore it.

Law is often treated as the special privilege of a few 'learned' people. It is our bounden duty to promote legal literacy because lack of promotion of law and awareness regarding its implications in the society will increase the number of 'deprived' around us.

With this objective in mind, we have incorporated the research papers of experienced academicians as well as budding teachers in this new issue to identify and understand the major thrust in society. We also tried to include vivid and pertinent areas of legal concern for imparting some information to our readers The selected papers discuss the aspects of informed consent in medical cases, Legal regulation of surrogacy, and the shortcomings of the new legislation(The Surrogacy (Regulation) Act, 2021), Product liability and its implications in India, the procedural safeguards to protect the rights of the accused, the need to strengthen the media, the issues and concerns relating to climate change, the legal implications of minor's agreements, the judicial interpretation given to the term industry by highlighting educational institutions and hospitals, a critical study on anti-Defection law in India, legislative measures to prevent female foeticide in India, critical analysis of cryptocurrency in India, significance and applicability of POCSO Act, Evolutionary trend in law of maintenance, The role of NOTA in electoral reforms, ostensible ownership in Benami transactions and right to health in India.

A Critical Analysis of Adoption of Orphan Children during Covid 19

DR. DEEPU. P

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"Being a parent wasn't just about bearing a child. It was about bearing witness to its life."

Jodi Picoult

Introduction

Family plays an important role in society. Almost everyone would have spent at least sometime as member of a family and those who have not enjoyed family life have suffered a lot on their life span. Living with family brings many advantages to an individual.

The presence of a family is an essential component of every human being's life, starting from the stage of infancy up to old age. For a child, family is the first agent of socialization and the influence of the family on the child during it's formative years has a great impact on their life. The atmosphere at home, as seen in terms of the discipline and sound relationship pave the way for a child to learn socially accepted forms of behavior. Further the child will also learn to cope with pressures and responsibilities both inside and outside the home.[1]

The care of the child primarily lies with the parents. Parents are expected to provide not only parental care but also opportunities for the child to grow and develop in the most cherished manner.

All children do not have the fortune of having good parental care. Some children do not get the need parental care due to the absence of parents of parental figures at home. Absence of one or both the parents , strained interactions between members of a family & parents not serving as food models are conditions, which have adverse effects on the child's development.

Adoption is one of the best forms of rehabilitating a destitute child. It is the most complete form of rehabilitation which provides a highly satisfactory solution to those seeking the experience of bringing up a child and for the child itself. Adoption is an option to many people who are unable to have a child due to medical or infertility or other problems as well as those who may not want to have biological child out of choice.

Swamy Vivekananda said that it is not possible for a bird (family of wife & husband) to fly on only one wing. He said that a child is future father and mother, future worker and future citizen. They are the future to the country, needs special care of family & society.[2]

In last few years we have witness thatthe sudden shift from joint to nuclear, a nuclear to single parent or childless family system is drastically changed in social scenario. In spite of these changes we cannot ignore the importance of family for the growth of child. The major changes in this, the traditional family was a stable type of family whose dissolution.

Nowadays the demand for children in adoption has been increased but 1,991 children, including 1,322 girls available for about 20,000 prospective adoptive parents. The reason is that many of the child care institution which have not been registered with central adoption resource authority[3]. According the Child adoption resource information and guidance system out of ten prospective adoptive parent's only one child is available for adoption. Further, some of the unscrupulous child adoption agencies have made India international baby shopping center[4] children are sold abroad by providing false information about them and without assuring their security. The total disregard for the welfare of the children makes them mere commodities in the adoption market. The adoption guidance provides that children should be preferred for Indian adoptive parents rather than foreign adoptive parents.More than 1,700 children have lost both their parents during the Covid-19 pandemic in India.[5] As result social media has been flooded with calls to adopt children whose parents have died of Covid.Such an open sharing of phone numbers and photos of children really raises fear of trafficking.

Meaning and Definition of Child

Child means 'the young human being'. This term has been defined differently in different places, mainly on the basis of the chronological age. The term child is misleading as it conveys meanings which cannot be

the basis of the chronological age. The term child is modernly as a conveys meanings, which cannot be generalized. Even in different legislation the term is defined from different viewpoints. The definitions for the term child as given in different legislation are mentioned hereunder.

1. Section 2(12) of the Juvenile Justice (Care & Protection of Children) Act, 2015: Child means a person who has not completed 18 year of age[6].
2. Section 2(a) of the Child Marriage Restraint Act , 1929: Child means a person who , if a male has not completed 21 year of age & if a female, has not completed 18 year of age.[7]
3. Section 2(2) of the Child Labour (Prohibition & Regulation) Act ,1988: Child means a person who has not completed his 14 year of age[8].

Definition of Adoption

Section 2(2) of Juvenile Justice (Care and Protection of Children) Act, 2015: Adoption means the process through which the adopted child is permanently separated from his biological parents & becomes the lawful child of his adoptive parents with all the rights, privileges and responsibilities that are attached to be biological child[9].

Adoption under The Juvenile Justice (Care and Protection of Children) Act, 2015 and Adoption Regulations 2017

The Juvenile Justice (Care and Protection of Children) Act, 2015 deals with various aspects of adoption of orphaned[10], abandoned[11] and surrendered children[12]. Adoption of such children is in consonance with the emphasis on right to family of every child in need of care and protection. Juvenile Justice Act is a secular Act i.e, it applies to all the persons. The provisions of this Act do not apply to adoptions made under the Hindu Adoption and Maintenance Act, 1956.

Eligibility criteria for adoption by Prospective adoptive parents.

The prospective adoptive parents will to adopt a child; they must possess the following eligibility[13]:

1. Prospective Adoptive parents should be physically fit, mentally alert and emotionally stable and should not have any life threatening medical condition;
2. The prospective Adoptive Parents should have adequate financial resource to provide a good upbringing to the child;
3. Consent of both the spouse is required in case of couples willing to adopt;
4. A single female can adopt a child of any gender;
5. A single male is not eligible to adopt a girl child;
6. The couple should have at least two years of stable marital relationship;
7. The couple should free from all criminal records;
8. Age of the child and prospective adoptive parents also take into consider;
9. Living together person is also eligible to adopt a child;
10. The couple should not have more than three children; so the couple can legally adopt two or the child intermittently.
11. Adoption of a second child is permissible only when the legal adoption of the first child has been finalized but this is not applicable in case of siblings.

Age criteria of child and Prospective adoptive parents:

Age of the child	Maximum composite age of PAPs (couple)	Maximum age of single PAP
Up to 4 years	90 years	45 years

Above 4 up to 8 years	100 years	50 years
Above 8 up to 18 years	110 years	55 years

The minimum age difference between the child and either of the prospective adoptive parents should not be less than twenty five years.

Who are the children eligible for adoption in inter country and in country adoption: The following shall be eligible for adoption, namely:-

a. Any orphan ;
b. abandoned ;
c. Surrender child, declared legally free for adoption by the Child Welfare committee;
d. A child of relative;
e. Child or children of spouse from earlier marriage, surrendered by the biological parent(s) for adoption by the step parent;
f. A child up to the age of eighteen years can be adopted;
g. Special need child[14]

One of the very important conditions for adoption is child should legally free for adoption. So illegitimacy of the child is neither a pre-requisite nor eligibility for the adoption.

Procedure for In Country adoption of Orphan Children:

STEP 1- Registration

Every resident of Indian Prospective adoptive parents who are willing to adopt a child, shall register online in child adoption resource information and Guidance system by filling up the application form and up load the relevant documents[15]. Once the registration process completed and required documents are uploaded within thirty days from the date of registration, the prospective adoptive parents received the registration number from the acknowledgement slip[16]. At any time by using this number the prospective adoptive parents are check the status of the adoption process. The prospective adoptive parents shall opt for desired state or states by giving option for those particular states at the time of registration.[17] Once of the adoptive parents registered in the child adoption resource information and guidance system would deem to be registered in all state adoption resource agencies. The seniority occurred to the prospective adoptive parents for selection of children from the date of registration. This registration is continuing till child adoption, with revalidation of the home study report in every three years.

STEP-2: Home study and counseling

The home study report of the prospective adoptive parents shall be prepared by the specialized adoption agency in the state, where prospective adoptive parents are resided. Through it's social worker or through a social worker from a panel maintained by the state adoption resource agency or District Child Protection Unit. For the purpose of home study the social worker visit the home of the prospective adoptive parents, do the home study and submit the report within thirty days from the date of submission of requisite documents and proceed to counseling session[18]. Soon after the completion of the home study, the report shall be shared in the Child Adoption Resource Information and Guidance System by the specialized adoption agency or District Child Protection Unit or State adoption Resource agency. This home study report remains valid for the period of three years and it's a basis for adoption of child by the prospective adoptive parents from anywhere in the country.[19] Based on the home study report the specialized adoption agency declared the eligible parents.[20]

STEP - 3: Selection of child by the Prospective adoptive parents

On the basis of the seniority the Prospective adoptive parents get an opportunity to view the photographs, child study report and medical examination report up to three children, those who are legally free for adoption. Viewing of the children details completely based on the preference of the prospective adoptive parents. After viewing the child details, the prospective adoptive parents may reserve one child within a period of forty eight hours for possible adoption and the rest of the children would be released through child adoption resource information and Guidance system for other prospective adoptive parents in the waiting

list.[21]

STEP - 4: Matching of the Prospective adoptive parents with child

The specialized adoption agency after get the details of the prospective adoptive parents will fix the meeting with the prospective adoptive parents to assess the suitability of the prospective adoptive parents. This committee consisting of its adoption in charge or social worker, pediatrician or visiting doctor and one official from the district child protection unit[22]. Further the specialized adoptive agency also fixes the meeting of the prospective adoptive parents with the child. The entire process of matching of the child shall be completed within twenty days from the date of reserving of the child. While accepting the child the prospective adoptive parents shall have right to get all the details of the child including medical examination report reviewed by a medical practitioner of their choice and signed before the social worker or chief functionary of the specialized adoption agency. In case the prospective adoptive parents are not selected the reserved child then, the reason for non-selection should be recorded in the child adoption resource information and guidance system. If the prospective adoptive parents are not selected any child or they are not find in such a situations the prospective adoptive parents will be shifted to the bottom of the seniority list as on the date.

STEP - 5 Pre - Adoption foster care

After acceptance of the child by prospective adoptive parents shall be taken in pre adoption foster care within ten days from the date of acceptance after signing the pre adoption foster care undertaking.[23] If the adoptive parents are working under the government of India or State they are entitled to get the adoptive leave for the purpose to look after the child.[24]

STEP- 6: Legal Procedure

The specialized adoption agency shall file the adoption petition with prospective adoptive parents as a co-petitioner in the jurisdictional court[25] within ten days from the date of acceptance of the child by the prospective adoptive parents. This adoption petition contains all relevant documents. In case the child is from a children's home which is located in another district, the specialized adoption agency shall file the adoption petition in the concerned court of that district.[26] In case of sibling or twins the specialized adoption agency shall file single application in the court. Since an adoption care is non-adversarial in nature, the specialize adoption agency shall not make any opposite party or respondent in the adoption application. The courts hold in camera proceedings and dispose the case within two months from the date of filing the adoption petition by the specialized adoption agency. It is the obligation of the specialized adoption agency to obtain a certified copy of the adoption order from the court and it forwarded to the prospective adoptive parents within in ten days. The same shall be shared in the child adoption resource information and guidance system with necessary entries. Further, the specialized adoption agency shall obtain the birth certificate of the child from the birth certificate issuing authority within ten days from the date of issuance of adoption order.

STEP 7: Follow up of progress of adopted child

The post adoption follow up will continue for the period of two years from the date of placement of the child with adoptive family. Further once in six months the progress report of the child will be shared with the child adoption resource information and guidance system along with the photographs of the child by the specialized adoption agency. In case the child is facing adjustment problem with the adoptive family or parents then the specialized adoption agency shall arrange necessary counseling for such adoptive parents as well as the child. If such counseling efforts do not succeed, the specialized adoption agency shall make effort for placing the child temporarily in alternative care.

Conclusion

In spite of various international and national laws enacted for the best interest of the child, the problem faced by the prospective adoptive parents at the time of adoption of child till today it continuous remain as serious threat to the child as well as the adoptive parents. The researcher found that, need to create awareness about the adoption procedure and specialized adoption agencies. The procedure for adoption leads a stress and strain to the prospective adoptive parents. As far as possible; the system needs to be tweaked to favour adoptions within the state. This will help the agency to keep a better track of parents

and interact with them more. According to the data for every twenty adoptive parents in India only one child is available even though millions of orphan's children are available. In this regard it is the duty of the state declares all the orphans, destitute are legally free for adoption. In this connection every child in India grows in the good family and gets a dignified life.

• By: Dr. Deepu. P, Principal, Vidyavardhakalaw college, sheshadrilyer Road, Mysuru, Karnataka state.

1. DasharathaRamaiah.K: " The Child's Personality – Impact of the family", (Social Welfare Department, Bengalure,1976) at P 31-33.
2. Nilima Mehta: "Ours by choice,"(Central Law Publication ,Hyderabad, 1992) at P 42
3. The Economic Times on August 5th, Bangalore edition, 2018,at p 6.
4. Frontline,June 3,2005, at P 4
5. https://www.indiatoday.in/coronavirus-outbreak/story/covid-19-leaves-hundreds.
6. Nayan Joshi: "A Handbook on Juvenile Justice", (Kamal Publication, New Delhi, 2010) at P 49- 50.
7. RaghbirlalBhagatramSethi: " Child Marriage Restraint Act, 1929" (Universal publishing – an imprint of Lexis Nexis , Nagpur , 2016) at P 8
8. S.N.Mishra : "Labour& Industrial Laws", (Central Law Publication , Allahabad, 2014), at P 1052.
9. C.P.Veena,: "Law relating to Juvenile Justice (Care & Protection of Children) Act ,2015", (C. Jammandas&Co,Educational& Law Publishers, Mumbai 2017) at P 14
10. A child who is without biological or adoptive parent or legal guardian or whose legal guardian is either unable to unwilling to take care of the child.
11. A child deserted by his biological or adoptive parents or guardians and who has been declared as abandoned by the Child welfare committee following due inquiry.
12. A child who has been relinquished by the parents or guardian to the Child welfare committee due to physical, emotional or social factors that is beyond their control and declared as such by the CWC.
13. Regulation 5 of the Adoption Regulation 2017.
14. Special need child means a child who is mentally ill or physically challenged or both as specified in Schedule XVIII of the adoption regulation 2017.
15. Regulation 9(1) of the Adoption Regulation 2017.
16. Section 9(3) of the Guidelines governing the adoption of children 2015.
17. Regulation 9(2) of the Adoption Regulation 2017.
18. The agency may also need the adoptive parents to attend counselling sessions in order to make them understand the preparation motivation, strengths and weaknesses of the adoptive parents.
19. Regulation 9(12) of the Adoptive Regulation 2017.
20. Regulation 9(12) of the Adoptive Regulation 2107; the prospective adoptive parents shall be declared eligible and suitable by the specialized adoption agency based upon the home study report and supporting documents and in case any prospective adoptive parent is not declared eligible or suitable ,the reason for the same shall be recorded in the child adoption resource information and guidance system.
21. Regulation 10(3) of the Adoption Regulation 2017.
22. The quorum of the Adoption committee shall be two members and the quorum of the adoptive committed in case of adoption from a child care institution shall be three members , while the presence of one official from the district child protection unit would be mandatory.
23. Format provided in schedule – 7.
24. Section 14
25. Where the specialized adoption agency is situated that court is having jurisdiction to hear the case.

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26. Section 12 (2) of Adoption Guidance 2015

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EDITORIAL

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(b) There shouldn't be sufficient supply of these necessities with the minor before.

LIABILITY OF A MINOR UNDER THE NEGOTIABLE INSTRUMENT ACT

As per Section 26 of the Act, a minor can draw, endorse, and negotiate and he can bind everybody except himself. Every person who is capable of contracting according to the law to which he is subject may bind himself and be bound by the making, drawing, accepting, delivery and negotiation of a promissory note, Cheque or a bill of exchange.

CAN A MINOR BE AN AGENT OR PRINCIPAL?

A minor can never be a principal because Section 183 of the Indian Contract Act for anybody to become a principal he should be of the age of majority and be of sound mind and since a minor is not competent to contract, he also cannot employ an agent. But, a minor can become an agent as per the provisions of section 184 but the principal shall be bound by the acts of the minor and he would not be personally liable in that case.

CONCLUSION

It can be concluded from the researched facts mentioned that a minor's contract is void as soon as one enters into a contract with the minor because a minor cannot form a mental capacity to enter into a contract. Besides minor's agreement being void there are certain exceptions to the general rule. Therefore it concludes that a minor's agreement is considered as

Void from the beginning due to minor's incompetency to form mental intent to enter into a contract and also because of minor's inability to draw consequences arising from the contract. Below the age of 18 years does not have the capacity to enter into a contract. A contract or agreement with a minor is null from the beginning, and no one can sue them. Minor's agreement is a void one, meaning thereby that it has no value in the eye of the law, and it is null and void as it cannot be enforced by either party to the contract. Even after he attains majority, the same agreement could not be ratified by him. Here, the difference is that minor's contract is void/null, but is not illegal as there is no statutory provision upon this. A minor's agreement is a set of promises or a contractual agreement having one party as a minor. Minor is considered incompetent to contract under the Indian Contract Act, 1872. This is so because minors are not mature enough to be responsible with respect to legal matters. In competency of a minor to enter into contract means incompetency to bind himself by a contract. There is nothing which debars him from becoming a beneficiary, e.g., a payee and endorsee or a promisee in a contract.

JUDICIAL INTERPRETATION OF EDUCATION INSTITUTIONS AND HOSPITAL AS AN INDUSTRY WITH SPECIAL REFERENCE TO INDUSTRIAL DISPUTES ACT 1947

Dr. Deepu P.*

ABSTRACT

The term Industry included the educational institution and hospitals is a debatable issue since from very long back ..Justice Krishna Iyer said that "so long as services are part of the wealth of national, educational services are wealth and are industrial." He added that: "A man without education is a brute and nobody can quarrel with the preposition that education in its spectrum is significant services to the community. Education is a service to the community and hence industry." Even the triple test is evolved in Bangalore Water Supply V/S Rajappa still we fails to implement. In this connection, this paper highlights the judicial interpretation of the term industry and aftermath of Rajappa's case.

Key Words: Industry, Judiciary, Triple test, Education

INTRODUCTION

Legislative actions and court verdict have greatly extended and changed the definition of 'industry' over the period of time. Since this matter is comes under the concurrent list, both the central and state government are power to make the law in that matter. Due to lack of clear statutory definition mentioned in the Industrial Dispute Act 1947 in one side and contradictory views of the judiciary has been created a lot of confusion in the term of Industry. In order to simplify the labour laws, current regime of NDA government has merged various central acts into four codes on

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September 29, 2020, which are - Industrial Relations Code, Code on Occupational Safety, Health & Working Conditions Code (OSH), Social Security Code, and Code on Wages.

"INDUSTRY" UNDER INDUSTRIAL DISPUTES ACT, 1947

Industrial Disputes Act is an act is formulated by our law makers to secure industrial peace and harmony by providing a systematic procedure and machinery for the investigation and settlement of industrial disputes by negotiations. The main purpose of the Industrial Disputes Act, 1947 is to ensure fair terms between employers and employees as well as workmen and employers. It helps not only in preventing disputes between employers and employees but also help in finding the measures to settle such disputes so that the production of the organization is not hampered.

Sec.2 (j) of the Industrial Disputes Act, 1947 defines 'industry' as "any business, trade, undertaking, manufacture, or calling of employers and includes any calling, service, employment, handicraft or industrial occupation or avocation of workmen". This definition is too generic and has led to numerous contradicting interpretations. An industry exists only when there is relationship between employers and employees, the former is engaged in business, trade, undertaking, manufacture or calling of employers and the latter is engaged in the calling, service, employment, handicraft or industrial occupation and avocation. This definition is both exhaustive and inclusive. The words used are of widest amplitude. A considerable amount of difficultly was faced while interpreting these different words. No doubt, the task of interpretation is straightforward. But because of varied forms of industry, especially after rapid industrial progress and widest language used in the definition, the concept of industry expanded in all directions. The present definition continues to be as originally enacted in the Industrial disputes Act 1947. Though this definition has not undergone any amendment, it has undergone variegated judicial interpretations. The definition of "industry" has evolved and expanded significantly over a period of time by the legislative acts and judicial decisions. The journey of such evolution has been symbolic primarily because of lack clarity in the legislative intent as embodied in the law and conflicting judicial approaches regarding the ambit of such definition particular Education institutions and Hospitals.

JUDICIAL INTERPRETATION OF THE INDUSTRY

Is Education Institutions: *In University of Delhi V/S Ram Nath , the Ram Nath*[1] was employed as driver by University college for women. Mr. Asgar Mashih was initially employed as driver by Delhi University but was later on transferred to the university college for women in 1949. The University of Delhi found that running the business for transporting the girl students

1 AIR 1963 SC 1873

of the women's college has resulted in loss. Therefore it decided to discontinue that facility and consequently the services of the above two drivers were terminated. The order of termination was challenged on the ground that the drivers were workmen and the termination of their services amounted to retrenchment. They demanded payment of retrenchment compensation under section 25-F of the Act by filing petitions before the Industrial Tribunal. The Tribunal decided the matter in favour of the drivers and hence the university of Delhi challenged the validity of the award on the ground that activity carried on by the University is not Industry. It was held by the Supreme Court that the work of imparting education is more a mission and a vocation than profession or trade or business and therefore University is not an Industry. In taking this view, the court placed reliance on the observations of Rich, J concurring with the majority *in Federal State School Teachers' Association of Australia V/S State of Victoria* to the effect that teaching does not like banking and insurance , play a part in the scheme of ' National industrial activity".

In *Brahma Samaj Education Society V/S West Bengal College Employees Association*[2], the society owned two colleges. A dispute arose between the society and non teaching staff of the college. It was pleaded that the society was purely an educational institution and not an industry because there was no production of wealth with the co operation of labour and capital as is necessary to constitute an industry. The Calcutta High Court observed that our conception of industry has not been static but has been changing with the passage of time. An undertaking which depends on the intelligence or capacity of an individual does not become an industry. Simply because it has a large establishment. There may be an educational institution to which pupils go because of the excellence of the teachers such institutions are not industry. On the other hand, there may be an institution which is so organised that it is not dependent upon the intellectual skill of any individual, but is an organisation where a number of individuals join together to render services which might even have a profit motive. Many technical institutions are run on these lines. When again we find these institutions also do business by manufacturing things or selling things and thereby making a profit they certainly come under heading of industry.

In *Osmania University V/S Industrial Tribunal Hyderabad,*[3] a dispute having arisen between the Osmania University and its employees , the High court of Andhra Pradesh, after closely examining Constitution of the University, held the dispute not to be in connection with an industry. The correct test for ascertaining whether the particular dispute is between the capital and labour is whether they are engaged in cooperation or whether the dispute has arisen in activities connected directly with or attendant upon the production or distribution of wealth.

2 (1960) I LLJ 472 (Cal)
3 (1960) I LLJ 593 (AP)

In *Ahmedabad Textile ndustry's Research Assocition V/S State of Bomba'y*, an association was formed for founding a scientific research institute. The institute was to carry on research in connection with the textile and other allied trades to increase efficiency. The Supreme Court held that though the association was established for the purpose of research, its main object was the benefit of the members of the association the association is organised and arranged in the manner in which a trade or business is generally organised it postulates co-operation between employers and employee moreover the personnel who carry on the research have no right in the result of the research. For these reasons the association was held to be an Industry. But a society which is established with the object of catering to the intellectual as distinguished from material needs on men by promoting general knowledge of the country by conduction research and publishing various journals and books is not an industry. Even though it publishes books for sale in market, when it has no press of its own the society cannot be termed even an undertaking for selling of its publication was only an ancillary activity and the employees were engaged in rendering cleriacla assistance in this matter just as the employees of a solicitor firm help the solicitors in giving advice and service[5].

Since *University of Delhi V/S Ram Nath*[6] has been overruled by the Supreme Court in Bangalore Water Supply V/S A.Rajappa the present position is that the educational institutions including the university are industry in a limited sense now those employees of educational institutions who are covered by the definition of workman under section 2(s) of the Industrial Disputes Act,1947 will be treated as workman of an industry. It has been reaffirmed by the Punjab and Haryan High Court in *Sumer Chand V/S Labour Court, Ambala and another*[7], that university is an industry and carpenter employed in university is workman. The labour court has jurisdiction to decide the dispute relation to the termination of such a person. It has been held in *Suresh Chandra Mathe V/S Jiwaji University, Gwalior and others*[8], that a university is an industry and a clerk of the university is a workman.

Is Hospital an Industry? The question whether hospital is an industry or not has come for determination by the Supreme court on a number of occasions and the uncertainty has been allowed to persist because of conflicting judicial decisions right from *Hospital mazdoor Sabha to the Bangalore Water Supply V/S Rajappa.*

4 AIR 1961 SC 483
5 Asiatic Society V State of West Bengal , (1967), II LLJ 319 (Cal)
6 AIR 1963 SC 1873
7 (1992) I LLJ 394 (P & H)
8 (1994) II LLJ 462 (MP)

Hospital mazdoor Sabha case[9], the Hospital Mazdoor Sabha was a registered Trade Union of the employees of hospitals in the state of Bombay. The services of two of its memberswer terminated by way of retrenchment by the government and the union claimed their reinstatement through a writ petition. It was urged by the state that the writ application was misconceived because hospitals did not constitute an industry. The group of hospitals were run by the state for giving medical relief to citizens and imparting medical education. The Supreme Court held the group of hospitals to be industry and observed as follows:

1) The stateis carrying on an undertaking within section 2(j) when if runs a group of hospitals for purpose of giving medical relief to the citizens and for helping to impart medical education.
2) An activity systematically or habitually undertaken for the production or distribution of goods or for the rendering of material services to the community at large or a part of such community with the help of employees is an undertaking.
3) It is the character of the activity in question which attracts the provisions of section 2(j). Who conducts the activity and whether it is conducted for profit or not make a material difference.
4) The conventional meaning attributed to the words, trade and business has lost some of its validity for the purposes of industrial adjudication. It would be erroneous to attach undue importance to attributes associated with business or trade in the popular mind in days gone by.

Applying the above principles an Ayurvedic college of Pharmacy manufacturing medicines for sale and for benefit of students of the college besides other activities of the college was held to be an industry[10].

It has been overruled in Management of *Safdarjung Hospital, Delhi V/S Kuldip Singh*[11], Kurji holy family hospital was held not to be an industry because that was entirely charitable institution carrying on work of training , research and treatment. similarly Safdarjung Hospital, New Delhi and Tuberculosis Hospital, New Delhi were also held not to be industry.

A group of hospitals at Bikaner attached to the Sardar Patel Medical College was held to be an industry and it was observed that the fact that hospitals are attached to the educational institution would not bring any material change in their character[12].

9 AIR 1960 SC 610
10 Lalit HariAyurvedi College of Pharamacy V Workers Union, AIR 1960 SC 1261
11 AIR 1970 SC 1406
12 Hospital Employees Union V State, AIR 1971 Raj 65

In *Management of Hospitals, Orissa V/S Their Workmen*[13], it was held that hospital run by the government as a part of its function is not an industry. Hospitals run by the State of Orissa are places where persons can get treated. They are run as departments of government. The mere fact that payment is accepted in respect of some beds cannot lead to the inference that the hospitals are run as a business in as commercial way. Primarily the hospitals are meant as free service by the government to the patients without any profit motive.

In *Dhanrajgiri Hospital V/S Workmen*[14], it was held that Dhanrajgiri Hospital Solapur was not an industry because it was not carrying on any economic activity in the nature of trade or business. It was not rendering any material service by bringing in any element to trade or business in its activity. The main activity of the hospital was imparting of training in nursing and the beds in the hospital were meant for their practical training. But in view of the decision of the Supreme Court in Bangalore *Water Supply V/S Rahappa Dhanrajgiri Hospital* case has been overruled and all hospitals fulfilling the test laid down in Bangalore Water Supply case will be industry. In *Keraleeya Ayurveda Samajam Hospital and Nursing Home, Shoranpur V/S Workmen*[15], in this case it was held to be industry because a) the Ayurvedic school was engaging employees in its different department, b) the institution where Ayurvedic medicianes were prepared was registered as a factory under the factories Act, c) for the services rendered by way of treatment fee was charged from citizens and d) the establishment was organised in a manner in which trade or business was undertaken.

SCOPE OF INDUSTRY DETERMINED IN THE BANGALORE WATER SUPPLY AND SEWERAGE BOARD v. RAJAPPA

A seven Judges Bench of the Supreme Court exhaustively condidered the scope of industry and laid down the following test ;

Triple test: Where there is (i) A Systematic activity, (ii) Organized by cooperation between employer and employee (the direct and substantial element is commercial), (iii) For the production and distribution of goods and services calculated to satisfy human wants and wishes , Prima facie, there is an " industry" in that enterprise. This is known as triple test.The following points were also emphasised in this case;

1) Industry does not include spiritual or religious but inclusive of material things) or services geared to celestial bliss, i.e. making, of a large scale prasad or (food), prima facie enterprise.

2) Absence of profit motive of gainful objective is irrelevant be the venture in the public, joint, private or other sector.

13 AIR 1971 SC 1259

14 AIR 1975 SC 2032

15 (1979) I LIJ 115 (Kerala)

3) The true focus is functional and the decisive test is the nature of the activity with special emphasis on the employer-employee relations.

4) If the organization is a trade or business it does not cease to be one because of philanthropy animating the undertaking.

AFTERMATH OF BANGALORE WATER SUPPLY CASE

In reaction to the judicial interpretation in the Bangalore water supply case, the government attempted to amend the scope of the definition in 1982 by applying the triple test through Industrial disputes (Amendment) Act, 1982. This amended definition attempted to nullify the effect of many conflicting judgements on what is included in the definition of 'industry' and what is not. Also, this definition was much more elaborative and expansive as compared to the original definition under 1947 Act.

Thus on an analysis of the entire case law upto Bangalore Water Supply Case on the subject it can be said that such hospitsls as are run by the government as part of its sovereign functions with the sole object of rendering free service to the patients are not industry. But all other hospitals, both public and private whether charitable or commercial would be industry if they fulfil the triple test laid down in Bangalore Water Supply Case. However, For 38 years until the definition of 'industry' was revisited under Industrial Relations Code, 2020 dissent views on the definition and scope continued in the corridors of the *Supreme Court.Coir Board, Ernakulam, Cochin And V/S Indira Devi P.S. And Ors,*[16] the court disagreed with the decision in the Bangalore water supply case and held that not every organisation that provides a valuable service and hires people qualifies as industry.

THE INDUSTRIAL RELATIONS CODE, 2020

Under this code, the Government has attempted to rationalise and streamline central labour legislation in accordance with the recommendations of the 2nd National Commission on Labour. The new meaning of "industry" in *Section 2(p)* applies to any systemic activity involving employers and employees for the purpose of producing, supplying, or distributing products and services, regardless of whether the activity is undertaken for profit or capital expenditure. According to the new term, hospitals, educational establishments, and research institutions are all classified as industry. The new definition specifically excludes following activities from the definition of 'industry'.

CONCLUSION

Since the enactment of the Industry Dispute Act, 1947, governments have always been in a dilemma about how to interpret the definition of 'industry'. On one hand, they have the workers who always wanted to see

16 AIR 1998 SC 28

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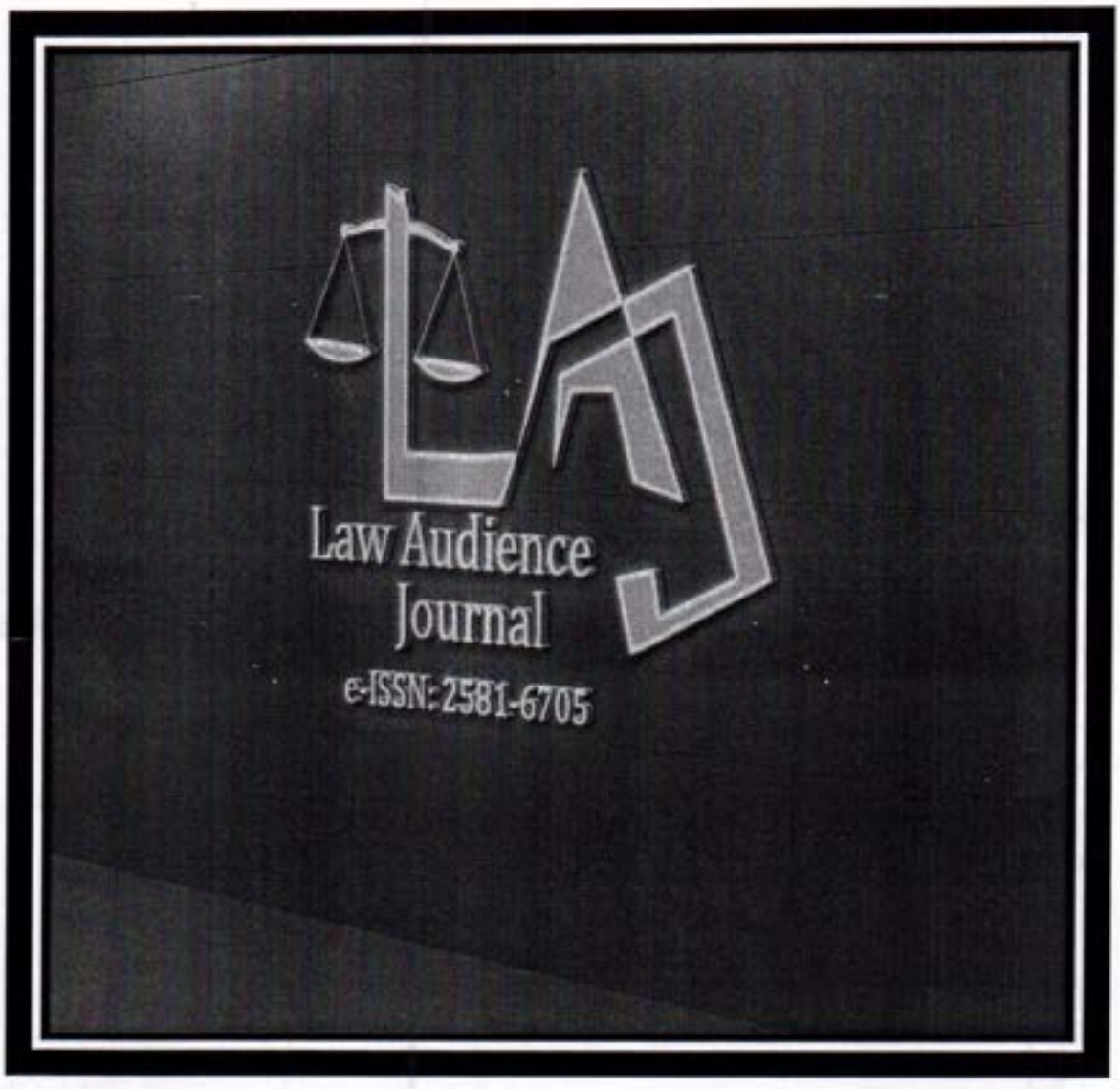

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ABSTRACT:

*"It is rightly said that **"It is easy to dodge our responsibilities, but we cannot dodge the consequences of dodging our responsibilities." - Josiah Charles Stamp, 1880-1941**, former director of the Bank of England. In this modern digitalized world, businesses are required to be mindful both in terms of what they are doing and how they are doing it. The company's brand is not just dependent on the quality of products they are offering to people but on the overall impact of the company's operations on the society, environment and the economy. Their sense of social responsibility provides them with a competitive edge over their competitors in a crowded marketplace.*

CSR is a holistic and integrated management concept whereby companies integrate their social and environmental objectives with their business objectives. It works on a Triple Bottom Line Approach i.e., Company focuses on 3P's; People, Planet & Profit while addressing all the expectations of its stakeholders. The majority of policy initiatives in the country are driven by the objectives of equal opportunities, minimizing poverty and human deprivation, focus on fundamental rights, etc. thereby leading to strong human development. The choices that we make today will be going to affect and influence our future generations. Despite all this inequality and disparity still exists.

This year, the Indian Government implemented new CSR guidelines. These guidelines require Indian companies to spend 2 percent of their net profit on CSR. India is the first country in the world to make CSR mandatory. Including the CSR mandate in Companies Act, 2013 is a great step of engaging the corporate sector in the equitable development of the country. Earlier companies were required to spend 2 percent of the profits towards CSR and in case of failure to do so; they were required to give reasons. But as per the present amendment, companies are required to spend 2 percent of profits towards CSR in the given time limit or are required to turn over this amount of profits in the funds which are run by the government. The new amendment will require all the companies which qualify the provisions under CSR guidelines

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- *Sensitization of students by making CSR a compulsory subject or discipline in schools, colleges or universities. This approach will motivate young blood and help them to face future challenges. And also, to provide more innovative solutions for the betterment of society and the environment as a whole.*

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CONTENTS

A STUDY OF THE PROCEDURAL SAFEGUARDS AND RIGHTS OF THE ACCUSED UNDER INDIAN LAWS

Dr. K.L. Chandrashekhara*

ABSTRACT

The problem of poverty tied up with the vice of social inequality exists in a gross form in our country. In this scenario our own conception of democracy, no matter how earnestly venerated by ourselves is of little importance to men whose immediate concern is preservation of physical life. Notions of individual freedom and liberty are apt to sound as empty words. In their struggle to overcome abysmal poverty, people have hardly time to appreciate the theoretical significance and grandeur of the concept of individual freedom and liberty. To better the lot of those people in the huts and villages across the great sub-continent struggling to break the bounds of misery, social justice must pledge its best efforts to help them in order to help the common good of humanity. In this background we need to discuss the Constitutional and Criminal Law provisions regarding liberty and protection of human rights of the accused. The Constitutional provisions have been given concrete shape by the Code of Criminal Procedure which confers a number of rights and liberties upon an accused, which implies corresponding duties on the arresting authorities. Apart from analysing the Constitutional provisions, this article shall also cover the various rights awarded to the accused persons by the Code of Criminal Procedure, 1973, Indian Penal Code, 1860 and Indian Evidence Act, 1872 under different heads dealing specifically with the rights at the time of arrest, the post arrest rights, and the right of legal aid and consultation. It is also most important that criminal laws should ensure that Human Rights are respected by seeing that the law is strictly adhered to. The principles of liberty and legality, which are results of historical development of present-day society, should be considered inviolable.

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CONCLUSION

The Indian Constitution and the Code of Criminal Procedure provides a set of just and fair rights to the accused so that he can maintain his basic human dignity as envisaged by the founding fathers of our Constitution. These rights have been further reinforced by a number of judicial decisions that have come about in the past several years in conformity with most of the set international standards.

Provisions regarding liberty and protection of human rights of the accused have been given under Articles 20, 21 and 22 of the Indian Constitution. These rights include presumption of innocence, fair trial, right against ex-post facto operation of criminal law, protection against double jeopardy and immunity against self-incrimination. These constitutional provisions have been given concrete shape by the Code of Criminal Procedure which confers a number of rights and liberties upon an accused.

The judiciary through its landmark decisions has laid down several provisions guaranteeing many rights to the accused as well as to the convicts. Such rights include right to live with dignity, prohibition of inhuman prison practices such as solitary confinement, handcuffing, and torture. Accused also have other rights like right to medical attention, free legal aid, speedy trial, fair trial, to get paid for their work in prisons and the right to get bail after twenty-four hours in police custody etc.The Criminal Procedure Code (CrPC) expressly lays down a number of provisions relating to the rights of the accused at the time of arrest and during the pendency of the trial. These specifically include right to speedy trial, right to medical examination, right to bail, rightagainst torture, right against arbitrary arrest, search of person and property etc.

Article 22(1) of the Constitution of India provides that no person who is arrested shall be denied the right to consult and to be defended by a legal practitioner of his choice. This constitutional provision has been ratified by the Section 303 of the Code of Criminal Procedure. Indian Constitution through its Article 21 implicitly guarantees the right of free legal aid at the expense of the State to an indigent accused who is very poor to afford a lawyer, this constitutional right has been given practical implication by the Section 304 of the Criminal Procedure Code.At last, it may be mentioned that we may have the best of the criminal procedure of the criminal law, it will not be effective unless the implementation machinery, at all levels including general public, police and the Courts are honest in implementing the spirit of the law. In this background there needs to be strictness right from the top and all the citizens in India should have self-restraint to be honest in spite of all the economic difficulties.

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A STUDY ON TRANSGENDER LEGAL RIGHTS IN INDIA

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ABSTRACT

The rule of law is highest and everybody is equal in the discernments of law. Yet, the transgender community is in a continuous combat as they have to fight domination, exploitation and discrimination from every part of the society, whether it's their own family and friends or society at large. The existence of transgender people is a daily scuffle as there is no acceptance anywhere and they are detested from the society and also teased. India's 2011 Census was the first census in its history to incorporate the number of 'trans' population of the country. The report estimated that 4.8 million Indians identified as transgender. However, the Supreme Court of India in its pioneering judgment by the division bench of *Justices K.S. Radhakrishnan and A.K. Sikri* in *National Legal Services Authority v. Union of India & Ors*. [Writ Petition (Civil) No.400 of 2012(NALSA)] **recognized the third gender** along with the male and female. By recognizing diverse gender identities, the Court has busted the dual gender structure of 'man' and 'woman' which is recognized by the society.

Key Words : Transgender, Problem, Legal analysis, Protection

INTRODUCTION

The **right of equality before law and equal protection of law** is guaranteed under Article 14 and 21 of the Constitution. **The right to choose one's gender identity** is an essential part to lead a life with dignity which again falls under the ambit of Article 21. Determining the right to personal freedom and self-determination, the Court observed that "the gender to which a person belongs is to be determined by the person concerned." The Court has given the people of India the right to gender identity. Further, they **cannot be discriminated against on the ground of gender** as it is violative of Articles 14, 15, 16 and 21. The Court also protects one's gender expression invoked by Article 19 (1) (a) and held that "no *restriction can be placed on one's personal appearance or choice of dressing subject to the restrictions contained in article 19(2) of the Constitution".*

The Court recognized the right to as to how a person choose to behave in private, personhood and the free thought process of the human being, which are necessary for the fullest development of the personality of the individual. The Court further noted that a person will not realize his dignity if he is forced to mature in a gender to which he does not belong to or he cannot relate to which will again hinder in his development.

CHALLENGES FACED BY THE TRANSGENDER

1. Lack of Legal Protection: They are subjected to custodial violence, dereliction of duty by state and overall apathy to their issues such as educational, residential, medical and employment.
2. Poverty: Lack of legal protection translates into unemployment for transgender people. They're denied services and experience high rates of unemployment, housing insecurity and marginalisation.
3. Harassment and Stigma: They are met with ridicule from the society and are considered mentally ill, socially deviant and sexually predatory.
4. Anti-Transgender Violence: They are forced for gender conformism, aversion based pseudo-psychotherapies, forced marriages, stripping, physical and verbal abuse and are pushed into prostitution by their own families.
5. Barriers to Healthcare: Their exposure to basic health care is minimal as they are subject to apathy from medical fraternity with professionals lacking transgender health care competency.
6. "Recognition of Transgenders as a third gender is not a social or medical issue but a human rights issue," *Justice K.S. Radhakrishnan* told the Supreme Court while handing down the ruling. The Supreme Court has given certain directions for the protection of the rights of the transgender persons by including of a third category in documents like the election card, passport, driving license and ration card, and for admission in educational institutions, hospitals, amongst others.
7. Human rights are basic rights and freedoms which are guaranteed to a human by virtue of him being a human which can neither be created nor can be abrogated by any government. It includes the right to life, liberty, equality, dignity and freedom of thought and expression.

VIOLATION OF RIGHTS OF TRANSGENDER

They are deprived of social and cultural participation and hence they have restricted access to education, health care and public places which further deprives them of the Constitutional guarantee of equality before law and equal protection of laws. It has also been noticed that the community also faces discrimination as they are not given the right to contest election, right to vote (Article 326), employment, to get licenses, etc. and in effect, they are treated as outcast and untouchable. The transgender community faces stigma and discrimination and therefore has fewer opportunities as compared to others. They are hardly educated as they are nor accepted by the society and therefore do not receive proper schooling. Even if they are enrolled in an

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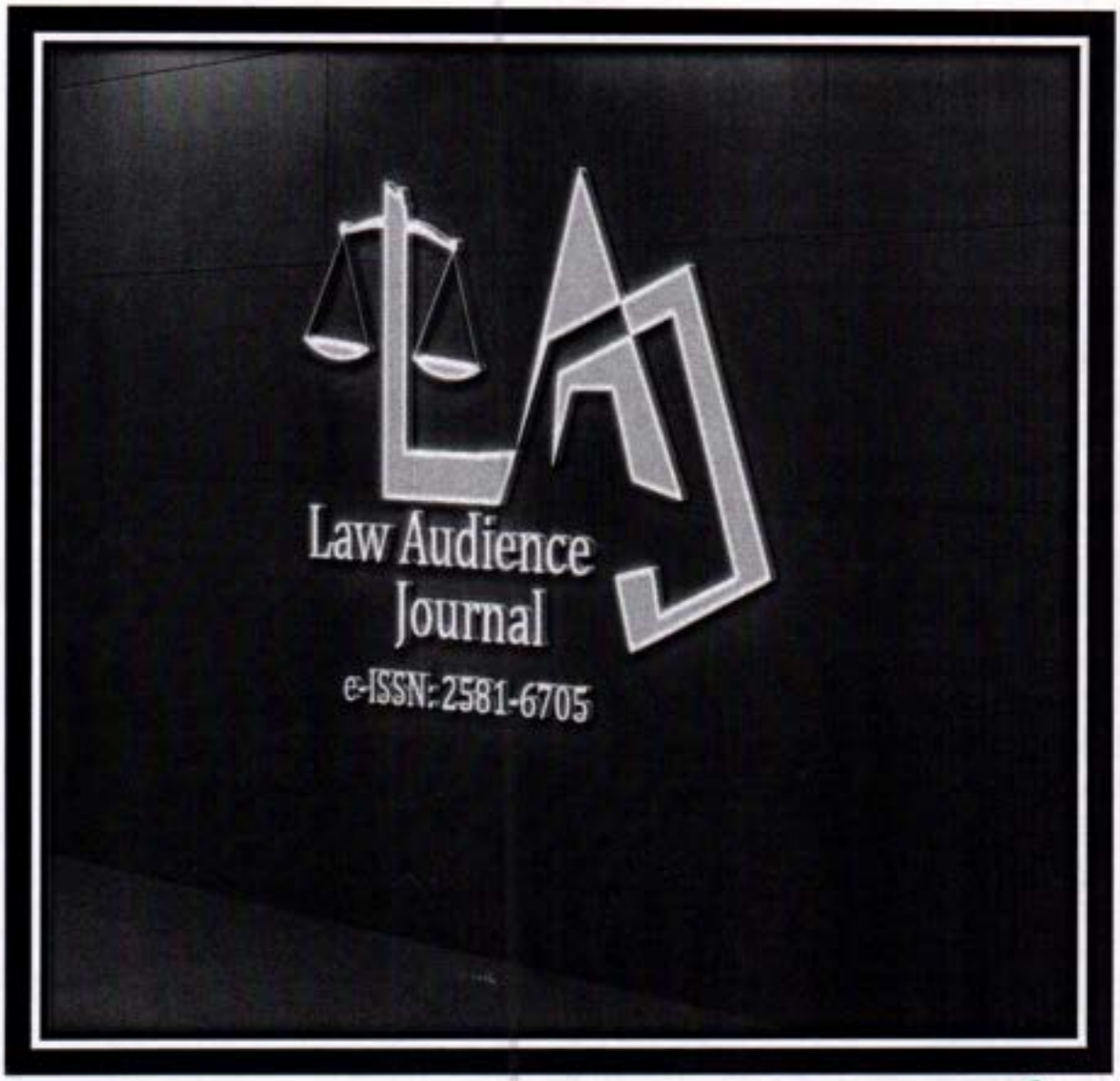

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ABSTRACT:

Human rights are basic rights for every individual in the world, because without human rights it's very difficult to live or survive in the universe. Because we are valuable human beings in the world. ***December 24th 1945*** is the historical day in the history of every human being in the world. Because on that day our international leaders established one of the strongest international institutions in the world, it's popularly known as United Nation. In modern era United Nation plays a vital role to protect the basic rights of Individuals. One of the main objects of UNO is to maintain peace and security throughout the world. The preamble of Charter of UNO started in the name, we the people of United Nation, its shows that in modern era its try to put lot of effort to protect the rights of UNO. On December 10th, 1948 United Nation declared the basic rights for the entire individual through by ***UDHR (Universal Declaration of Human Rights)***.

Human rights form the base of human existence thus, are of great importance. After a long period of struggle, they are at this point well-established under the Universal Declaration of Human Rights and the multiple human rights conventions. These documents provide civil, political, economic, social, and cultural rights to every individual either a refugee, migrant, or full-fledged citizen. Universal Declaration of Human Rights applies to every living being from the day of his birth to death. The people among the territory of various nations especially the refugees and migrants are protected under these articles and various other Conventions. This article discusses about rights, law and problems of refugees and Migrants and also discuss about rights and obligations of States regarding detentions etc.

The concept of human rights is not new. Many states and communities have been established on the basis that individual members have certain inherent rights which must be represented by those governing. This idea may be on religious, political, moral or social grounds, and it is a mistake to assume that it owes its origin to any one particular doctrine or theory of government, rather, human rights are best understood as a common and unifying expression

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CONSTITUTIONAL PROVISIONS IN INDIA:

Refugees are considered under the term ***'alien'*** in India. The term appears in ***Constitution of India (Article 22), Section 83 of the Indian Civil Procedure Code, Section 3(2) (b) of the Indian Citizenship Act, 1955,*** as well as some other statutes. Constitutions of India are applicable to the refugees when they are in India. The most important Article is Article 21 which deals with Right to Life and personal liberty; it applies to everyone irrespective of whether they are a citizen of India. Many judgements have been given based on Article 21 on refugees. Article 14 guarantees the person right to equality before the law. ***Article 5, 6, 7, 8, 9, 10, 11, 12, 20, 22, 25-28, 32, 226,*** also available for non-citizens of India including Refugees[5].

Treatment given to the Asylum people were divided into three heads[6];

- *National Treatment*
- *Treatment that is accorded to foreigners*
- *Special Treatment*

National Treatment:

The national treatment to the asylum people is same as the citizens of India. There are certain Articles in the Constitution of India, which takes care of the Fundamental Rights of all people in India. The rights such as equal protection to law under article 14, religious freedom under article 25, the right to life and personal liberty under article 21, right to social security and educational rights are guaranteed in Part III of the Indian Constitution.

Treatment That Is Accorded To Foreigners:

Under this head, there are rights which are related to the housing problems, movements, etc. the rights which are provided under this treatment are: right to employment or profession under article 17, freedom of residence and movement under article 26, right to housing under article 21, right to form association under article 15 and right to property under article 13 of the 1951 Refugee Convention.

[5] V.R. Krishnaswamy Iyer, Human Rights in India, 39, (Eastern Law House, New Delhi, 1st ed, 1999).
[6] Dr. H.O. Agarwal, International Law and Human Rights, 796-797,(central law publications, Hyderabad, 21st edn, 2016).

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Special Treatment:

This treatment includes the identity and travel document under article 28, exemption from penalties under article 3(1) of the 1951 Refugee Convention.

CONCLUSION:

In the whole world, though there are a number of conventions and laws governing refugees, the refugees still keep facing problems. At present several states doesn't have a Refugee Law, we can understand that many countries have the same face and are on the same boat. If UNHCR and state human rights commission work together, there will be much more development in the field of Refugee Law. There is definitely a need for sates in the world to set up a Law regarding Refugees, as in the future there may be many more issues due to various reasons. Whenever UNHCR tries to do something regarding refugees NGOs should actively help them.

Though protection to refugees is given under various articles of the different convention and the state laws, there needs to be a uniform Law that give equal rights to all the refugees and migrants. Throughout the universe and over the eras, civilizations have received scared, weary outsiders, the fatalities of persecution and violence. This humanitarian practice of offering preserve is often now played out on small screen across the sphere as combat and large-scale torture produce masses of refugees and internally displaced persons.

Yet even as people continue to flee from threats to their lives and freedom, governments are, for many reasons, finding it increasingly difficult to reconcile their humanitarian impulses and obligations with their domestic needs and political realities. At the start of the 21st century, protecting refugees means maintaining solidarity with the world's most threatened, while finding answers to the challenges confronting the international system that was created to do just that. Caring immigrants is mainly the accountability of States. Throughout its [illegible] year history, *the United Nations High Commissioner for Refugees (UNHCR)* has

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AN EXAMINATION OF THE CAPITAL PUNISHMENT IN INDIA FROM A HUMAN RIGHTS PERSPECTIVE

DR. K.L.CHANDRASHEKHARA[165]

Introduction

Death penalty or capital punishment is the highest degree of punishment that can be awarded to an individual under any penal law in force in any part of the world. Capital punishment is the legal procedure of the state in which it exercises its power to take an individual's life. It has been in existence since the inception of the State itself. In the British era, there have been countless instances of Indians being hanged after trial or even before it. The dawn of Independence brought about a new era in the judicial system of India. It was in stark contrast to the British Judicial system in which the Indians hardly had any access to justice, or the time of empires and kingdoms before it when the ruler of a certain state or kingdom was its ultimate authority and the source of all justice wherein his or her statements verbatim, were adopted as the law of the land. The ruler, thus had the power to condemn any man to death whoever may he or she be, even on a whim.

After 1947, India became a democratic state, and the system of awarding death penalties too changed drastically. The Indian Penal Code in accordance with the provisions enshrined in the Constitution of India provided for awarding of capital punishment for certain specific offences.

According to the Indian Penal Code along with other acts eleven offences committed within the territory of India are punishable by death:

Section under IPC or any other Act	Offense
120B	Being a party to a criminal conspiracy to commit a capital offence
121	Waging, or attempting to wage war, or abetting waging of war, against the Government of India
132	Abetting a mutiny in the armed forces (if a mutiny occurs as a result), engaging in mutiny

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194	Giving or fabricating false evidence with intent to procure a conviction of a capital offence
302, 303	Murder
305	Abetting the suicide of a minor
364A	Kidnapping, in the course of which the victim was held for ransom or other coercive purposes
376A, Criminal law amendment act, 2013	Rape if the perpetrator inflicts injuries that result in the victim's death or incapacitation in a persistent vegetative state, or is a repeat offender
396	Banditry with murder – in cases where a group of five or more individuals commit banditry and one of them commits murder in the course of that crime, all members of the group are liable for the death penalty
Part II, Section 4 of Prevention of Sati Act	Aiding or abetting an act of Sati
31A of the Narcotic Drugs and Psychotropic Substances Act	Drug trafficking in cases of repeat offences

The constitutional validity of the death penalty has been challenged many times. It was first challenged in ***Jagmohan v. State of Uttar Pradesh***[166] in which the Hon'ble Supreme Court upheld its validity stating that the capital punishment itself was not unreasonable per se and neither was its abolition in the public interest and hence not violative of the Art. 19 of the Constitution. It has been challenged many times since but the decision has remained same.

One of the most interesting developments that occurred with regard to the future of the death penalty in India was a report of the 20th Law Commission in 2015. The law commission under the chairmanship of Justice A. P. Shah recommended the abolition of death penalty in a swift manner except in terror related cases. It is to be noted however that the commission did not recommend this abolition immediately, but in a way that its complete abolition can be brought about in the near future. The commission in its report argued that the aim of any penal law was to act as a deterrent, and the capital punishment was unable to fulfil its role in this regard. On the

[166] Jag mohan v. State of U.P., 1973 SCC [CRI] 169

point of exception in terror related cases, the commission came to the conclusion that getting rid of the death penalty as a whole in terror related cases might compromise national security.

Before giving a verdict on whether or not the death penalty should be abolished, few things need to be considered. Although India has up to now, stood firmly behind retaining the capital punishment, the judiciary saves it for the heinous of crimes and it occurs on extremely rare occasions. If we take into account, the number of people who were awarded death sentence and the number of people who were actually executed, the numbers speak for itself. In the last decade, there have been only 3 executions, and all the three were of terrorist cases. In ***Bachchan Singh v. The state of Punjab***[167], the Hon'ble Supreme Court made it amply clear that the death penalty could only be awarded in the 'rarest of rare' cases which shows the inherent intention of the court to minimize the practice of awarding capital punishment as much as possible. This judgement became a benchmark for all the courts in India on which they were to base their decisions of giving death sentences in cases where the guilty had committed a capital offence.

Thus, not only do the courts exercise their power to award capital punishment in extremely rare cases, but also many of these death sentences are commuted to lifetime imprisonment on grounds health, pregnancy, family conditions, etc. Whenever any court awards a death sentence, it mentions special reasons for giving such punishment relating to the special circumstances of the case. Is the death penalty valid in today's world? It is up to the Judiciary and legal experts to decide.

Capital Punishment: International Perspective

The United Nations (UN):

In cases of death penalty, the UN General assembly recognizes that there should be a need of high standard for fair trial which is to be followed by each and every country. The procedures which are to be followed must be fair, reasonable and just. There are several resolutions with the help of which the UN suggested the protection of human rights for the person to whom capital punishment is granted, which were again approved by Economic and Social Council in resolution No. 50 of 1984.

They are summarized as follows:

[167] Bachan Singh vs. State of Punjab (1980) 2 SCC 684

In India the present position regarding death sentence is quite a balanced one. But the wide judicial discretion given to the court has resulted into enormously varying judgment, which does not portray a good picture of the justice delivery system. What is needed to be done is that the principle laid down in cases like Bachan Singh or Machchi Singh have to be strictly complied with, so that the person convicted for offence of similar nature are awarded punishment of identical degree.

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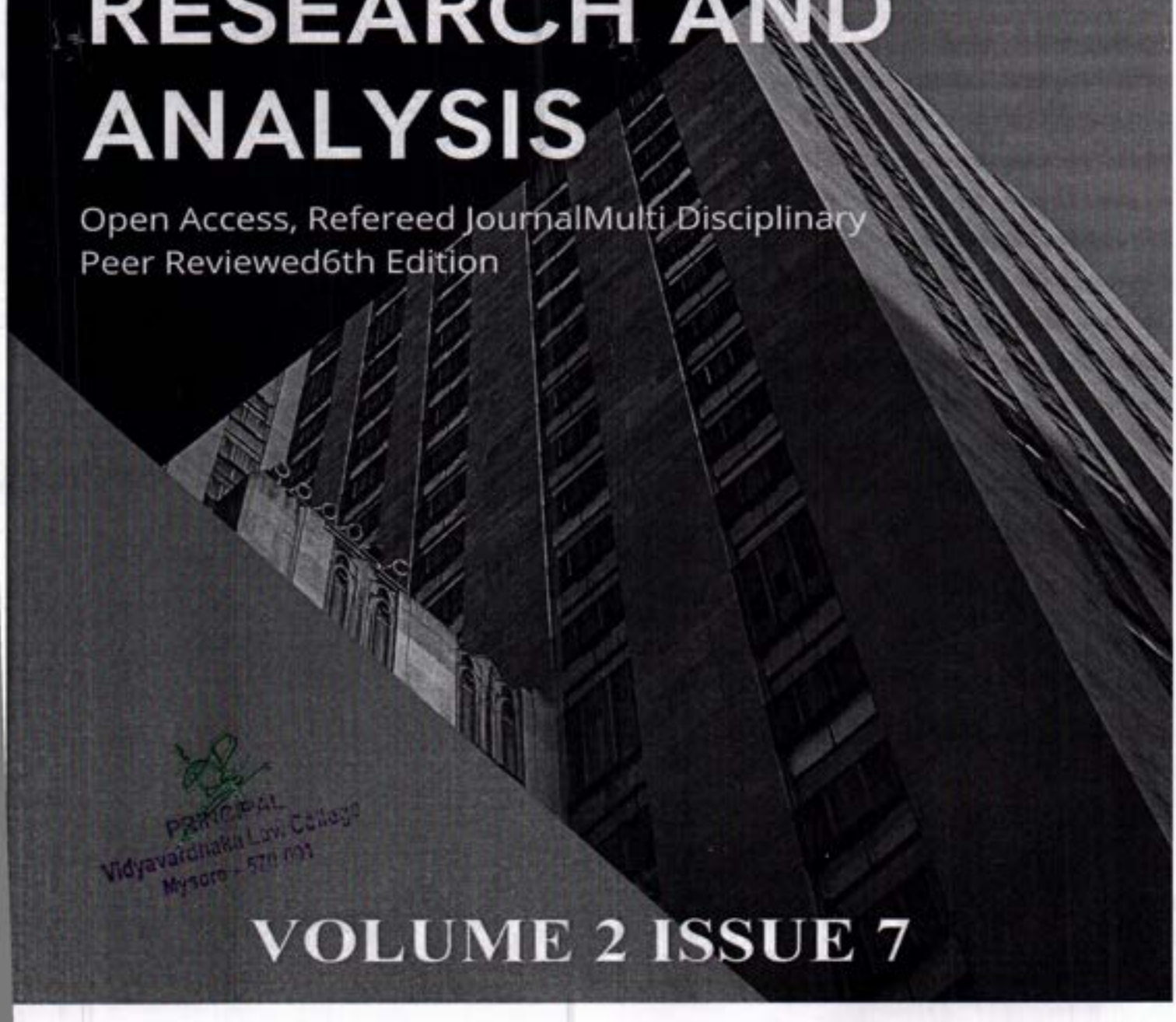

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Contemporary Issues And Challenges Of Legal Regime On Victim Compensation In India

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Abstract

Vide variety of socio-economic problems causes crime and violence in all segment of society across the globe and this indeed an hindrance to every peaceful society in one hand and enlarge number of victims on the other side. Crime against the individual and his property, crime against society and public property, crime against the ecology, environment and it biodiversity are major areas in which victimology has direct nexus. Various factors of multifaceted human endeavors are main reason in rapid growth of various crimes and victims like, child, adults, women, old age members. The crime and violence is the result manmade acts. Hence victims are not born but the result of either neglected or credible human action. Thus the scope of the term victim and victimology has been in progress. Victim of crime and violence has been contemporary global challenges and indeed, needs to be mitigated at local, national and global level through an effective legal framework. The culture of crime and violence has comprehensively been at peak at present scenario and it not only causes risk to human life but also been causing great harm to ecology of all corner of globe. Ongoing administration of criminal justice system throughout the world needs to be strengthening to meet the needs of peaceful and welfare state. The rights of an individual of every society shall be protected. Stringent and proactive legal framework and its effective enforceable initiatives should come into force. Thus, this research article will made meaningful effort to enlighten on various facets of global dimensions of victim and victim compensation approaches,

Keywords: crime and violence, victims, criminal justice, rights, legal framework

Introduction

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Unnatural Sex with Minor boy and Murdered[12].

Recent past the division bench of Karnataka High Court headed by Chief Justice Ritu Raj Awasti directed to government of Karnataka to release at the earliest Rs. 7 Crore to Karnataka State Legal Service Authority to effectively implement and maintain Victim Compensation Scheme in the state[13].

Role of National Commission for Women:

National Commission for Women in its letter to Madhya Pradesh DGP on the ghastly crime in which a tribal women was set on fire over land dispute in Guna District of Madhya Pradesh, describing the crime as ghastly in nature and extremely shameful and said "the audacity of the criminals to commit such horrific crime in a broad daylight shows police is not doing their work efficiently. Therefore, you are required immediately direct the police officer concerned to arrest all the accused and file an FIR against them under the provisions of Indian Penal Code along with other relevant provisions of law. The victims must be provided with the best medical treatment facility free of cost[14]."

The Commission come across through the one of the news report that, the victim and her husband had given an application seeking protection from the accused men on June 6 but no action was taken on their request, and hence, the Commission said further that, stringent action should be taken against erring police officer who failed to take the swift cognizance of the matter, if the allegations leveled are found to be true. The victim is entitled for the compensation under the Victim Compensation Scheme as per Sec 357-A of Code of Criminal Procedure, for the injury/loss suffered by her. The action taken must be appraised to the Commission within five days[15].

Conclusion

[12] Karnataka State Legal Service Authority, Bengaluru, 2019-2020 statement on victim compensation
[13] Times of India-Jan 29, 2022, 13.09 IST
[14] https://www.freepressjournal.in/bhopal/ghastly-and-shameless-ncw-on-tribal-woman-set-on-fire-in-mp
[15] Ibid

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The Victim Compensation Scheme 2011 is one of important and significant scheme with respect to victim compensation. Still there is lack of awareness to members of our society about this scheme. Victims are still left out from the benefits of the scheme due to non-reporting of criminal cases. Even in reported cases also victims are not aware of these benefits and been suffering. The object, purpose, letter of spirit and fruit of the scheme should reach eligible individuals. The responsible judicial institutions, state governments, district and state legal service authorities and concerned stakeholders should take meaningful initiatives to educate the society through awareness programs

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want the compulsory licenses. The main reason is that the big pharmaceutical companies take a lot of money and effort to create the drugs, and even then there is no certainty. There is a high responsibility towards the controller of patents to take into consideration the overall circumstances while granting compulsory licence to the applicant.

GENDER EQUALITY AND IP REGIME– A STUDY

Dr. Prakruthi A R* & Dr. Ramesha K**

ABSTRACT

The World Intellectual Property Organisation make a Policy on Gender Equality in the IP regime to encourage women participation in the IP Sector and contributions in the IP fields. It is intended to provide a general framework for how WIPO aims to integrate a gender perspective in its policies and programs as well as in human resources policies and procedures. WIPO Policy on Gender Equality, therefore, includes both gender mainstreaming in WIPO policies and programs, as well as gender equality within WIPO's workplace, including staffing. The present paper discussed about what are the IP rights and Gender gaps in claiming IP rights also pointed out the various challenges faced by the women in IP sector and various international convention and women in IP regime also covers about various initiatives taken by the WIPO towards gender equality and mentioned some suggestion with concluding remarks.

KeyWords: Gender equality, IP regime, WIPO, Policies and IP rights and Gender gaps

INTRODUCTION

Human innovation and creativity are the engines of progress. Since the beginning of time, female and male innovators and creators from all walks of life have transformed our world through the power of their imagination and ingenuity. However, some groups remain severely under-represented in many areas of intellectual property (IP) use. Their innovative potential is underutilized at a time when we need the widest possible range of talents is needed to solve the pressing problems facing humanity. "Women are at every level pervasively absent from the patent system. In India, far fewer patent

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WOMEN IN IP REGIME

InIP regimes in these developing countries, some of the world's most populated, can exacerbate already disparate living conditions for women. Developing countries tend to have higher levels of female unemployment, higher infant mortality rates, and lower female education rates. Investments into these countries that can raise GDP per capita and improve the standard of living for all are limited when rampant rights abuses disincentives major companies from entering the market. Protecting IP can change this - the country that protects IP rights the most is also the country with best entrepreneurial environment for women.However, while these developed countries generally have stronger IP protections than developing countries, there is still room to grow in IP for women even in developed nations. According to the Women's Institute for Policy Research, while women have quintupled their representation among patent holders since 1977, less than one in five patents in the United States have at least one woman inventor named. The study also found that women only make up 7.7 of primary inventors who hold patents. Based on this rate, women won't reach parity in patenting until 2092.

This inconsistency between the genders is even more discouraging given the important role women inventors have played in history. Women are to thank for some of today's most common-place items, such as the windshield wiper patented by Mary Anderson and frequency hopping technology patented by HedyLamarr, which laid the groundwork for Bluetooth and WiFi technology.[4] Developed countries are also no safe haven for the strong protection of intellectual property rights. The World Health Organization sponsored push for plain packaging is robbing companies of their trademark rights in developed countries such as Australia and the U.K. This has costly economic, security, and health consequences. Plain packaging has been linked to a rise in the illicit tobacco trade in Australia, funneling money into the black market, while subjecting consumers to unregulated, unsafe tobacco. If implemented in the U.S. to alcohol and sugary drinks, plain packaging could cost the beverage industry $300 billion, larger than the GDP of some countries.

According to different indexes which are important scorecards for how well countries around the world protect intellectual property rights among

4 Ann Bartow, 'Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law' (2006) 14 American University Journal of Gender, Social Policy & the Law 551. https://heinonline.org/HOL/Page?handle=hein.journals/aigsp14&div=23&g_sent=1&casa_token=YTgmXl6P6RwAAAAA:S2TaYYEV_hGYHWh6n_iFlqXXZumGq1JUHaq7w_EoDCb4KTYDZ8reMQla7ytjuGqLHPC6sKqLQ&collection=journals> accessed on 21st April 2022 at 1.50pm

women, countries that do a better job of protecting property rights tend to have better measures of gender equality, including in areas such as access to land, access to credit, and equal inheritance rights. "Empowering women is a solution for poverty. A way to empower women is giving them property rights." said Prof. Sary Levy-Carciente of Universidad Central de Venezuela.

Such quantitative studies can outline certain parameters of the problem, but are limited in their ability to identify the source of the patenting gap. At some point they must be supplemented by qualitative research to fill in missing details. Ethnographic studies undertaken by a number of researchers indicate a complex of social barriers continue to deter even present-day female inventors from engaging with the patent system. Detailed survey and interview data indicate that women in STEM fields have developed social responses that deter their participation in patenting and commercializing their research. Female scientists and engineers are less likely than their male counterparts to think about commercializing their inventions, and are less comfortable marketing themselves and their work to potential business partners.[5]

INITIATIVES BY WIPO TOWARDS GENDER EQUALITY

WIPO is working to mainstream gender equality considerations the all activities and to increase the number of women who participate in the IP system by expanding knowledge and capacities. WIPO drives and participates in research on gender equality, diversity and IP and celebrates the ingenuity of inventors, creators and innovators from all groups.

To address gender inequality in STEM(Science, Technology, Engineering, and Mathematics) in general and the low representation of women inventors in IP protection, several companies have initiated steps to ensure equitable access of IP protection to women inventors. For example, in 2011, 3M started a programme to increase women workforce in technical fields within the company. Similarly, in 2016, Microsoft started the #MakeWhatsNext Patent Program to provide mentorship to the women inventors in thepatent filing process16. Individual enterprises and associations are coming together to address the issue of genderdisparity in the patent system. For example, members of the Intellectual Property Owners (IPO) association (like 3M, IBM Corp., General Electric Co., Google LLC and Microsoft Corp.) together with technology-transfer professionals, developed a toolkit of best practices and resources for boosting the diversity of inventors. This toolkit aimed to help companies learn about their implicit biases and create a more inclusive inventor community. Following suit, several other companies have started proactively askingthemselves about the proportion of their total R&D competency/new inventions that come from women workforce/ inventors. Additionally, they are trying to determine what measures can be taken to ensure gender equality in their R&D workforce.

5 https://www.wipo.int/wipo_magazine/en/2018/02/article_0001.html accessed on 18th April 2022 at 3.30pm.

The 22nd session of the Committee on Development and Intellectual Property, 2018 acknowledged the existence of the gender gap in IP and emphasized the need to create gender equality by empowering women to innovate and create IPs. It aimed to include a gender-specific perspective in IP policies. The author believes that a gender-specific perspective in IP policies is not necessary but agrees with the Committee's recommendation on the need to empower women to innovate and occupy a bigger share of the workforce in the development of technologies and businesses.[6]

CONCLUSION

Measures to empower women participation in IP sectors are the need of the hour. Some measures that can be undertaken are – promote women's involvement in STEM fields by providing scholarships or crash courses; incorporating initiatives to the existing women empowerment schemes of education; awareness programs and mentorship can be provided by women inventors or other women in the IP field; concessions and benefits similar to those offered to MSMEs(Ministry of Micro, Small & Medium Enterprises) in terms of financial assistance and loan moratoriums can be further relaxed for women centric businesses.Clearly education, information and the provision of role models must play an important role in the uptake and use of IP across genders.[7]

6 Kevin J Greene, Intellectual Property at the Intersection of Race and Gender: Lady Sings the Blues (2008) 16 American University Journal of Gender, Social Policy & the Law 365.Availableat<https://heinonline.org/HOL/Page?handle=hein.journals/ajgsp16&div=18&g_sent=1&casa_token=9dCldNS7YQoAAAAA:Pw4x6guojgJK99Za8ooE_EaBnUvP2k4Xdb4d8hsaQWhRu_BJHKx8H1feSnh797Si9gt_fc&collection=journals accessed on 21st April 2022 at 2:00pm

7 Supra note 6

INTELLECTUAL PROPERTY RIGHTS, ISSUES AND CHALLENGES IN INDIA

Dr.M.Jayashree*

ABSTRACT

Intellectual property rights is one where conferred to the general term for the assignment of property rights through patents, copyrights, and trademarks which are intangible. However there are some issues that government need to address. In any developing country the protection of intellectual property rights is very important. Through the research in this regard by the individuals, group of individuals and companies about a product or service that is creative or innovative will be a contribution for the society. The issues and challenges in intellectual property rights which are in India that for a long time, the awareness in securing the intellectual property rights is considerably very low in India. Copying, plagiarism, piracy and other IPR violations were flourishing, which in turn was causing damage and loss to the real owners. All along with India's political, social and economic evolution, the need of security to the rights of IPR has become inevitable to ensure intellectual, cultural and economic growth of nation. Challenges of IPR has been emerged because the impact of IPR in India is limited. There is rise in violations of these rights because of non-awareness of enforcement of rights and delay in decision by courts, when cases taken to the judiciary. This is the loophole, where for large multinational corporations in areas like pharmaceuticals, Agriculture, textile industries, traditional knowledge so on so forth. The problem that everyone face is working out how to ensure the values of intellectual property rights are usable, and how to ensure that their value is preserve in the face of relentless infringement on an enormous scale. A creative work is a manifestatation of creative skill including literary,

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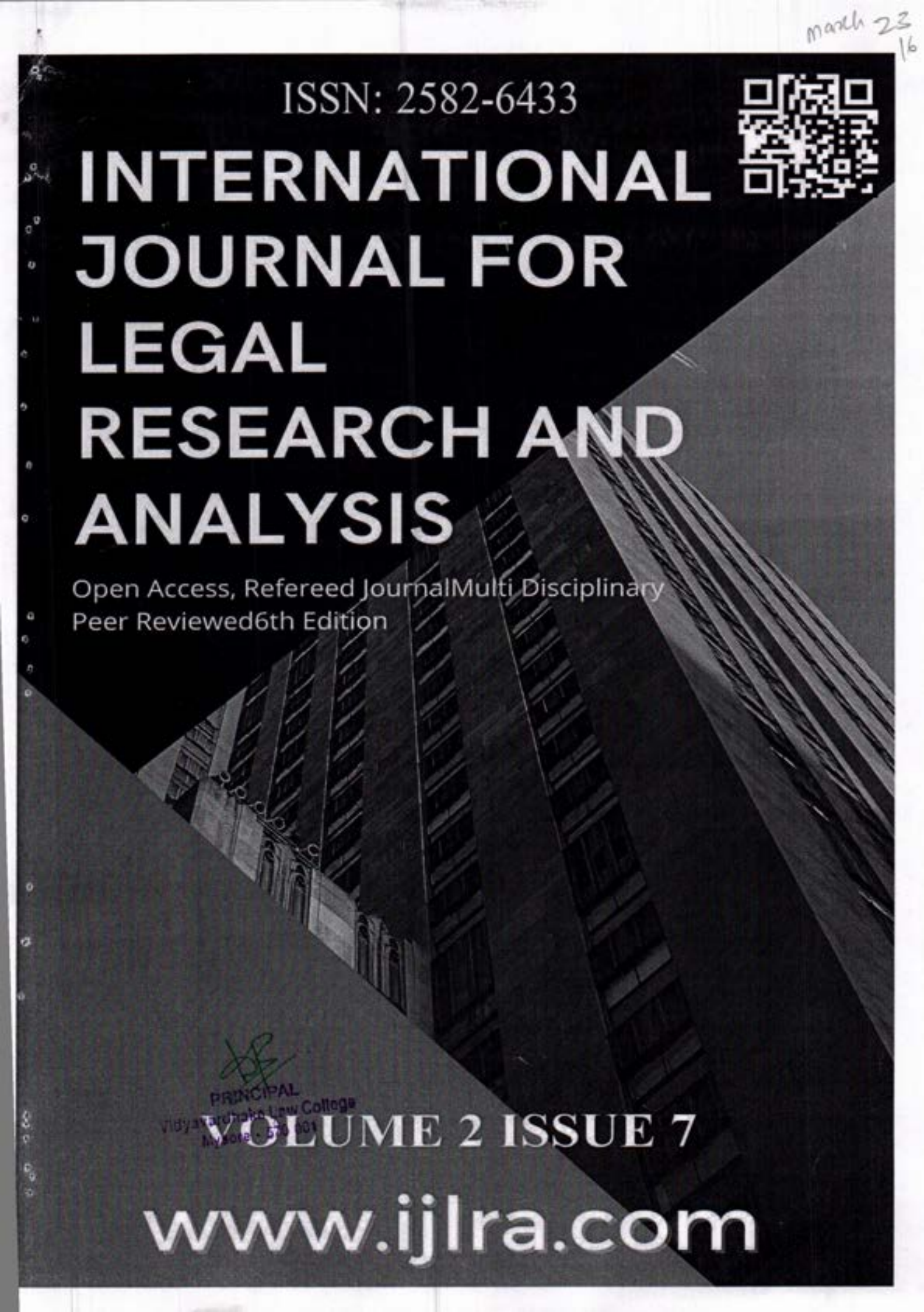

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Intervention Of NGOS Through Development Of Tribal Community

Authored By - Dr. Prakruthi A R[1]

ABSTRACT

These societies did not follow the rules of any other subclasses or caste, like other religions. And they had their own set of customs and rituals. These tribes were spread all across the country. Most of the tribes lived in forest Hills, desert and far-fetched places. These tribes or groups of people move from one place to another and search for livelihood or other reasons. These tribes were mostly involved in primary activities related to agriculture or animal husbandry. Some of them are also hunter-gatherers. But these tribes are suffers from lot of problems like extreme level of poverty, lack of education, problem of health and nutrition, displacement and rehabilitation, erosion of identity etc. Non-Governmental Organizations are try to controlling these problems and providing protection and played a vital role for their development. and also NGOs are done many works for social welfare. The present paper deals with role and significance of NGO for Tribal Development to ensure social welfare and uphold of his right to life and livelihood.

Key Words: Tribal Development, Social Welfare, NGO's, Categories of NGO's

INTRODUCTION

Indian history has witnessed various changes in society. Most of it encompasses the caste system followed religiously in our society. Apart from the social structure in the cities, there were other societies that flourished on the sidelines known as tribal societies. These societies did not follow the rules of any other subclasses or caste, like other religions. And they had their own set of customs and rituals. These tribes were spread all across the country. Most of the tribes lived in forest Hills, desert and far-fetched places. These tribes or groups of people move from one place to another and search for livelihood or other reasons. These tribes were mostly involved in primary activities related to agriculture or animal husbandry. Some of them

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SIGNIFICANCE OF NON-GOVERNMENTAL ORGANISATION FOR SOCIAL WELFARE

A non-government organization is a foundation that works with a motive to accomplish societal goals and objectives. Here, people and communities voluntarily work at national or international level. It happens that the strategies and work process may be different but they all work for common goals. There are some of the best ***NGO in India*** working to help society and unprivileged people. Countries like India face different issue due to which a society gets affected. As a result, these issues may hinder the growth and development of a country. It is seen that non-government organizations have partnerships with public or private organizations. These organizations are run through donations but at an initial level, they did voluntary basis. NGO's are diversified in various ranges of activities. The purpose of NGO's may be different where some may have charitable status or others may register for tax exemption. But the basic goal or objective of an NGO is to help unprivileged people in society. An NGO benefits a country to remove crime and make people lives better. These communities not only help people but also the government of a country. They cover the wide range of acts like healthcare, education, finances and many more. The partnership between government and NGO remains helpful for citizens. In order to get the better understanding about NGO, its functioning is necessary to know.

There are some functions of the non-government organization are explained underneath:

- **Resolve social issues:** Non-government organizations play an indispensable role in the welfare of society. Different social issues are being solved by the NGO's in India. There are some major issues like:-
  - Illiteracy,
  - poverty,
  - child labour,
  - casteism and many more.

  The teams of these organizations raise voice against the mentioned issues. They run different campaigns to spread knowledge and awareness among people.
- **Motivates citizens:** This is another role played by an NGO towards social welfare and development. There are various social issues faced by society such as education, girl child, hunger and many more. However, some of the best NGO in India take positive initiative towards the aforesaid issues. They form teams and run campaigns. It helps people to aware towards what is right or wrong. For instance, it is seen that children

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less than 14 years aren't allowed to work as its called child labour. The research has shown, 3.9% of the total children population in India are working in factories, shops etc. In order to help these children, NGO's have taken a step.

- **Identification of problem and take corrective measures:** The motive of non-government organizations is to uplift social welfare and development. Generally, NGO's find out the issue and problems by evaluating crimes or by communicating with public organizations. Later on, they prepare a plan accordingly and take the required actions. It results in sorting out the social issues in an effective manner. It needs the best NGO in India to sort the social issues.

Riddhi Siddhi Welfare and Charitable Trust is a renowned NGO which is consistently working towards social welfare. They focused towards helping poor and needy people. There are different programs have been conducted by them to help and develop society.

Suggestions to improve the working of the NGOs for Tribal Communities :-

- **Capacity Building:**
  - Capacity building and training can assist in the acquisition of critical new skills.
  - NGO workers can then be more easily trained and the appropriate skills can be developed within the organization to meet difficulties.
  - Donors will have more faith in the initiative if they have access to qualified experts.
- **Information, Communication and Technology:**
  - All NGOs should be using a minimum of Internet, email, a basic website and relevant social media platforms.it will help the timely updating.

Conclusion

NGO provides a mechanism that could possibly work where the government has failed. As a result, it supports grass roots initiatives as well as recognizing and responding to the realities of the local people. Since NGOs are actual non-profit organizations, various projects can be achieved without having to use the government's money. This is because there are many private donors who support the NGOs. The role of NGOs' in providing primary education for all has been based on a neo-liberal agenda for development. Although the goal of achieving primary education has not been achieved, NGOs roles have improved the situation. From the above study we can say that Non-governmental organisations are doing a good job towards development of tribal people and also for social welfare.

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OLD AGE HOME AND ITS IMPACT ON SOCIETY

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ABSTRACT

With the advent of industrialization there has been a significant change in the family system. Joint families disintegrated and small nuclear families emerged where the young couple find no time to look after their old parents. In such families the position of the old has become a crucial factor. In such families the position of the old has become a crucial factor. The senior citizen themselves find it difficult to adjust with the modern ways of living of their young children. In such a situation how the senior citizen in the urban set up are being looked after by the family is worth enquiring. In the desire to be self-relevant. The clashes between generations, distress the old in the cities. Hence, many of the problems facing the urban elderly do not exist in the villages. In the contrast to the rural population the city elderly population is quite different. Many from this group have taken recourse to old Age Homes. Along with the lonely, the helplessness they have differences with their kith and kin perhaps the next generation, which force them to leave their own home and enter the premises of Old Age Homes

KEYWORDS: Old Age Home, Social Impact, Generation Gap and Social Implication

INTRODUCTION

Old age is part of our life cycle. Senior citizens have always been an integral and important part of the family in Indian Society. In the earlier society, the role and the authority of the elders was both supportive and upheld. All ancient and scared literatures including the Vedas and the Epics portray parents almost as God. As a consequence, young people would be always respectful towards the elderly. They would abide by the wishes and authority of older persons. According to Vedas human life is devided into four ashramas or stages: Brahmacharya (student life) , Grihastha (married life), Vanaprastha(life of retirement) and Sanyasa (Life of renunciation). The movement from one stage to another was gradual with prescribed specific duties and observances associated with each stage. This minimized inter-stage clash and conflict. When a son would

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enter into Grihastha ashram, father would usually proceed to Vanaprasatha, passing on the responsibilities to the son.

In most traditional societies the process of the life cycle presented relatively for in these societies roles and statuses were prescribed by the age and gender in a fairly rigid pattern there were few significant option open to the individual as he or she proceeded through the life cycle and the comparatively static nature of the culture provided stability in the roles and mutual interactions of the generations .these traditional societies usually accorded a respectable and an honoured place to the old who, because of their years of experience, were regarded the repository of the knowledge and wisdom of the community . Simmons (1945)[2] in a study of traditional societies found that these communities offered such a satisfactory role to the senior citizen that many people looked forward to old age rather than fearing it. The senior citizen were often the dominant member of the family, wielded considerable political power in the community and were expected to remain active in the community and to perform some forms of light labour. However, these traditional societies are now undergoing rapid changes because of modernization, industrialization and urbanization and are adopting the western culture and philosophy, particularly that of the Foreign culture[3]. On the other hand the western society is oriented towards youth, mobility and activity and the senior citizen have no honourable or useful place in society. The knowledge of aging and the aged, in this society, was dominated by myths, prejudices, and ignorance as a band about personal fears of growing old. Such myths and stereotypes could be dangerous and damaging to both the aging and the status of senior citizen during their life course.

Creandell(1980)[4] to emphasise this point has, given an illustration "if someone believes that 'senility' is an inevitable consequence of aging (it is not) then a relative who is old may be treated as though he or she were, in fact, senile. For example, if grandfather cannot remember something that took place sixty years ago and his relatives believe that senility and aging are synonymous, then grandfather's forgetfulness may be interpreted as senility. If this happens, the concept of senility may be forced on him. His questions will be ignored since they will be seen as babbling. When he does not respond to questions or commands, it will reinforce the fact that he is senile and not simply hard of hearing. When he has trouble in buttoning his shirt, it will be because his mind is 'gone' and not because he has arthritis. In time all of his behavior will be defined as that of a senile ols man. In an atmosphere in which individuals tell him he is senile ('let me do it for you') and act towards him as though he were senile, he may eventually begin to play the role expected of him or be severely chastised or worse drugged and put in an institution."

But old-age homes are gaining more and more prominence in this fast-changing world. There has been a paradigm shift as a result of modernization, urbanization, an increase in life expectancy due to advances made in medical science, increased literacy rate and migration of younger generations. As people are more exposed to the diverse cultures in the world, there is a tendency for most to long for privacy and independence.

Due to rapid growth of population today the senior citizens find difficult to adjust with their own children because of generation gap and their varying perceptions. The outcome is the seniors have to yield to the wishes of the juniors in the interest of peace in the family. If it does not come about, the lives of the seniors become torturous and they develop feeling that they are unwanted. The contemporary scenario in India does not provide for good community care for the elderly. Thus aged suffers from numerous familial, social, economic, psychological and emotional problems

NEED OF OLD AGE CARE

Many are tilting towards a nuclear family concept and are eventually exploring the possibilities of escaping the responsibility of having to deal with their parents hands-on. While this is not the case everywhere, there are more grueling facts about children abandoning their elders for selfish reasons. The increasing cases of chronic diseases among the elderly are also expected to augment the growth of old age homes. As the elders are incapable of contributing to household work or monetarily, they are often considered as a liability. As a result, they are subject to abuse and neglect and eventually in some worse case scenarios abandoned without a penny to their name. This is more prevalent amongst the underprivileged communities as money becomes a major factor. They are unable to provide for their medical care and expenses relating to the well-being of the elderly population. The abuse can be classified as physical, sexual, psychological or financial. According to the Report of the Technical Group on Population Projections for India and States 2011-2036, there are nearly 138 million elderly persons in India in 2021 and it is further expected to increase by around 56 million elderly persons in 2031. There are 18 million homeless elderly persons in India based on the Longitudinal Ageing Survey of India 2020.

Currently, there are 728 old age homes in India. Old Age Homes in India may be both public and private homes. They provide different geriatric services in India including in-home care, hourly adult care, hospice care, palliative care, assisted living and nursing homes. These services are also based on the respective disease indications. Old Age Homes in India is still viewed with serious misgivings. However, due to the nation's rapidly ageing elderly population and its subsequent increase in demand for long term care through Old Age Homes in India, the government has formulated various policies and schemes. Alongside the government, there are numerous goodwill organisations working towards helping the elderly population in need. One such organisation is the Wishes and Blessings NGO, based in New Delhi. Under its Umbrella project, Care for the Elderly, the NGO has set up a series of Old Age Homes in India specifically based in Delhi. Mann Ka Tilak is the first charitable old age home set up on 25th April 2018.

CONCLUSION

In the old age homes he elders are given uncompromised attention and service where facilities including housing, boarding, food, entertainment, recreation and medical facilities are provided free of cost. They are given a new lease on life and are given the dignity and respect that everyone is entitled to. There is a serious need for deliberation and propaganda to cater for the alarming problems the senior citizens are facing. Supporting corporate and social work organizations and sensitizing the younger generation to be more mindful and responsible towards the elderly is imperative. The elderly need to be made aware of their existing rights. There is an important need for them to be empowered and their contribution needs to be endorsed at all levels be it the family, society, and the nation at large.

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ಪ್ರಾಧ್ಯಾಪಕರು
ವಿದ್ಯಾವರ್ಧಕ ಕಾನೂನು ಕಾಲೇಜು
ಮೈಸೂರು

DIGITAL LENDING: NEED FOR PRUDENTIAL MEASURES AND ADDRESSING CONSUMER PROTECTION

*-Dr. DEEPU P**

Introduction

When something is important enough, you do it even if the odds are not in your favour.- Elon Musk

Due to digitalization, all bank transactions are transparent and helpful for customers. Instead of standing in a long queue in the bank, the customer can avail the service from his fingertips. This digitalization has been increased due to the lockdown and it helps people to make an online paymentsfor grocery or food delivery etc. Despite the pandemic affecting our life in all ways for 2 years consecutively, the growth in the digital space has been strong and tremendously amazing. In 2022, it is projected to take an even higher leap.

India has the second largest number of internet users in the world. The internet's penetration has reached outstanding numbers in the country. By 2023, the number of active Indian internet users is expected to grow up to almost 666 million in India and higher than 5.3 billion on a global level. This indicates an online shift for a larger share of people, making it sensible and opportunistic for retail brands to venture into the digital marketing space.

Definition Of Consumer

A consumer is an individual or group of individuals who purchase goods and services for their personal use and not for the purpose of manufacturing or resale. Section 2(7) of the Consumer Protection Act, 2019[1] defines a consumer as any person

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1 "consumer" means any person who— (i) buys any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised, or under any system of deferred payment, when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or (ii) hires or avails of any service for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such service other than the person who hires or avails of the services for consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person, but does not include a person who avails of such service for any commercial purpose. Explanation.—For the purposes of this clause,— (a) the expression "commercial purpose" does not include use by a person of goods bought and used by him exclusively for the purpose of earning his livelihood, by means of self-employment; (b) the expressions "buys any goods" and "hires or avails any

who buys goods or services in exchange for consideration and utilizes such goods and services for personal use and the purpose of resale or commercial use. In the explanation of the definition of consumer, it has been distinctly stated that the term 'buys any goods' and 'hires or avails any services' also includes all online transactions conducted through electronic means or direct selling or teleshopping or multi-level marketing.

History Of Consumer Protection Act

Consumer Protection has its deep roots in the rich soil of Indian civilization, which dates back to 3200 B.C. In ancient India, human values were cherished and ethical practices were considered of great importance. However, the rulers felt that the welfare of their subjects was the primary area of concern. They showed keen interest in regulating not only the social conditions but also the economic life of the people, establishing many trade restrictions to protect the interests of buyers.

Consumer protection occupies a prominent place in Arthashastra. It describes the role of the State in regulating trade and its duty to prevent crimes against consumers. Also during Chandragupta's period, easy access to justice for all, including consumers, was considered of great importance. The king was the central power to render justice. Consumer protection legislation enacted after India's independence from Britain includes the Essential Commodities Act of 1955, the Prevention of Food Adulteration Act of 1954 and the Standard of Weights and Measures Act of 1976. A benefit of these acts is that they do not require the consumer to prove mensrea. Rather, "the offenses are of strict liability, and not dependent on any particular intention or knowledge.[2]" Criminal law in the field of consumer protection has acquired much significance, as consumers are less inclined to go to civil court for small claims. It has been said that "the functional value of criminal law in the field of consumer protection is a high one and it has a respectable pedigree[3]." Another view is that there has been an attempt to look at consumer protection as "a public interest issue rather than as a private issue" to be left to individuals for settlement in court. In addition to the remedies under contract and criminal law, consumers have rights under tort law. Based on its numerous legal intricacies, however, tort law is not the ideal remedy for injured consumers in India. For example, the traditional doctrine of negligence imposes a heavy responsibility on the plaintiff to prove each of its required elements. These traditional legal requirements naturally encourage injured consumers to pursue legal remedies under different laws[4]. The orthodox legal requirements under the law of torts and contracts forced the

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services" includes offline or online transactions through electronic means or by teleshopping or direct selling or multi-level marketing;

2 D.N. Saraf, Law of Consumer Protection in India 169 (1990).

3 Gordon Borrie, The Development of Consumer Law and Policy: Bold Spirits and Timorous Souls 3 (1984).

4 See Wormell v. R.H.M. Agriculture (East), Ltd. [1987] 1 W.L.R. 1901.

6. **Recognize the red flags**: The customer must recognize the red flag. It means illegal digital lending apps don't list a website or even have one. The borrowers should never download any such loan app. Sometimes, these fraudulent loan apps may list a website and falsify their association with an NBFC. Hence, borrowers should also verify the name of partners on the NBFC's website. Further, the Borrowers should also be aware of the lender appears more interested in obtaining personal details rather than in checking credit scores. By keeping an eye out for such red flags, borrowers can identify fake lending apps from authentic apps and avoid borrowing from them.
7. **Large a complaint:** The digital lending apps promoted by entities not regulated by RBI such as companies other than Non-banking finance companies, unincorporated bodies and individuals. Major issues are exorbitant interest and charges levied by digital lending Apps, and harassment of customers for loan repayments in these situations the borrows are large a complaint to theconcerned authority. A totalof 2,562 complaints are largefrom January 2020 to March 2021 and 7,813 complaints have been received against banks and non-banking finance companies (NBFCs) pertaining to digital lending apps and recovery agents under the 'Integrated Ombudsman Scheme' of the Reserve Bank of India (RBI) during the period 1 April 2021 to 3rd March 2022.

Conclusion

As per the Reserve Bank of India, there are 81 app stores in India and 1,100 digital lending apps. Out of 1,100,600 digital lending apps are illegal. The facilities offered by the fintech companies are comprehensive and it is difficult to understand. The customer without verifying the terms and conditions simply put in their signature and companies changed the terms and conditions of the loan to their whims and fancies. These terms and conditions are differing from one consumer to another consumer. Now a day consumers are facing challenging situations and problems hence need to take prudential measures to address the problems of consumer's and protect the consumer.

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lender is registered with RBI and check their credentials such as registration number and status on the RBI website. Just as lenders follow know-your-customer (KYC) norms before advancing a loan, borrowers too should know their lender to avoid being deceived.

2. **Deny app permissions:** One of the primary motives of illegal lending apps is to collect data by fraudulently taking numerous app permissions from the user and misusing it later. Apps only have the right to collect minimal user data after they have indicated the usage of each data or access permission so obtaincd. Borrowers should be wary of the app permissions and deny extra permissions such as contacts, location, photos, etc. Most of these fraudulent digital lenders access users' personal data like contacts and pictures to extort additional money from them even after loan repayment. As a prudent practice before downloading, check on the publishers/ owners of the app being downloaded as well as its user ratings, etc.
3. **Verify the loan agreement:** As per the Fair Practice Code prescribed by RBI, a lender must disclose necessary information that affects the borrower to enable them to make informed decisions. In most instances, fake lending apps do not provide loan agreements and the necessary information as mandated by the RBI. In absence of a loan agreement, these digital lenders may extort exorbitant interest rates and EMIs repeatedly from the borrower. Consequently, borrowers must insist on a loan agreement whenever applying for a loan from digital lending apps. Additionally, they should verify the lender's name, processing fee, interest rate, repayment schedule, penalty, etc, as disclosed in the loan agreement.
4. **Practice prudence:** Borrowers should always practice due diligence before applying for a loan from digital lending apps. Before downloading a lending app, the borrower must verify the name of the app, its rating and reviews on the app store, etc. Additionally, they should also verify the physical address and contact information of the company operating the app as rogue apps tend to provide inconsistent or incomplete addresses or incorrect contact information. Absence of documentation, reluctance to disclose fees, demand for advance payments and lack of concern about credit history are all tell-tale signs of fraudsters. These digital swindlers often pressurize borrowers to act immediately but borrowers must never act in the spur of the moment.
5. **Key takeaways:** Although digital lending apps have eliminated long waits and biases from lending, in the wrong hands they can be misused to defraud innocents. The happiness of receiving a loan within minutes does not take long to dissipate into the helplessness of being extorted for months. Ultimately, the only recourse to prevent digital lending scams is to practice due diligence, be aware of the methods of scams and fraud done by the fraudsters and take necessary precautions to verify the genuineness of such lending apps and NBFCs/ Banks. The borrowers shall also act as responsible citizens of the country and shall report any fake/ illegal digital lending app to the Reserve Bank of India.

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of freedom movement and constitutional development. In the field of criminal justice, this, change in public perception has done a lot of damage not only to the profession but also to the quality and efficiency of criminal justice administration. Being an independent and autonomous profession ,it is not for the Government to force change on their part, rather the Government should provide opportunities for professional development, facilitate their role as agents of reform and accommodate their legitimate aspirations in judicial administration. in this regard it is necessary for the profession to appreciate why the committee has great expectations from the criminal law-Legal legends without their willingness to support, the reform process may even not take off. For example, delay and arrears are serious problems.[14]

Whether, it is the laws, rules or procedures or whether it is me and women who run the system that are to be blamed, the fact remains that the system has become quite insufficient. The laws; rules and procedures which were good for the bygone era have not quite stood the test of time. The men and women who run the system also need to be trained, motivated and finally made accountable. This is essential in a democracy which requires both transparency and accountability from such public servants; it is difficult to expect the laws and procedures to make up for the deficiencies of the human element and vice versa.[15] The Triumph of justice SHALL PREVAIL and if not, there is failure of constitutional mechanism in delivery of justice.

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14. Criminal justice recommendations of justice Mallimath, page no.249.
15. *Infra* page no 259.

Admissibility and relevancy of expert evidence with special reference to Hand writing

*Dr. Deepu.P**

Introduction

Earlier, the Courts required expert evidence to some limited field i.e., medical doctors, engineers, architects, stockbrokers etc. With the vast development in science and technology, the need of expert evidence has now become very common as well as helpful to the Courts to reach upon a fair conclusion regarding commission of an offence. Today the role of experts has been widened and the Courts take their assistance in various aspects viz. Identifying the handwriting, ballistic experts, and forensic experts, scientists who decide the legitimacy by DNA tests, chemical examiners, psychiatrists, radiologists and even track-dogs are playing a vital role in investigation of crimes and their evidence is admissible in the court of law. The concept of 'expert evidence' is contained in Section 45 of the Indian Evidence Act. It recognizes two types of evidence namely data evidence and opinion evidence. The expert evidence falls under the latter category[1] and it is called on a case to case basis depending upon the facts and circumstances of each case.

Meaning of Expert

An expert witness is one who has devoted time and study to a special branch of learning and thus is specially skilled on those points on which he is asked to state his opinion.[2] His evidence on such points is admissible to enable the tribunal to come to a satisfactory conclusion.[3] According to Black's Law Dictionary, an opinion is *"an inference or conclusion drawn by a witness from facts some of which are known to him and other assumed"*[4]. In other words, an opinion is a person's belief based on a given set of facts, which, unlike facts, cannot be proved. This opinion given by expert witness is called expert opinion and if any evidence delivered by expert is called expert

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1. Forest Range Officer v. P. Mohammad Ali, AIR 1994 SC 120.
2. Ramesh Chandra Agarwal v. Regency, Hospital Ltd., AIR 2010 SC 806:(2009) 9 SCC 709.
3. Powell,10th Edition., P 39.
4. Black's Law Dictionary, 5th Edition ., P 12.

evidence. This requires determination of the question as to who is an expert. The expert person should be "Specially skilled" on the matter.[5]

Duty of an expert:-

a) An expert is not a witness of fact.

b) His evidence is of advisory character.

c) An expert deposes and does not decide.

d) An expert witness is to furnish the judge necessary scientific criteria for testing the accuracy of the conclusion so as to enable the judge to form his independent judgment by application of the criteria to the facts proved by the evidence.

The court shall exercise great care and caution at the time of determining the genuineness of handwriting. A handwriting expert can certify only probability and not 100% certainty. On the question of the handwriting of a person, the opinion of a handwriting expert is relevant, but it is not conclusive and handwriting of a person can be proved by other means also.

The following are the different modes of proving handwriting:-

i) A person who wrote the document can prove it.

ii) A person who saw someone writing or signing a document can prove it.

iii) A person who is acquainted with the handwriting by receiving the documents purported to have been written by the party in reply to his communication or in ordinary course of business, can prove the documents.[6]

iv) The court can form opinion by comparing disputed handwriting with the admitted handwriting.[7]

v) The person against whom the document is tendered can admit the handwriting.[8]

vi) The expert can compare disputed handwriting with admitted handwriting and thereby prove or disprove whether the documents were written by the same or different persons.[9]

5. Section 45 of the Indian Evidence Act,1872.
6. Section 47 of the Indian Evidence Act,1872.
7. Section 73 of the Indian Evidence Act,1872.
8. Section 21 of the Indian Evidence Act,1872.
9. *Ibid* 7.

Science of hand writing

Disputes relating to the identity of hand writing form bulk of court's work. Very often the genuine execution of document is required to be proved in court proceedings as the execution of a document of either denied or the signature of the person on the document is alleged to be forged.[10]

In a broad sense, handwriting means making of any mark upon any surface by a direct human agency, as the means of communicating information to fellow men. This may also include engrossing, drawing and painting. The hand- writing is limited to the form of freely written characters, which is usually adopted by the person in communicating messages to other persons. It is an undisputed fact that in everybody's manner of handwriting there is a distinct prevailing character which can be ascertained by handwriting experts. Each person's possesses a particular style of hand- writing. He adopts a certain style of handwriting which gives it a character that distinguishes it from other's writing. This distinct character of handwriting is the result of several factors or of several influences i.e.,

a) **School influence:** A young student who is admitted into a school when he stars using a particular style of copy he gets the first impulse for hand writing and then he forms a particular style of handwriting.

b) **Family influence:** Members of the same family sometimes possess striking similarities in the formation of their handwriting.

c) **Business influence:** Persons engaged in certain profession or business adopts a peculiar style of hand writing.

d) **Sex:** By and large there will be difference between the hand writing of a male person and the hand writing of a female person.

e) **Influence of Mind:** It is said that writing is the mirror of the mi[illegible], the writing ultimately becomes an automatic producti[illegible] equally a fact that it does so as the pupil and agent of the mi[illegible]

f) **Physical causes:** some physical causes also result in giving a certain character to the writing of persons. A person having short thick fingers,

10. Cockl's Cases and Statutes on Evidence, 6th edition,1970, P 88.

Constitutionality of expert evidence

The constitutionality of expert evidence was challenged as against Article 20(3) and Article 21 of the Constitution of India 1950. The basic contention was that by compelling (which could go to the degree of application of physical force) a person to give sample of his handwriting or signature, or forcing him to go through Narco-analysis, Polygraph Test and Brain Mapping, the Court was compelling a person to self-incriminate, which is in violation of Article 20(3) of the Constitution. This whole process was also in violation of a person's right to life and liberty under Article 21 of the Constitution. Hence, the constitutional validity of the whole process was challenged time and again in the Court.

These questions were addressed by an eleven-judge bench of the Supreme Court in the case of *State of Bombay v. Kathi Kalu Oghad,*[18] where the question was regarding fingerprints and handwriting samples. The Court upheld that compelling the accused to provide fingerprint and handwriting samples under Section 73 for the purpose of expert opinion was not hit Article 20(3), and hence was constitutional. It was discussed in this case that giving samples was not equivalent to being a witness against themselves, as the samples were not evidences *per se*. Rather, the report made by the expert would be the evidence in this case, and the expert would act as a witness against the accused. Moreover, this case narrowed down the scope of protection under Article 20(3) by stating that the clause "to be a witness" means imparting knowledge about facts of which the person has personal knowledge through oral or written statements, whereas giving specimens of fingerprints or handwriting do not fall under this, as these have an intrinsic and unchangeable nature that is verifiable. So, here, the distinction between "physical" and "testimonial" evidence was maintained.

In another case of *Goutam Kundu v. State of West Bengal,*[19] where there was a question as to paternity, the Supreme Court held that no person can be compelled to give blood sample and any refusal cannot be interpreted adversely.

18. (1962) 3 SCR 10.
19. (1993) 3 SCC 418.

Then, in the case of *Selvi v. State of Karnataka,*[20] the Supreme Court was again faced with the validity of three specific and extensively used investigation methods of Narco-analysis, Polygraph Tests and Brain Mapping. In Narco-analysis, a truth serum is administered to the subject to ensure that he speaks the truth, whether he is willing or not. In the Polygraph Test and the Brain Mapping methods, the physiological responses to various questions are analyzed to decide whether the subject is speaking the truth or not. In this case, the Supreme Court declared all three of these methods as unconstitutional. The Apex Court emphasized on the distinction between physical privacy and mental privacy. Through these methods, the mental privacy of an accused was encroached upon, hence infringing not only Article 20(3) of the Constitution, but also Article 21. Hence these methods were declared unconstitutional.

Through the daily advancement in science and technology, there are no ends to the methods that are and can be employed in any criminal investigation. With the emergence of new methods, a question is casted upon the sanctity of a person's privacy and on the principle against self-incrimination. Every new method poses a question as to what can and what cannot be permitted to be practiced by the legal investigators so as to achieve the end of justice, while also preserving the fundamental rights of the individual. It seems that the Supreme Court must analyze every new method on the basic guidelines provided in the above judgments.

Conclusion and suggestion

The expert opinion is admissible, as the expert is qualified enough to be legally considered as an expert, the method used was constitutional, and the procedure through which it was administered was not flawed, then it becomes admissible and the Court can rely on it. Now, the next question before the Court of law is regarding its evidentiary value, that is, till what extent can the Court rely on the opinion of the expert.

The weight that ought to be attached to the opinion of an expert is a different matter from its relevancy. The evidence Act provides about the relevancy of expert opinion but gives no guidance as to its value. The value of expert opinion has to be viewed in the light of many adverse factors. Firstly,

there is the danger of error of deliberate falsehood. These privileged persons might be half blind, incompetent or even corrupt. Secondly, his evidence is after all opinion and human judgment is fallible. Human knowledge is limited and imperfect. No man ever mastered all the knowledge on any of the sciences. Thirdly, it must be borne in mind that expert witness, however impartial he may wish to be, is likely to be unconsciously prejudiced in favour of the side which call him.

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NEW AGE CRIMES AGAINST WOMEN IN CYBER CRIMES – A CRITICAL STUDY

*K.S. Jayakumar**

"The Problem with cyber weapons for a country like ours is the ability to control them"- Michael Hayden.

Introduction:

In this information age there is rapid development of computers, telecommunication and other technologies. This revolution has led to the evolution of new forms of transnational crimes known as "cybercrimes" have emerged as a new class of crimes that are rapidly increasing due to extensive use of internet and IT enabled services.[1] Cybercrime is a global phenomenon. With the advent of technology, Cybercrime and victimization of women are on the high and it poses as a major threat to the security of a person as a whole. Even though India is one of the very few countries to enact IT Act 2000 to combat cybercrimes, issues regarding women still remain untouched in this Act. The said Act has termed certain offences as hacking publishing of obscene materials in the net, tampering the data as punishable offences. But the grave threat to the security of women in general is not covered fully by this Act. Cyber bullying can affect everyone including children safety web provides support for Parents to improve internet safety for kids.

Conceptual understanding of cybercrimes:

At the onset, let us satisfactorily define "cybercrime" and differentiate it from "conventional crime". Many computer crimes can involve criminal activities that are traditional in nature, such as theft, fraud, forgery, defamation and mischief, all of which are subject to the Indian Penal code. The abuse of computers has also given birth to a gamut of new age crime that are addressed by the *Information Technology Act, 2000*. cybercrime may be said to be those

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A CRITICAL STUDY ON LEGAL IMPLICATIONS OF MINOR'S AGREEME NT IN INDIA

Dr. Bore Gowda S.B.*

ABSTRACT

A contract is basically an agreement between two parties creating a legal obligation for both of them to perform specific acts. In order for the contract to be enforceable, each party must exchange something of value (consideration).It means when both parties made a promise for each other and when such promise is recognized or enforceable by law then it is called contract. Our daily life is surrounded by agreements, whether we realize it or not. From morning to evening we make a numeral of agreements, irrespective of our capacity to do so. For example, the transfer of property through sale, mortgage, lease, exchange, or gift, the formation of partnerships and companies, performing arbitration, mediation, negotiation and conciliation, registering patents, copyrights, intellectual properties, the execution of negotiable instruments, insurances and various services. When the agreement is made by a capable person then it is recognized and protected by law; while in the case of an incompetent party (particularly a minor) it lacks such recognition and protection by law. It means only capable person can enter into contract, other than capable no one can enter into contract. A minor's agreement stands void ab initio; hence a minor is discharged from the contractual obligations. But under several laws, such as the TPA, the Sales of Goods Act, the Partnership Act, the Companies Act and the Insurance Laws etc. a minor is allowed to be a beneficiary through the contract created there under. Though the Indian Contract Act, 1872, does not allow a minor directly to be a beneficiary, even through judicial pronouncements, this gap has been filled. The main object of this article is who are the incompetent persons to enter into

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contract, consequences of minor's agreement and what are exceptions for minor's agreement is void.

Key Words: Void Contract, Capacity of Parties, Minor's Agreement, Exceptions, Necessaries.

INTRODUCTION

In the Law of Contract, persons below the age of majority were formerly called infants. There are now more generally called minors. The Indian Majority Act was amended in 1999 and the age of majority is now 18 in all cases even if the guardian for minor's person or property has been appointed by the Court. But the question whether persons under 18 years are bound by contracts can still arise today e.g. in cases of "contracts for the benefit of minors" or "necessaries" supplied to minor (goods or services). Legal problems can also arise where a claim is made by the minor against the other party, either to enforce the contract or to reclaim money or property the minor has parted with. If minor's agreement is void from the very inception (void ab intio), no suit can lie against him, or can the minor ratify it on attaining majority. The law on this subject is based on two principles.

1. The first and more important is that the "law must protect the minor against his inexperience, ignorance and immaturity which may enable an adult to take unfair advantage of him or to induce him to enter into a contract."

2. The 2nd principle is that the "law should not cause unnecessary hardship to adults who deal fairly with minors."(e.g.; in case of supply of necessaries, beneficial agreements etc.)[1]

MEANING OF AGREEMENT AND CONTRACT

Section 2 (e) of the Indian Contract Act, 1872 defines the term agreement as "every promise and every set of promises, forming the consideration for each other". It means where there is a proposal from one side and the acceptance of that proposal by the other side, it results in a promise. That promise will creates consideration for both parties[2].

Section 2(h) of the Indian Contract Act, 1872 defines "Contract"is an agreement enforceable by law". It means a contract is an agreement between two or more people to do something or event or act or action[3].

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1 http://law.uok.edu.in/Files/5ce6c765-c013-446c-b6ac-b9de496f8751/Custom/fnl-Capicity- Minors'%20Ag%202020%20U2-L3-Mushtaq%20A-done.pdf accessed 17 October 2021.

2 K.K.Bangia, Indian Contract Act, (14th ed, Allahabad Law Agency, 2010), p-2

3 Dr. Kailash Rai, General Principles of Contract,(3rd ed, Central Law Publications, Allahabad, 2011), p-49.

CAPACITY OF THE PARTIES

As per Sec-10 of the Indian Contract Act, 1872, for a valid contract the parties to the contract must be competent to contract.Se-10 of the Indian contract Act, 1872 provides that all agreements are contracts if they are made by

(1) The free consent of the parties,

(2) Competent to contract

(3) For lawful consideration and

(4) With a lawful object

Who are competent to contract?

Competency to contract is an essential element to a valid contract. Sec-11 of the Indian contract Act, 1872 provides that every person is competent to contract,

(a) Who is the age of majority according to the law to which he is subject (Major)

(b) Who is of sound mind and

(c) Who is not disqualified from contracting by any law to which he is subject

(Insolvent or bankrupt).

Who are incompetent persons?

The persons who are

(a)Minors

(b) Unsound mind

(c) Persons disqualified by the law to which they are subject[4].

Minor: the person who is not complete the age of majority (18 years) is called minor. Minor is the incompetent person to enter into contract.It means anyone who is under the age of 18 is known as a minor. Every agreement with minors is void from the beginning. it is void and null hence there is no legal obligations arising from a minor's agreement and contract per se hence nobody who has not attained the age of majority can enter into a contract.Sec-11 of the Indian contract Act, 1872 provides that a person who will be competent to contract if he has attained the age of majority. According to Sec-3 of the Indian Majority Act 1875 a person shall be deemed to have attained his majority when he completes the age of 18 years, except in case of a person whose person or property a guardian has been appointed by the court, in which case the majority does not arise till the completion of 21 years of age by the ward, and it is immaterial, whether

4 Avatar Singh, Contract and Specific Relief, (4th ed, EBC,Lucknow, 2018), 154.

the guardian dies or is removed or otherwise ceases to act. In England the age of majority is 18 years.

It may be noted that the Indian Majority Act is being amended so as to make the age of Majority as 18 years for every person, irrespective of the fact that in respect of them any guardian has been appointed. The bill has been passes by both the houses of parliament but the president's assent has yet to be obtained.

A Contract made with a Minor is Void:

If any person enter into contract with minor that contract is called void. Because minor is an incompetent person to enter into contract and he don't have proper capacity to understand the nature, subject matter and terms of the contract. Therefore, if any person enters into contract with minor such contract is void. It means beginigly it is invalid. In *Khangul v. Lakha Singh case,* A minor misrepresented his age, and contracted to sell a plot of land to the plaintiff. He received Rs. 17, 500/- from the plaintiff. Later he refused to perform the contract. Then plaintiff filed a case against the defendant (minor) but court held that the plaintiff could not recover of possession or refund of consideration, because the contract is void[5]. Section 11 of the Indian Contract Act, 1872 says that a minor (below 18 years of age) is not competent to enter into a contract. If he enters into the contract anyway, the contract is void. Now, a minor's agreement is free of all its effects because the contract is void and anything void cannot have consequences. By looking at the Indian law, minor's agreement is a void one, meaning thereby that it has no value in the eye of the law, and it is null and void as it cannot be enforced by either party to the contract. And even after he attains majority, the same agreement could not be ratified by him. If a minor enters into a contract by misrepresenting the age, then no one can stop him or her from disclosing their age. The minor is not liable for inducing another party into a contract. Even if any mishaps take place, he is not responsible. But in certain mishaps, he will be liable to it. The minor to avoid a contract can plead his infancy. An agreement of a minor stands as a doctrine of restitution. Whereas if a minor purchases a property by hiding his age, then the purchased property will be returned. But, if he has converted or sold them, then the law cannot sue him. One can bring a minor into a contract if he is beneficiary for the contract. The minor does not have a restriction to be a promisee or payee in a contract. Thus a minor can purchase an immovable property and also can sue for the possessions upon the tender of the money. One cannot order a specific performance against a minor.

WHAT ARE THE RULES RELATING TO AGREEMENT WITH MINOR PARTIES?

Although, as a general rule, a contract with minors is void, we must keep in mind the following rules as well: –

1. A contract with a minor is void and, hence, no obligations can ever arise on him thereunder;
2. The minor party cannot ratify the contract upon attaining majority unless a law specifically allows this;
3. No court can allow specific performance of a contract with minors because it is void altogether;
4. The Partnership Act also prohibits minors from becoming partners in a firm. They can, however, receive the benefits of partnership and ratify the same upon attaining majority;
5. The rule of estoppel under evidence law does not apply to minors under contractual obligations. In other words, even if a minor forms a contract claiming majority age, legal obligations cannot arise against him;
6. Parents or guardians of minors can name them in contracts only if it benefits them. But even in this case, the minor cannot be personally liable.
7. We can say that majority of a person is one of the essential before entering into a contract.

A minor's agreement is when a minor enters into an agreement (which is void ab initio according to the law). Section 10 of the Indian Contract Act, says that the parties entering into a contract must be competent to contract (suitable/qualified by law). On the other hand, section 11 of the Indian Contract Act says that a minor (below 18 years of age) is, therefore, not competent to enter into the contract. In England, under the Infants Relief Act, 1874, the following situations are absolutely void-

Repaying the lent money

Goods that are supplied

Accounts stated.

A controversy pertaining to section 10 and 11 started during the early 1900s; the controversy being if the minor's agreement was void ab initio or was it voidable at minor's convenience. In *Mohori Bibee V. Dharmodas Ghose* case Privy Council held thataminor in this case mortgage his property in favour of Brahmo Dutt, the defendant the attorney at the time when the transaction was taking place had knowledge about plaintiff being a minor, an action was brought against Brahmo Dutt by Dharmodas Ghose on the grounds that Dharmodas was a minor when he executed the mortgage [illegible] the mortgage should be void and canceled. The judgment

5 Dr. R.K.Bangia, Law of Contract, (11th ed, [illegible]habad Law Agency, 2017), p. 87-88

held that contractual agreement with minors is void thus mortgage deed is also void[6].If a minor obtains property or goods by misrepresenting his age he can be compelled to restore it, but only so long as the same is traceable in his possession. This is known as the equitable doctrine of restitution.

Under certain circumstances, a guardian of a minor can enter into a valid contract on behalf of the minor. Such a contract, which the guardian enters into, for the benefit of the minor, can also be enforced by the minor. However, guardians cannot bind a minor by a contract for buying immovable property. But, a contract entered into by a certified guardian of a minor, appointed by the Court, with approval from the Court for the sale of a minor's property can be enforced.

(1) A minor's agreement is void from the beginning: A contractual agreement dealing with a person below the age of 18 in India is considered void from the beginning in the same way a minor cannot enter into a contract.

(2) A minor's property is liable for necessaries: if a minor is supplied by someone with food, medication, clothing and other necessities, the person who supplied such necessities is entitled to be reimbursed from the property of that person.

(3) No estoppel against a person below the age of 18: A Minor inducing another person by falsely representing himself to be a major to enter into a contract with that person can appeal his age as a defense.A minor who enters a contract under false pretense and claims to be a major, there will be no estoppel against him and he legally does not need to prove his age in front of the court. The reason behind this is to protect the minors from liability he owes to the major.

4) No ratification of contractual agreement: minor's agreement being void, an agreement entered by him during his minority cannot be ratified after becoming a major.

(5) No specific performance of contractual agreement: the party and the minor in a minor's agreement cannot be urged for specific performance of an agreement.

(6) The rule of estoppel: Estoppel is a rule which can hold a party liable who has started to do something before coming into a contract as a part of the -consideration. This rule cannot be applied to minors[7].

(7) Restitution of benefit: when a person at whose option a contract is voidable revokes it, the other party need not perform it. This applies to voidable contracts, but a minor's contract being void, a minor cannot be asked to refund the moneylender.

(8) No insolvency: Due to minor's incapability of contracting debts and dues payable from the minor's personal property he is not personally liable as the result of which he cannot be held insolvent

GENERAL RULE EXCEPTIONS

The certain exceptions to contractual agreement of minors are:

(a) When the minor has performed his obligation: In a contract, a person below the age of 18 cannot become a promisor but can be a promisee. In case the party hasn't completed their obligations but the minor has then the minor can enforce the contract being a promisee.

(b) A contract entered by a minor's guardian for his benefit: In this case if a party does not perform its promise the minor being a promisee can sue the non-performing party. In the case of *Great American Insurance v. Madan Lal,* the guardian entered into an insurance contract on the behalf of the son in respect of fire for the minor's property. When the property was damaged compensation was questioned by the minor, the contract was opposed by the insurer on the grounds of the minor's incompetency to enter into a contract. But later it was held that this contract was enforceable, and the insurer is liable to the guardian[8].The contracts with minors can be made partially enforceable by keeping certain factors like guardian, mutuality, compensation and restitution in mind, instead of making the whole contract as void ab initio.

WHEN A MINOR IS SUPPLIED WITH NECESSITIES

In case a minor who is incompetent to enter into a contractual relationship and is provided by another person with necessities of life, the person who thus supplied the necessities to the minor can be reimbursed from the property of the minor. A minor cannot be bound if he does not have any property. The general law states that contracts entered into by children that are for necessaries are binding on children, as are those for apprenticeship, employment, education and service where they are rightly said to be for the benefit of the child. These latter contracts are therefore voidable at the option of the minor.

Two conditions must be satisfied to render minor's estate liable for necessaries. They are

(a) The necessaries supplied to the minor should really be necessities required for a minor's life.

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THE CRITICAL STUDY OF LEGAL REGIME GOVERNING PROPERTY RIGHTS OF WOMEN – A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

In the history of humanity woman has been as important a factor as man, yet she was always looked down as an inferior creature. It is harsh reality that women have been ill- treated in every society for ages. The developments of a nation solely depend on the social status of women and women constitute almost one half of the globe's population. However, women have been the victims of exploitations by male dominated society and continue to be exploited. But now it is required that women need to be empowered and men need to be oriented about their obligations towards women. Women are entitled to enjoy the same human rights and fundamental freedoms as other individuals. International human rights treaties require state parties to take proactive steps to ensure that women's human rights are respected by law and to eliminate discrimination and practices that negatively affect women's rights. The significance of gender equality in property is accepted not only from human rights point of view but it also important for every human development because now a day's world move to 'socialize' and to achieve it the gender equality is necessary. It also includes women's rights in access and control the property. Women's property right is an important for her overall living conditions. The object of international human rights laws is to give a basic skeleton to each human being by the State which helps to achieve the object of it. The role of International Human right laws is to bring social reform for property rights of women and empower women which vary from country to country. Thus, women deprived her property rights due to gender inequalities in custom, religion and so on. The international human rights laws are important

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tools by which women empower themselves. International law as well as Domestic law used to protect rights and responsibility of citizens including women. The article examines the international Resolutions, treaties and Covenant that relate to women's property rights. This article examines how the 'women's property right' concern to other important international instruments with women's human rights; in particular, the issue of equality in property.

Keywords: Women, Property rights, Human rights, Gender Equality

INTERNATIONAL HUMAN RIGHT LAWS AND WOMEN'S PROPERTY RIGHTS: AN OVERVIEW

The utilization and possession of Human Rights by each Individual is necessary for full development as human being. Human Rights help to develop individual basic needs and important rights.[i] The recognition of Rights and basic freedoms is necessary to achieve international co-operations is specifically expressed in United Nations charter. The preamble of U.N. expressed those basic rights are important for the dignity and equality.[ii] There is linkage between ownership, access of property and development and poverty. Hence property right became a central social justice and human right issue. A traditional approach of access and ownership rights of women is ignored hence property rights are claim as fundamental human right of women. Property rights are human rights which not only represent her financial benefits as well as a base of her identity and tradition. Property rights of women not found in human rights treaties directly but indirectly it is connected with various rights without that it will not be complete. Property right is important because it is source of wealth, culture, and social life. It is also affected overall economic and social base. The access and management of property will determine by law of state. Various documents on human right to property hold property law and property reform in state. Human right perspective is a necessary factor to recognized cultural and economic value of property.[iii]

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A Critical Study on Theories and Principles of Punishment in India

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Abstract: *The term sentence refers to response of the criminal justice system to commission of crime. Despite the fact that all the persons convicted of a particular offence are proved to have been guilty of the commission of such act that constitute the said offence however, as the character, background of offender, socio-economic circumstances, enormity, modus operandi, motive and reasons behind commission of the same offence by different persons vary therefore the response with regard to different offenders must also vary. For instance, persons may commit an offence under social compulsions or under pressure of poverty or on account of retributive instinct or greed, lust, aggressive nature or in a sudden rage or anger, variation in all these circumstances necessitate variation in sentence. Secondly, the response of any particular system to crime depends on the purpose it seeks to achieve through such a response. The justifications for different responses may be found in the theories of punishment propounded by penologists. Thirdly, the principles governing the process of sentencing in any criminal justice system also reflect how the system strives to strike a fine balance between the conflicting rights of victim and the society on one hand and the rights of the offenders on the other. In order to ensure such balancing at the practical level, the systems vest the courts with certain degree of discretion in deciding what would be an appropriate sentence in a particular case. The punishment does not only involve the physical pain but it is also carries with it the mental anguish and loss of social reputation. It may also bring the loss of certain civil rights. In hedonistic sense whatever kind of punishment, the offender has to bear some sort of pain.*

Keywords: Punishment, Sentence, Imprisonment, Penalty, Guilty, Offender

I. INTRODUCTION

Punishment is given to the offenders with the aim to check them from committing crimes again. It deters not only the actual offenders but also others from doing the same kinds of acts in future. On the one hand, it is some solace to the victim or his relatives if the offenders are punished and on the other hand it serves a social purpose to prevent the people from indulging in criminal acts. The persons in authority or members of the society may think the punishment as a device to induce conformity with social and legal norms. In every society, the law violators have to bear the penalties. The tribals have their own laws. With the advancement of civilization, the change in the punishments and its form have come one the scene, so that the punishment may be reasonable means to check the crime, the three things are essential for it. The first is the speedy and inescapable detection and prosecution, the second is a 'fair chance for a fresh start' after the punishment and the third is that the State which claims the right to punish must uphold superior values to be reasonably expected from the prisoner for being acknowledged.

The punishment does not only involve the physical pain but it is also carries with it the mental anguish and loss of social reputation. It may also bring the loss of certain civil rights. In hedonistic sense whatever kind of punishment, the offender has to bear some sort of pain. The punishment is imposed not only by the State but in the broader perspective by other institutions also. E.g., school, club and other organizations for the violation of their rules, the punishment is imposed by heads of the communities also. Thus, in India, we find the examples of the punishment being awarded by thePanchayats where the heads through Panches give the Judgments for the violation of norms. We are mainly concerned here with the punishments being awarded by the State.

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When a person is convicted of two or more offences in one trial then the several punishments that are imposed by the court with respect to those offences run consecutively one after the other. However, the court also has discretion to direct that such punishments would run concurrently.

The Code of Criminal Procedure also makes it mandatory for the court to give special reasons in case the offender who could be released on probation or after admonition under the law or could be dealt with under a law relating to young offenders is not dealt with under those laws.

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- Peer reviewed Research Articles

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Legal Opus

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MATERNITY BENEFIT LEAVE FOR CONTRACTUAL EMPLOYEES: JUDICIAL PERSPECTIVES

Dr. Deepu. P*

"A strong woman is a woman determined to do something others are determined not to be done." – Marge Piercy

Introduction

Women play an important role in all sectors. In India is unity in. diversity. In the interest of women many constitutional and fundamental rights are given to her. Still women considered as vulnerable class of the society. The working culture for women was developed after India got independence. Urbanization and industrialization and liberalisation the new social norms are encouraged to women to seek gainful employment outside their homes which later developed many other issues like discrimination and miserable working conditions. Motherhood became one of them. Women were terminated from her service because she is pregnant. Since India is a patriarchal society women are having more responsibility of house work and child care.

The Maternity Benefit Act was first introduced in the year 1961 is intended to achieve the object of doing social justice to women workers and provide equal opportunity to women to balance their professional and personal life. This Act refers that the state or an employer provides the payment or allowance during the pregnancy of women and after childbirth. This benefit accessible by biological pregnant working women, adoptive working mothers, commissioning working mothers under the government or private sector.

Historical Background of Maternity Benefit Law in India

The Convention of "Protection of motherhood" adopted in 1919 was the earliest among the International Labour Organisations. In 1921, the Government of India reported that it was not possible to adopt the Convention passed in 1919 due to various reasons. A Bill

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was brought before the Central Legislative Assembly by a private member in 1924, urging the Government to make it compulsory for the employers to provide maternity benefit to women workers. However, the Bill was opposed by the government on the ground that the need for such a Bill was not felt and that if legislation was passed to the effect, it might have adverse repercussions on the employment of women. The Royal Commission on Labour, in its recommendations, also stressed the need for suitable maternity legislation, at least for women employed permanently in non-seasonal factories. As the Government of India was slow to act on these recommendations, the provincial governments took the lead. The Government of Bombay passed the Maternity Benefit Act, way back in 1926. Where female factory workers were granted maternity benefits before and after their deliveries. Subsequently it was followed by Central Provinces, Madras, U.P. Bengal and some other provinces. The period of leave, the quantum of benefit and the qualifying conditions varied slightly from province. Then Central Government on its part enacted three statutes; The Mines Maternity Benefit Act, 1941[1]; The Employees State Insurance Act, 1948[2] and The Plantations Labour Act, 1951[3]. However, all of these legislations had drastic differences pertaining to the requisite period of employment for eligibility, the rate of benefits prescribed, the period of leave and other aspects. To remedy this deficiency, the Central Government finally enacted the Maternity Benefit Act, 1961[4] which sought to bring about consistency in all aspects of maternity benefit by repealing the Mines Maternity Benefit Act, 1941 and the maternity benefit provisions of the Plantations Labour Act, 1951.

[1]The Mines Maternity Benefit Act, 1941 (Act 19 of 1941)
[2]The Employees State Insurance Act, 1948 (Act 34 of 1948)
[3]The Plantations Labour Act, 1951 (Act 69 of 1951)
[4]The Maternity Benefit Act, 1961 (Act 53 of 1961) as amended by The Maternity Benefit (Amendment) Act, 2017 (Act 6 of 2017), s. 5 (3)

2) **Compulsorily issue the appointment order:** contractually employees are appointed for certain period or purpose. After the expiry of specified period or when the certain purpose is served the contractually employees are terminated from their services. Whatever may be the duration or purpose the employment, should be make it mandatory for all organisations irrespective of its constitutions that include public limited company, private limited companies, etc, issue an appointment order to the contractually employees.

3) **Comply the law**: every establishment has to comply with the regardless of number of employees.

4) **Sensitizing the employees about the law**: Most of the women working in various establishments are not aware of the terms and conditions of the employment and leave provisions. In this regard through social media government has to take an initiation to sensitizing the employees and employers about the law.

5) **Strict penal Provisions:** If any employer fails to provide the leave with wages to the working women or discharge or dismisses such a woman on account of her absence from work due to maternity leave, the employers shall be punishable with penal laws.

6) **Make a pre- requisite condition:** The government should make it pre- requisite conditions to all the employers to begin its establishment and subsequently fails to comply the provisions of law the authority should deregister or cancel the licence of such establishment.

7) **Enhancement of maternity leave for adoptive mother:** since the adoption process is very rigid, adoptive mother cannot adopt a child blow the age of three months hence it is better to enhance the maternity leave for adoptive mother to below the age of 4 years instead of 3 months.

Conclusion

Every working woman should have crossed the question during her pregnancy period is whether she can continue her job or to leave. There, the trouble is to choose either her profession or personal life. So, the Maternity Benefit Act is a piece of social legislation enacted to promote the welfare of working women. It prohibits the working of pregnant women for a specified period before and after the delivery. It also provides for maternity leave and payment of certain monetary benefits to women workers during the period when

they are out of employment because of their pregnancy. Further, the services of a women worker cannot be terminated during the period of her absence on account of pregnancy, except for gross misconduct. If this law really implemented by the employer for the contractual employees, then it helps the mother to make a balance in persons and professional life. In India we have maximum laws and minimum implementation in this connection mind set of every human being has to change then only the object of the law will be served.

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A Study On Impediments And Trials Of Food Safety & Security In India

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Abstract– Today the Food Security is one of the main challenges across the world. Food security, along with poverty eradication, ecological and conservation, is one of the major significant issues of the millennium development goals. The thought of food security is delineated as that take account of both physical and economic admittance to food that meet people's dietary needs as well as their food predilection. Food security exists "when all people at all times have access to sufficient, safe, nutritious food to maintain a healthy and active life".[3] Food Security is based on three essential pillars like are "Food availability" on a consistent basis, "Food access" for appropriate nutritious diet and "Food use" for basic nutrition and care as well as adequate water and sanitation. For accomplishing the objective of self-sufficiency in the developing countries, the main concern is specified to food stability and availability of food. In Countries like China and India billion of peoples are have generated a challenge and pressure for food security. These countries hold about half of the world's reserves of wheat and the largest reserves of rice[4] India experienced a bumper harvest in year 2010, however, owing to inadequate storage facilities has demolished almost one third of food grains. Thus, the government has strong-willed to save rather than to sell the stocks in the market[5] India is the world's largest food security puzzle as the country vestiges enormously significant in the global food and nutrition security equation.

Keywords: Food Safety, Security, issues and Challenges of food safety and security.

Introduction

Policy frame-work of a country needs to be dynamic in character so as to respond to the needs and priorities in an appropriate manner. Its long range policies should have a vision and near term policies ought to be capable of dealing with the current problems and issues. The Indian model of planned economy has enough scope for required charges and adjustments. Yet the contingencies keep arising for a mid-course correction in policies, requiring immediate action. The present food and nutrition situation in India warrants a directional change in the strategic food related polices and action thereon. Possible alternatives are discussed hereunder. The 42nd Constitution (Amendment) Act, 1976 widens the scope of Article 31C[6]. In *Kesavananda Bharathi's* case[7], the legality of Article 31C of the Constitution was questioned before the Supreme Court. The Court in this case upholds the constitution legality of the said Article. A contravention verdict regarding the validity of extended part of Article 31C was questioned in *Minerva Mills's* case[8], the Supreme Court in this case struck down the validity of the extended portion of Article 31C by holding that the Parliament has enacted the provision beyond the power conferred to it under Article 368 of the Constitution. In *Bhim Singhji v. Union of India*[9], the Urban Land (Ceiling and Regulation) Act, 1976 was held "to be covered and protected by Article 31C, as much as the purpose of the that law was to inhibit concentration urban land to sub serve the common good, and said that Act was intended to achieve and implement the purpose of the Article 39(b) and (c)" Though Article 31A, B and C are under Part III of the Constitution as a Fundamental Right and they do not confer Right to property as a Fundamental Right to every citizen of India.

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[2] Assistant Professor of Law, Vidyavardhaka Law College, Mysuru.
[3] The World Food Summit, 1996.
[4] Rice Market Monitor, 2017.
[5] International Business Times, 2010.
[6] Article 31C, Saving of laws giving effect to certain directive principles.
[7] AIR 1973 SC 1461.
[8] Minerva Mills Ltd. and Ors. v. Union Of India and Ors. (AIR 1980 SC 1789)
[9] AIR 1981 SC 234

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The continuous and unchecked land fragmentation is increasing the number of small and marginal farmers, limiting their capacity to invest in the small pieces of land, depriving the rural households of potential production and income, thus making them poorer as they are losing their livelihood opportunities.

IMPORTANCE OF FOOD SECURITY IN INDIA

Food security is a condition related to the supply of food and individual's access to it. Attaining food security is a matter of prime importance for India where more than one third of its population is estimated to be absolutely poor, and as many as one half of its children have suffering from malnourishment over the last three decades. National Food Security is critically dependent on the adequate availability of sufficient food stocks to fully satisfy domestic demand at all times[10].

Food security is not only a poverty issue but it is a much larger issue that involves the whole food system and affects everyone. Food security is a complex sustainable development issue, linked with health through malnutrition and also economic development, environment, and trade. In the Global and National the concept of the Food Security must exist to meet the challenge of providing the world's growing population with a sustainable, secure supply of good quality food to all peoples.

1. To encourage economic development of a country.
2. To reduce poverty.
3. To encourage development of backward classes.
4. The Public Distribution System (PDS) is a rationing mechanism that entitles households to specified quantities of selected commodities at subsidised prices. The essential commodities supplies through the Public Distribution System are rice, wheat, sugar, edible oil and kerosene. Additional commodities like pulses, salt, tea, clothes, etc. are supplied selectively. The Public Distribution System is the by-product of the market situation of the shortage of the commodities either because of the condition of war or because of the short supply, low production, high demand and other such market conditions, may be because of the natural calamities like famines and others.
5. The Indian Public Distribution System is probably the largest distribution network in the world. The system was designed to help both the producers and consumers of food grains by linking procurement to support price and ensuring their distribution along with other essential commodities at affordable prices throughout the country.[11] Public Distribution System continues to be a major instrument of Government's economic policy for ensuring food security for the poor in the country.
6. Inadequate distribution of food through public distribution mechanisms (PDS i.e. Public Distribution System), is also a reason for growing food insecurity in the country. The Targeted Public Distribution System (TPDS) has the disadvantage in the sense that those people who are the right candidates for deserving the subsidy are excluded on the basis of non-ownership of below poverty line (BPL) status, as the criterion for identifying a household as BPL is arbitrary and varies from state to state. The often inaccurate classification as above poverty line (APL) and below poverty line (BPL) categories had resulted in a big decline in the off take of food

[10] Anil ChandyIttyerah, Food Security in India: Issues and Suggestions for Effectiveness, Indian Institute of Public Administration New Delhi 2013, Http://Www.Iipa.Org.In/ , Accessed On 13/04/2015 At 9:00pm

[11] Pradeep k. Bhowmick, food security for tribals: a study on PDS in Tribal Area, abhijeet publication new delhi

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food grains on some extent and if there is change in the food grains output, the nutrition level of the poor farmers and Agriculture Labourers will also affected.

Acquisition of Agriculture Land for SEZs will create the problem of food security. Food security has economic as well as political dimensions (food sovereignty). Food security not only depends upon the food grains output but in actual, it depends upon the access & ability to purchase food and this depend upon the purchasing power of the peoples. So, when Agricultural land is acquired, not only landlords but other classes such as Agri. Labourers, tenants, share croppers also lose their current livelihood and may or may not be get alternative livelihood. Hence problem of food security will occurs and also increases day by day.

Even if the food is equally distributed, in order to counter the negative impact of population explosion, the agricultural growth rate has to be maintained at a steady 4.5 per cent from 1997 to 2002 to sustain an overall economic growth of 7 per cent. In the circumstances, it is alarming that the average size of operational holdings has come down to less than 1.6 hectare in 1990-91 from 2.3 hectare in 1970-71.

An instance of the pressure of population making a once-beneficial practice harmful is to be seen in shifting cultivation. As more people require more food and more land, the practice of leaving land fallow long enough to recover is no more practicable, thus rendering shifting cultivation more harmful than useful.

Independent India, by and large, has been able to avoid large scale deaths caused by famines, by resorting to a multipronged strategy comprising increased food production, augmentation of grain reserves, maintenance of a public distribution system (PDS) and generation of employment. However, hunger caused by under-nutrition continues to be endemic. The protein-energy malnutrition (PEM)[18] in our country is abnormally high in most of the households.

The study done by the National Council for Agricultural and Economic Research (NCAER)[19] suggests that about 80 per cent of India's rural population and 70 per cent of urban population thrive on less than the recommended levels of calories. It is estimated that by 2025 almost 50 per cent of the Indian population will be residing in urban areas which calls for a substantial shift in the patterns of food cultivation. Since the national average yield of most of the crops is staggeringly low, it is necessary that we bridge the gap between the actual and potential yield through technology transfer so as to ensure food for all.

CONCLUSION

Primary needs of every individual are Food, clothing and shelter and food continue to be the central point of our existence. It is very essentials for survival of living beings ranging from insects and bacteria to the plants and animals and human beings on this globe. Food security is a multi-dimensional phenomenon in the country as huge population grows and where a considerable section of the population is suffering from malnourished and under-weight it becomes indispensable to achieve the aim of food

[18] PEM is also referred to as protein-calorie malnutrition. It develops in children and adults whose consumption of protein and energy (measured by calories) is insufficient to satisfy the body's nutritional needs. While pure protein deficiency can occur when a person's diet provides enough energy but lacks the protein minimum, in most cases the deficiency will be dual. PEM may also occur in persons who are unable to absorb vital nutrients or convert them to energy essential for healthy tissue formation and organ function.

[19] The Indian Council of Agricultural Research (ICAR) is an autonomous body responsible for co-ordinating agricultural education and research in India. It reports to the Department of Agricultural Research and Education, Ministry of Agriculture. The Union Minister of Agriculture serves as its president. It is the largest network of agricultural research and education institutes in the world.

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LEGAL REGIME ON RIGHT TO PRIVACY IN INDIA-A CRITICAL VIEW

**Dr. Kumara. N.J[1] & Shivakumara. H. S[2]

Introduction:

Privacy is a right by which individuals enjoy by virtue of their existence and indeed, right to privacy is a part of an individual existence. Privacy is an inevitable and important human right which protects human dignity and right of self. The scope of privacy extends to physical integrity, individual autonomy, free speech or thoughts, information and data, freedom to move and reputation. Right to privacy in its true sense has multifaceted dimensions of privacy related concerns. Privacy is a right to maintain and protect the territory around an individual, including his body, homes, belongings and possessions, thoughts, feelings, secretes, identities, etc[3]. Such a right of privacy allows an individual to choose what parts of this area can be restricted to and accessed by others.

Right to privacy is integral part of right to life and liberty. Right to privacy an expanded version of right to life and it is complex in nature. Bernard Harcout, a professor at Columbia University, explains the "privatization of privacy" and explores the concept that our privacy, or the lack thereof, has become a privatized business where people are the product. Facebook is just one of the social networking sites that tracks and stores its users' information, likes, and browser history to sell for a profit to advertisers. We've reached a point in society where we not only have to worry about the government invading our privacy, but the networks and websites we've become addicted to as well. Even in our own homes, our personal Internet activities are being watched.Hence this article will enlightens the necessity of law on right to privacy.

Definition:

According to Black's Law Dictionary[4], "right to be let alone; the right of a person to be free from any unwarranted publicity; the right to live without any unwarranted interference by the public in matters with which the public is not necessarily concerned".Right to be left alone, as propounded in Olmstead v. United States [72 L Ed 944: 277 US 438 (1928)], is the most comprehensive of the rights and most valued by civilized man[5].

International Aspects on Right to Privacy:

India is a signatory country which has signed and ratified many international treaties and agreements that recognize and create an obligation to protect the privacy of individuals. In 1979 India ratified the International Covenant on Civil and Political Rights (ICCPR), which came into force in 1976. Article 17 of the Covenant articulates a right to privacy, stating "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honor and reputation and that

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[3] https://blog.ipleaders.in/different-aspects-of-right-to-privacy-under-article-21/
[4] Black's Law Dictionary
[5] Olmstead v. United States [72 L Ed 944: 277 US 438 (1928)]

everyone has the right to the protection of the law against such interference or attacks.[6]" India is also a member of the General Agreement on Trade in Services, which under article XIV creates an exception for privacy, stating that "nothing in the agreement shall be construed to prevent the adoption or enforcement of the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts[7]." This same exception is reflected in the World Trade Organization Services Agreement, to which India is also a member.

The bill of rights declares that, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.[8]"

Article 12 of Universal Declaration of Human Rights 1948 states that "no one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."[9]

Article 8 of European Convention on Human Rights states "Everyone has the right to respect for his private and family life, his home and his correspondence; there shall be no interference by a public authority except such as is in accordance with law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the protection of health or morals or for the protection of the rights and freedoms of others.[10]"

Constitutional Aspect of Right to Privacy:

Right to privacy embedded in constitutional jurisprudence and it is extended dimension of fundamental rights as enshrined in part III of Indian Constitution. Art 21 of the Constitution of India states that "No person shall be deprived of his right to life and personal liberty except according to procedure established by law"[11]. The deep interpretation on this article by the Indian judiciary widened the scope of right to life and personal liberty. Hence the right to life includes all aspects of life which makes man's life meaningful. As has been changes occurred in political, social, economic, information science and technology the new dimensions of right to life and personal liberty will emerge through judicial process or legislative process. Several aspects of Art 21 with other allied provisions have emerged judicial interpretation. Apart from Constitution of India there are more than 50 laws, rules, regulations, and executive orders are there on privacy principles in India. Examples of Sectoral Legislation and Policy on right to Privacy.

[6] ARTICLE 17 OF International Covenant on Civil and Political Rights (ICCPR) 1976
[7] ARTICLE XIV, General Agreement on Trade in Services
[8] https://www.loyola.edu/academics/emerging-media/blog/2017/life-liberty-and-the-pursuit-of-privacy
[9] Article 12 of Universal Declaration of Human Rights 1948
[10] Article 8 of European Convention on Human Rights
[11] Art 21 of the Constitution of India, 1950

Privacy has emerged, and evolved, as a fundamental right through these various decisions of the Courts.

Bodily and Genetic Material and Right to Privacy:

Regulation over the collection, use, analysis and storage of identifying bodily samples is limited in India. In 2005 section 53 of the Code of Criminal Procedure (Cr. PC.) was amended to enable the collection of medical details from accused persons upon their arrest if there are "reasonable grounds for believing" that such examination will afford evidence as to the crime. Medical details that can be collected and examined include "blood, blood stains, semen, swabs in case of sexual offences, sputum and sweat, hair samples and finger nail clippings by the use of modern and scientific techniques including DNA profiling and such other tests which the registered medical practitioner thinks necessary in a particular case.[22]" Besides these provisions, any collection, analysis, storage, access and retention of genetic material is taking place outside the scope of regulation and is being done in a manner which does not recognize the sensitive nature of this information and it clearly violation of right to privacy.

The provisions of the Cr PC, and the lack of more specific legislation has created a situation where the privacy of individuals is put at risk through the potential of unauthorized or inaccurate collection and use of bodily and genetic material.In 2007 a Draft DNA Profiling Bill was created to establish a centralized DNA bank that would incorporate information from existing DNA databanks and store DNA records of suspects, offenders, missing persons and volunteers. Though the Bill creates some standards for privacy, many safeguards are missing. The Bill is still pending in Parliament. Existing and newly developed protocols for the collection, use, analysis, storage, access, and retention of bodily and genetic material should properly be advocated through relevant law.

Right to Information and Right to Privacy:

In the case of Thappalam Service Cooperative Bank Limited v. St. of Kerala (2013) 16 SCC 82, the two judges bench of Supreme Court considered the correctness of a decision of the Kerala High Court which upheld a circular issued by the Registrar of Cooperative Societies. By the circular all cooperative societies were declared to be public authorities within the meaning of Sec. 2(h) of the RTI Act, 2005. Sec. 8(1)(j) contains an exemption from the disclosure of personal information which has no relationship to any public activity or interest, or which would cause "unwarranted invasion of the privacy of the individual" unless the authority is satisfied that a larger public interest justifies its disclosure. The court observed that the right to privacy has been recognized as a part of Article 21 of the constitution and the statutory provisions contained in Sec. 8(j) of the RTI Act, 2005 have been enacted by the legislatures in recognition of the constitutional protection of privacy.

The information sought for is personal and has no relationship with any public authority or the officer concerned is not legally obliged to provide that information. This legislation has put a lot of safeguards to protect the rights Under Section 8(j) of the RTI Act

[22]Section 53 of the Code of Criminal Procedure, 1973

in recognising the fact that the right to privacy is s sacrosanct facet of Article 21 of the Constitution of India.

In the case of Girish Ramchandra Deshpande Vs. Central Information Commissioner (2013) 1 SCC 212, wherein the court held that since there is no bona fide public interest in seeking information, the disclosure of said information, would cause unwarranted invasion of privacy of the individual under Sec. 8(1)(j) of the RTI Act. Further, if the authority finds that information sought for can be made available in the larger public interest, then the officer should record his reasons in writing before providing the information, because the person on whom information is sought for, has also a right to privacy guaranteed under Article 21 of the constitution of India[23].

Exceptions to the Right to Privacy:

Right to privacy is a privilege of an human being by virtue of his existence and there is legal protection. However the following exceptions may be considered to right to privacy
In the interest of National Security
In the interest of Public Order
Disclosure in Public Interest
Prevention, detection, investigation and prosecution of criminal offences
Protection of the individual or of the rights and freedoms of others and
Historical or research scientific research and journalistic purposes are the other exceptions.

Conclusion:

Privacy is natural requirement of every human being and it implicitly runs with an individual with his all walks of life. The development of technology in information science has influenced every individual and creates the path to become nearest and dearest. On the other hand the same has been controlling and regulating our right to privacy. Now a day's right to privacy become open secret due to infrastructure of technology in all sectors. The lifestyle of an individual and his fashion has been gradually influenced by multifaceted factors. Development in science and technology causes brought social transformation towards neo-modern global world. Such a social change causes advantageous as well as disadvantageous to its stake holders. Thomas Jefferson once described "life, liberty, and the pursuit of happiness" to be every American's inalienable rights[24]. These inalienable rights, similar to privacy, are well known and often defended. Life, liberty, and happiness are known to be social expectations and our basic human rights. Now, our right to privacy is being retracted through advertising sales, government surveillance, and criminal Internet hackers. Such an infringement shall be prevented through suitable legal framework. It is the duty of the state to secure the privacy of its subjects. The threat to privacy exists everywhere across the globe in one way or the other. Indeed, it is the right time to secure right to privacy through enactment of proactive and effective privacy act.

[23] Girish Ramchandra Deshpande Vs. Central Information Commissioner (2013) 1 SCC 212
[24] https://www.loyola.edu/academics/emerging-media/blog/2017/life-liberty-and-the-pursuit-of-privacy

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A SOCIAL JUSTICE ASPECTS OF INFORMED SECTOR WORKER IN INDIA- A STUDY

*Dr. PRAKRUTHI A R [1]

INTRODUCTION

The informal workers play a vital role in society, so they need special attention. Most socially and economically deprived sections of the society are engaged in informal economic activities. The government realised the vital role performed by informal sector in the economy. Therefore, many legislations and schemes are initiated by the government for the benefits and also ensure social justice informal workers. Further various social security measures provided by industrial units to their employees in the form of pension, provident fund and gratuity. Non-statutory benefits also provided to workers such as medical facilities, food, canteens etc. These benefits help in motivating the workers for their active contribution in the prosperity of the industry and when the workers are fully satisfied with the conditions of service, then they give their best efforts for the growth of the society.

MEANING OF INFORMED SECTOR

According to the report of the National Commission on Labour in 1969. 'informed sector worker' are other groups of workers who are not covered under the definition and can organise in pursuit of a common goal due to force such as:

- Casual nature of employment.
- Ignorance and illiteracy.
- Establishment of small size with the low capital invested per person employed.
- Scattered nature of establishments.
- Muscular strength of the employer operating either singly or in combination.

National Commission also gives some categories of workers, which can be categorised as informal workers, which are the following:

- Contract-based worker and it also includes workers engaged in the construction work.
- Informal(casual) labour.
- Labour engaged in small industry.

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- Handloom/ power worm workers.
- Beedi and cigar workers.
- Employed in shops and commercial establishments.
- Sweepers and scavengers.
- Workers in teaberries.
- Tribal labour.
- Other unprotected labour.

According to the Unorganized Workers Social Security Act,2008 "Unorganized sector means an enterprise which is engaged in the production or sale of the food or in providing services of any kind owned by individuals or self-employed workers and where the number of worker working is less than 10 in number." Informal Workers: "informal workers" means as follows.

- A home-based worker.
- Self-employed worker.
- Nature of employment, contract, casual and bonded labour wage worker in the informal sector.[2]

PROBLEMS OF INFORMAL SECTOR WORKER IN INDIA

Problems faced by the workers As being the weaker section of the society they face many challenges. They are as follows.

1. Low wages
2. No Knowledge about Work Hazardous and Occupational Safety
3. Maximum workers are living in deplorable conditions
4. Extended Hours of Work
5. No Knowledge About the Trade Union or Labour Union
6. High Level of insecurity is common-
7. Seasonal Employment-
8. Women and children are unprotected and get meagre wages
9. Harassment issues at the workplace for women-

[2]https://blog.ipleaders.in/unorganised-sector-rights-protectionaccessed on 16th June 2022 at 3:16pm

CONCLUSION

The Government of India took a step by enacted a legislation 'Unorganized Social Security Act, 2008' for providing underlying social security to the informal workers who work in an informal sector. In pursuance of this Act, the Government of India has implemented numerous schemes such as Aam Admi Bima Yojana(Life Insurance), old age pension scheme, Rashtriya Swasthya Bima Yojana (health insurance) etc. The Central Government, under the requisite section and the State Government under the specified section, have been empowered to make the rules for the smooth functioning.

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Emerging Trends in Teaching Language and Literature

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Abstract : *We live and thrive in the society presently known as 'GEN Z'. Education has been one unavoidable ingredient to this form of life in the present generation. Teaching is a profession which reaches its fullness only when an artistic touch has been supplemented. Communication is the root cause for the existence as well as development of language and as we all know, language is the most essential factor in the profession of teaching. Infact, language is the playground for expressing and conveying our various ideas, opinions and most essentially Literature. Literature is indeed the appreciation, comprehension and artistic application of thoughts and opinions by means of language. We in our day-to-day lives use language and literature to such an extent which no previous civilization has achieved. There is evident fact that many of the great philosophers and thinkers were greatly inspired by the contemporary literary works and studies. The modern day attitude towards the study of language and literature has developed with the help of technology. This article deals with that part of society wherein the utilization of technology is pivotal in the development of language and literature and also emphasizes on the various emerging trends in the field. We discuss the numerous technological advancements and how we can utilize them effectively for the benefit and growth of the profession of teaching language and literature.*

1. Introduction

Teaching is a profession which is considered as the 'Master' to all studies and professions without which all other professions in the world would not exist as we see them today. It is through teaching only that the knowledge and skill regarding the subjects be it science or language has been imparted. Teaching literally means the occupation or the profession through which ideas and principles are taught. No professional can become what they are now without a teacher, a master or a Guru. Language as we all know is the means by which communication between two or more persons occurs. It is one of the defining as well as distinguishing character of human beings. Language is the common communicative tool used by humans to convey their ideas, thought, & opinions to their fellow human beings. Language exists today because of the need to Communicate. In my opinion the teaching of Language is the foremost of all professions. Teaching a language requires an in-depth knowledge about it and a teacher should know how language is used either in the literature or in the daily life. Be it sign language or spoken language, the ultimate aim learning any language is to reach out to the society and express ourselves. The realm of realistic and applicative knowledge can be obtained through first-hand experience and learning which is provided through teacher-student interactions.

Speaking of literature, it is simply the artistic and improvised approach, the appreciation and its application as far as it is concerned with any language. As I mentioned earlier, is the playground of literature through which our artistic as well as realistic ideas, thoughts and opinions can be expressed. Language is the root of all education. Literature is the innovative approach to the usage of language. Literature paves the way for the cultivation of ideas. When an individual feels the presence of language in all aspects of life, they start appreciating and expressing it in an artistic way – the outcome of which is nothing but Literature. It is specifically the "out-of-the –box" thinking

We use the modern and emerging techniques to improve the following

- Participation in the usage and critical thought of technology.
- Ways of learning.
- Discovery and development of abilities and skills.
- Cooperative and collaborative working in groups and communities.
- Learning along with the teacher.
- Developing inquiry and research habits.
- To utilize the right information at the right time / place to the right objective.
- Discovery and exploration of new Data.
- Exchange of learning experience and hence enhancing both knowledge and interactive behaviour.

For the purpose of preparing students to use these upcoming trends and technologies effectively and for the benefit of the human society certain measures have to be taken – We should encourage students to use E – Database , E- Mail, for the procuring of knowledge as well as exchange of the same.

There needs to be awareness on what are the pros and cons of usage of technology to such extent. The students must know how to access and find knowledgeable facts and information.

The students must be taught on how to use the computers, programs, smart phones etc,. for the purpose of preparing notes, presentations, and many more which would be required in the process of learning.

11. CONCLUSION

Thus, we through this article have discussed and analyzed the various upcoming trends in the field of teaching language and literature. There can still be many more changes in the present as well as emerging systems, but we need to make sure that all these changes are for the good of the global society in itself. The usage and application of these techniques , if not done properly or if carried out for unwanted deeds can as a result adversely affect the structure and system established in the society. There needs to be an organizing body for these changes to come into positive effect as various methods and approaches can only be implemented through a systematic procedure.

I certainly pray and hope that the language and literary field improves as time flies by and as a result bring out a positive effect in the modern society.

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AL-AMEEN LAW REVIEW

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EDITOR'S MESSAGE

Greetings and warm welcome,

It gives me immense pleasure to launch this VII volume of Al-Ameen Review 2021-2022. Al-Ameen Law Review is a scholarly publication focusing on legal issues, providing vital insights regarding recent laws which lead to strong analysis and understanding of the laws.

This law review is a compilation of outstanding article authored by principals, Law Professors, Research Scholars, and other legal Professionals. It has wide circulation ranging from Supreme Court judges Library, High Court Judges Library, Law Universities within India, Law Firms and Advocates.

For this volume of Law Review we had an overwhelming response from entire legal fraternity. We would like to thank all the contributing authors for providing such rich variety of outstanding articles on broad range on interesting legal topics. It is their generous contributions of time and effort that made this issue possible.

I would like to express my considerable appreciation to the Al-Ameen Law Review Editorial Board for their effort.

I would also like to thank Imprints for designing the outstanding cover of this volume of Law Review.

I would like to encourage all our readers to share their views to this volume.

We appreciate your support and are happy to have you as our reader.

Best regards

Dr. Waseem Khan M.L

Editor-In-Chief,

Principal, Al-Ameen College of Law,

Bengaluru

by the government of India, then it would be the best option for the country and the same followers for the crypto investors. The negative aspect of the cryptocurrencies like money laundering ransom ware attack and scams can be avoided to some extent through the processes such as Know Your Customer KYC. At the same time in future the potential of crypto innovations would increase, and it would be fostered in the country.

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A CRITICAL ANALYSIS OF INDIAN LEGISLATIONS AND ILO CONVENTIONS ON CHILD LOBOUR

Dr. DEEPU.P[28]
VARUN RAJ[29]

"Child Labour and Poverty are inevitably bound together and if you continue to use the labour of children as the treatment for the social disease of poverty, you will have both poverty and Child Labour to the End of Time."- ***Grace Abbott***.[30]

I. Introduction.

At present era child labour one of the social evil. Child Labour and Poverty are inter-connected with the problems of the society in which it leads to Inhuman Treatment, Abuse, Exploitation, Sexual Offences and Illegal Activities etc., Today's children are tomorrow's citizens but these children are deprived of their basic needs and facilities in which they are forced to do work , which leads to child Labour. Child Labour has been practiced since ancient times and was considered Normal. The Exploitation of the Rights of children is not a recent issue but Now it has gained a momentum with the growth of Human Rights throughout the World. Many International Organizations like ILO[31], Minimum Age Convention, 1973 (No.138) and Worst Forms of Child Labour Convention, 1999(No.182), UNICEF[32], etc. and many National legislations like Child Labour (Prohibition and Regulation) Act, 1986 and it was Amended in the year 2016, In this particular Act Government brought complete prohibition on the employment of children who are below the age of 14 years. Many provisions have been made under the Act regarding the employment for the children who are above the age of 14 years and even in Indian Constitution there are some of the provisions regarding the safeguards of the children, they are Article 21A, 24, 39(e), 39(f), and 45.

Declaration of the Rights of the Child, 1959 was adopted by the United Nations General Assembly. The rights of the children were defined for the first time by the Declaration of the Rights of the Rights of Child, 1959. The Declaration was drafted by the Geneva Declaration of the Rights of

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[31] International Labour Organisation.
[32] United Nations International Children Emergency Fund.

the Child. The Declaration is a document that consists of the rights of children. It was first adopted in 1924 by the League of Nations and then in 1959 by the United Nations.

The Declaration includes the following rights:

- The child must be provided all those means which are essential for their normal development.
- If a child is found to be hungry or sick then the child must be fed and nursed.
- If a child is backward or delinquent then the child must be helped and recovered.
- In case the child is an orphan or abandoned then shelter should be provided to the child.
- In times of distress, relief must be provided to children first.
- The children must be protected from every kind of exploitation when they are put in a position to earn a livelihood.
- The children must be made conscious of the fact that the talent they possess should be devoted to the service of their fellow men.

This document was endorsed by the League of Nations General Assembly in 1924 as the World Child Welfare Charter. It was reaffirmed in 1934 by the League of Nations General Assembly.

II. Definition of "CHILD".

"Child" is a Progeny: Offspring of parentage[33]. Commonly it implies one who had not attained the age of 14 years, though the meaning now varies in different "statutes".

"Child" can be defined as, A young human being below the age of puberty or below the legal age of Majority[34].

Indian Constitution defines "Child" as any one below the age of 14 years and shall not be employed to work in any factory or mine or engaged in any other hazardous employment[35].

"Child" means a person who has not completed his 14th year of Age[36].

[33] Bryan A Garner: Black's Law Dictionary, 11th Ed, 2018, P 23
[34] Shakil Ahmad Khan: Ramanatha Aiyar. The Law Lexicon- the encyclopaedia law dictionary with legal maxim, 5th Ed 2006, P18
[35] Article 24 of Indian Constitution.

As per these definitions we can accept that "Child" means someone who needs adult protection for physical, psychological and intellectual development until able to become independently integrated into the adult world[37].

III. Analysis On International and National Laws on CHILD LABOUR.

The ***International Convention*** on the Rights of the Child, 1989 is a human rights treaty that includes the rights of children which are related to civil, political, social, health and cultural rights.The Convention works for the basic needs and rights of children in order to protect their interests. The Convention works towards preserving such rights of children by putting an obligation on parents to perform all their responsibilities towards their child as parents. The Convention protects children from any kind of exploitation and excessive interference.

The disputes which involve a child have to be tried separately with care and the child's viewpoint has to be heard in such cases. Courts are not allowed to sentence a child with capital punishment. It is an obligation of Nations to ensure that no child is sentenced with cruel or degrading forms of punishment.

There are 2 Major International Conventions, namely they are :

- Convention No.138-Minimum Age Convention, 1973[38].
- Convention No.182-Worst Forms of Child Labour Convention, 1999[39].

National Laws and Regulations with regard to Child Labour.

The Government of India has introduced various National Policies, Plans and Programmes relating to Children. The Policies focus on Planning and Implementation. Some major Policy and Plan documents are as follows[40]:

- National Policy for Children, 1974.
- National Children's Fund, 1979.

[36] Sec.2(ii), Child Labour (Prohibition and Regulation) Act, 1986.
[37] Rajvir S. Dhaka and Jagbir Narwal, "Child Labour in the city of Rothak: A Study".
[38] ILO Declaration on Fundamental Principles and Rights at Work.
[39] ILO Declaration on Fundamental Principles and Rights at Work.
[40] CHILD LABOUR IN INDIA ; Legal Regulation, By Dr.Lingaraj M.Koninkar.

will fall into the category of poverty, which will directly affect the child labour ratio.In March 2020, there were 2473 interventions related to child labour. The numbers came down to 446 in April but rose to 734 in May. There were 3653 interventions for child labour across the country, as reported on the child helpline number. The further breakdown of this data was into-

- Begging- 35%
- Hazardous activities- 21%
- Restaurants- 14%
- Domestic worker- 10%
- Family Units- 8%
- Bonded labourers- 4%

VII Suggestions.

Has there are many International and National Legislation with regard to specific Acts, even thou the Child Labour has not been Eradicated and in which it results in violation of the many Rights of Child, with the making analysis of the major problems with the legislations, Socio-Economic evils and many other factors we can suggest the following:

- Ratifying the International conventions with regard to flexible of the National Legislations in which it helps to implement to Conventions in Accurate form and avoids the loopholes in the Legislations.
- Making the Laws to Eradicate Child Labour but on the other side, the laws itself gives the exception clause to the child workers and made some of the provisions regarding the protections of the Employer. Hence these laws should be implemented strictly.
- We can overcome the Poverty by offering the children, a day scholarship and with some of the skill development programmes, who attends the school in backward session of the society.
- . To bring awareness about the concept of " Today's children are Future of the Nations".
- Government should take imitation to introduce various polices and schemes to attract the children to the schools.

- The Laws which are made shall not be the "Paper Tiger" only, but it should also be every effective and must be brought into practical world.
- Mind set of the people should change and every Indian citizens are protect the interest the children.
- At present National Legislation the Minimum Imprisonment is 6 months and Maximum Imprisonment is 2 year, and Minimum Fine is Rs.20,000 and Maximum Fine is Rs.50,000, Is this is justifiable ? because as there a future of a child together with the Nations. So Making Increase in the Both Imprisonment and Fine may reduce Child Labouring.

VIII. Conclusion.

The National Legislations with regard to International Legislations, there are many conventions which are ratified and implemented in India. With that there is a drastic change in the decrease of the Child Labour in India. But the main objective to Eradicate completely because as it effects on the Nations and also Child Rights which are interlinked with Human Rights too. The Child Labour (Prohibition and Regulation) Act, 1986 prohibits children from working in hazardous employment. The Act provides a minimum age limit for employment as 14 years. The provision of the Act has helped in reducing the rate of child employment in India. Child Labour is One of the Social Evil in which it is inter-connected with many other societal problems like poverty, lack of access of education, standard of living etc. Hence without solving the one we can solve the other. But still it is possible as it is implemented with accurate programmes.So that we conclude with the words of Justice Subba Rao, the former Chief Justice of India,"Social justice must start with the child. Until and unless a tender plant is properly tended and nourished, it has a small chance of growing into a strong and useful tree. So, the first preference in the plate of justice should be stated to the well-being of children."

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PROPERTY RIGHTS OF HINDU WOMEN IN INDIA – A CRITIQUE.

K.S. Jayakumar[48]

Prof. (Dr.) C. Basavaraju[49]

"A State that does not educate and train women is like a man who only trains his right arm" - **Jostein Gaarder.**

ABSTRACT:

Hindu law has the oldest pedigree of any known system of jurisprudence and even now it shows no signs of decrepitude .Women from half of the Indian population. Women have always been discriminated against men and have suffered and suffering discrimination in silence, self-sacrifice and self-denied are their nobility and fortitude and yet have been subjected to all kinds of inequities, indignities, incongruities and discrimination.

The Preamble aspires not discriminate men and women\, but it treats them a like. The framers of the constitution were well aware of unequal treatment meted out to the fair sex from the time immemorial. In India the history of suppression of women is very old and long which is responsible for including general and special provisions for upliftment and development of the status of women .But still the personal law are discriminatory and after coming into force of the constitution a question arises as to how these laws enjoy immunity?

This Paper attempts to look into the Women's property rights in India and Hindu Succession (Amendment) Act-2005 and Judicial Trends.

Keywords: Women's Property- Historical Overview, Hindu Succession Act-1956, Amendments, Rights of Tribal Women and Judicial Trends.

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RESEARCH ARTICLE

INTELLECTUAL PROPERTY RIGHTS: A BIRD's VIEW AND ITS IMPLICATIONS IN INTELLECTUAL PROPERTY

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Abstract

Intellectual property (IP) is a unique set of ideas and creativity developed in the brain of individuals. It is the assets of individuals and nations which has given exclusive rights to inventors or creators in form of intellectual property rights (IPR). These rights are designated by statutes in order to enable them to implemented for public purpose and maintain the reputation of inventor and his investment on invention. There are different forms of IPR that satisfy the criteria of novelty, non-obviousness and utility. Lack of knowledge on intellectual property rights may cause the damage to economic and social development of nation. The present review highlights various forms of IPR and their role, along with related Indian context. Further, the statutes of IPR related activity have been discussed in brief under a single umbrella.

Introduction:-

Intellectual Property (IP) relevant to unique creations originates from the human intellect. Inevitably, it is a product of human mind used for his wellbeing, such as inventions in all fields of human endeavor including technology, designs, artistic, music, broadcasts, trademarks, commercial service marks, logo and literary. These properties may be industrial property or non-industrial property resulting of intellectual activity in industrial and artistic field's scientifically (1,2). It has been well known that prosperity of nation depends on the exploitation of its intellectual property (IP). These properties are valuable assets that play a crucial role in economics of a nation and described as the "Knowledge Goods" (3).

Properties may be corporeal and incorporeal; corporeal property may be termed as tangible, which relates to material things. The incorporeal is intangible which includes immaterial one. The immaterial things, which law recognize as the subject matter of rights which extended to various immaterial products resulted from the human skill and labor, which are referred as intellectual property (IP) due to outcome of human intellect (4).

These intellectual activities are well protected by laws; assure legal rights to inventor or creator in the form of intellectual rights, which are tangible, statutory and territorial rights (3). The law of intellectual property is territorial in nature, by confirming exclusive rights to the owner or creator to enjoy and prevent misuse for a specific period of time. Due to rapid development in science and technology with cost associated of inventions, there has been global pressure on the protection of IP in legal way. The stakes of the developers of technology have been raised and

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Conclusion:-

The development of a nation depends upon the creativity of the citizens. This creativity comes from the mind set; it is referred to as intellectual property, and it should be preserved in the form of rights called IPR. The duty of the government is to protect it. The Intellectual Property Right (IPR) is provided by the government for intellectual activity in industrial, scientific, literary, and artistic works. It is applicable to companies, industries, businesses, and corporate sectors, which determine product stability and safety. These rights are given to ideas generated in the minds of people to safeguard creators and inventors over a period of time. These are exclusive rights granted by the government for the protection of genuinely and novelty of intellectual property for maintaining the quality, safety, efficacy, and standard of the product and process. IPR acts as identification marks for identifying the product. At the same time, the management of IP with IPR is a multidimensional task involving the determination of the Indian legal system. The selection process for granting the IPR was based on criteria (a) whether the invention is the first of its kind in the world; (b) the importance of the invention in the present world; and (c) what is the breakthrough solution. (d) step for commercialization; (e) the socio-economic significance; (f) how does it impact India; (g) which sustainable development goals does it address? Lastly, harmonize India's IP regime with international standards and make all facets of society aware of the social, economic, and cultural benefits of IPRs. By this way, IPRs will be demonstrated with immense creativity in the fields of startups, the corporate sector, academia, and leading R&D institutions in India to identify and address the essential needs of the present society.

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Role of Indian Judiciary Regarding Protection of Natural Environment

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Introduction:

The Ultimate Court of India is a sound-esteemed institution; in general, the everyone views the Supreme Court of India positively compared to the state's lawmaking and administrative branches. The Supreme Court has effectively dealt with a involved, complex, and promptly expanding and changing field of equipment and multi-disciplines. Jurisdictional activism has resulted in several developments and has provided the appreciated raw material for the development of a thorough Indian ecological law. Thus, in the scope of environmental justice administration, the Supreme Court of India has positioned largest not only before the parliament and executive but also before its counterparts in developed and developing countries, whether old or young.

The idea of environmental protection is not a new phenomenon; it can be seen in antique civilization. It is stated in Ancient texts that it is each individual's dharma to protect the natural sources such as soil, water, trees and animals that are of great significance to us. In the modern age, the world is influenced by advancement of technology & technologies such as thermal power plants, atomic power plants etc. Global warming & climate change etc. has thus become a global problem.

Key Words: Supreme Court, Legislation, Environment, Judgement, Global Issue.

Today we are living in technological era. We cannot disregard the damage done to the atmosphere by the atom bombs in Hiroshima and Nagasaki in 1945 world war-II. Owing to day to day creativity & development of technology, it's become part of development but apart from this it spread the risk to human life. Climate & growth is means that they will not end in themselves. Environment & development is for the people, not environment & technology people.

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which interfered with the natural flow of the River Beas, to pay compensation for restitution of the environment and ecology.

- **Precautionary Principle:** Environmental scientists play a key role in society's responses to environmental problems, and many of the studies they perform are intended ultimately to affect policy. The precautionary principle, proposed as a new guideline in environmental decision making, has four central components: taking preventive action in the face of uncertainty; shifting the burden of proof to the proponents of an activity; exploring a wide range of alternatives to possibly harmful actions; and increasing public participation in decision making[24]. The precautionary principle today has been accepted by most countries of the world, including India. In the Vellore Citizen's Welfare Forum's case, the Supreme Court had no hesitation in lying down that precautionary principle is now part of the law of the land. The principle was also applied in the Taj Mahal Case to protect the Taj Mahal from environmental pollution.

Conclusion: People have also applauded judicial activism in the field of environmental protection. It is important to remember, however, that judicial activism has significant limitations, and that executive laxity and environmental apathy cannot be remedied solely by judicial activism. In recent years, there has been a sustained focus on the role played by the higher judiciary in devising and monitoring the implementation of measures for pollution control, conservation of forests and wildlife protection. Many of these judicial interventions have been triggered by the persistent incoherence in policy-making as well as the lack of capacity-building amongst the executive agencies. Devices such as Public Interest Litigation (PIL) have been prominently relied upon to tackle environmental problems, and this approach has its supporters as well as critics. Today judiciary plays an important role for protection of components of environment, because without components of environment it's very difficult to sustain. Therefore people should participate in decision making process and government should implement the decision and principles made by the Judiciary.

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RESEARCH ARTICLE

A PRELIMINARY OBSERVED SELF EVALUATION STUDY OF STATUTORY TOBACCO REGULATION ACT IN AND AROUND SCHOOLS OF MYSURU DISTRICT

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Survey, Schools, Prohibition, Restriction, Prevention, Tobacco

Abstract

This preliminary survey investigates the proximity and prevalence of tobacco outlets shop near schools, aiming to understand the potential exposure of school-aged children to tobacco products specially cigarettes. The study focuses on identifying the density and location of tobacco shops within a defined radius of educational institutions. Data were collected from multiple schools in various regions of Mysuru city and rural areas, using geographical information systems (GIS) to map and analyze the distribution of these outlets using the latitude and longitude of the location. The findings reveal a significant number of tobacco outlets situated within close proximity to schools, raising concerns about the accessibility of tobacco products to minors. Although the school management is strictly following the rules in the virtue of COPTA act 2003 of displaying board of prohibition, restriction, prevention and punishments of usage tobacco products. The results underscore the need for stricter zoning regulations and public health interventions to reduce the exposure and appeal of tobacco products to young people. This survey provides a foundational analysis that can inform policy makers and community leaders in their efforts to create healthier environments for children and adolescents.

Introduction:-

Use of the tobacco and its products has become a public health concern among the children, students and adolescents (1). The tobacco products are used to be smoked, snuffed and also chewed which contains highly addictive psychotropic and mood bending ingredients.[2,10] These products consists of more than 4000 chemicals among 250 are more harmful and carcinogenic in nature[3]. Nicotine is one among them which leads to cancer, lung and heart diseases. Along with this there are studies where the smoking leads to hypertension, neoplasia, throat cancer, oral cancer, chronic obstructive pulmonary disease and infertility (2,3). The smoked tobacco products include cigarettes, cigars, bidis, rolled cigarettes, cheroots, hookah, pipes, tobacco rolled in maize leaf and newspaper (4,5). While the smokeless tobacco products available include khaini, betal guild with tobacco, gutka, tobacco lime mixture pan masala, oral tobacco, snuff.[4] There is no safe level of exposure to this smoke so far. In pregnant women, it may lead Down Syndrome and low birth babies and also death of infants and many more genetic disorders (6,7). According to WHO data children account for 28% of the deaths attributable to second hand smoke. Along with this tobacco kills more than 10 million people annual either by the direct and indirect tobacco gas exposure.[1] Almost half of children regularly breath air polluted by tobacco smoke in public places (2,6).Worldwide, about one fifth of all deaths attributed to tobacco occur in India, In India, according to Ministry of health and

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family Welfare Government of India Guidelines for tobacco free educational institutions, over 13 to 15 lakh people die from tobacco use every year, i.e about 3500 people die in India everyday to this tobacco use. This data may be expected to rise in future (6,8). About 7 million deaths per year are attributed to direct tobacco use globally. This includes deaths from smoking-related diseases such as cardiovascular diseases (heart disease, stroke), chronic respiratory diseases (chronic obstructive pulmonary disease), and various cancers (lung cancer, throat cancer, etc.) (2, 8, 3).

Exposure to second-hand smoke (passive smokers), which is the smoke exhaled by smokers or emitted from burning tobacco products, contributes to over 1.2 million deaths annually (2-4). Non-smokers exposed to second-hand smoke are at risk for similar diseases as active smokers. Thus tobacco use is responsible for the high morbidity and mortality which is also indirectly hinder economic growth of the nation. Efforts are made to reduce smoking-related deaths by tobacco control policies, public health campaigns to raise awareness about the risks of smoking, cessation programs to help smokers quit, and measures to protect non-smokers from second-hand smoke (8).

According to the WHO only 20% of the world's population is protected by national smoke free laws which were enacted by many nations. Reduction in exhibiting tobacco advertisements, prohibiting smoking in public area, warning health hazards in the packing the tobacco products, awareness through educations and avoiding the selling the tobacco products near the educational institutions, Increase the number of smokers to quit the habit through non government agencies. The above action persuades smokers to protect the health of non-smokers and avoid the smoking near children and passive smokers

India, being highest populated country in the world suffering from tobacco-related health burdens and hazards from many years. According to the Global Adult Tobacco Survey (GATS) 2023 India, (9,12, 15, 16-21) the prevalence of adult tobacco smoking is about 21% among male, especially bidis, cigarettes. Survey also indicates the 35% percent of adult populations uses the tobacco products in India has the highest number of Smokeless tobacco users globally (26% of adults out of 35%), with more than 275 million people using them (12). Men use these products more than women. The most used smokeless products are gutkha, zarda, betel quid with tobacco, etc (7). The World Health organization (WHO) had published a study and estimated direct and indirect costs from all diseases caused due to tobacco usage. As per this study, the overall economic burden that can be attributed to such diseases in India was around 1,773.4 Billion. Spitting of tobacco/tobacco products is also a public health hazard, as it may lead to spread of swine flu, Corona virus, Pneumonia, Gastro-intestinal diseases and bacteria tuberculosis bacilli which can survive in spit for an entire day or nuisance to the people in general

The Government of India has enacted law on the cigarettes and other tobacco products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) the Cigarettes and Other Tobacco Products Act, 2003 (COPTA-2003) to control the factors and reduce the health risks associated with the tobacco usage in the country. The Hon'ble supreme court of India, in 2014 issued notices to central and state governments in response to a public interest petition demanding complete ban on tobacco products, due to money spent on the treatment of smoking- related ailments comes to around Rs 30,000 crore per year. The argument that tobacco industry brings revenue does not hold well in view of the harm it does. Further Hon'ble court suggested strict ban on using tobacco products up to some extent and it should began with banning its use near school premises. In Naya Bans sarv vypar Association V. Union of India, in this judgment of the Delhi High Court, an association of tobacco wholesalers challenged certain provisions of the cigarettes and Other Tobacco Products Act 2003 (COTPA) which banned the selling of tobacco products within a 100 yard radius of any educational institution. The wholesalers sought an exclusion of their wholesale trade from the law, arguing that the intent of the law was to reduce retail sale and their business would not be a danger to young people buying tobacco. While highlighting the public health need for COTPA, the court dismissed the petition, holding that the sale of tobacco products, whether in wholesale or in retail, near the educational institution has the potential of attracting the students so both type of tobacco sellers should be equally restricted. In addition to dismissing the petition, the court also imposed costs of 20,000 rupees each on the petitioners to be paid to the central and state governments for anti-tobacco initiatives. Later, the government also banned in public places, though the order is poorly executed.

In the present preliminary study, authors are tried to assess the presence of tobacco selling outlets nearby the educational institutions in around the Mysuru (rural and urban areas). Along with this caution of the prohibition of smoking in the form of the boards which are displayed. The objective of this study is to a) Assessment of the proportion of educational institutions displaying the boards of prohibition tobacco sales, use and punishment

Mechanisms-Establish mechanisms for students, parents, and the community to provide feedback on smoking-related issues and concerns, ensuring ongoing support and adaptation of policies.

By implementing these strategies collectively and consistently, communities can create healthier environments around educational institutions, protect young generations from the harms of smoking, and promote lifelong tobacco-free habits and make them physically and mentally fit for future. Effective collaboration and sustained commitment are crucial to achieving and maintaining smoke-free environments for the well-being of all. From the above conclusion author has tried recommended the effective implementation of law, which prohibits selling and use of all tobacco products.

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Implementing International Humanitarian Law through ICRC- A Way Forward

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Abstract

Violent conflicts have posed a challenge to human civilization since ages. Epidemiological studies indicate that war ranks among the top-ten causes of death worldwide. Populations affected by armed conflict experience severe public health consequences, mediated by population displacement, food scarcity, and the collapse of basic health services, which together often give rise to complex humanitarian emergencies. Armed conflicts can also cause the displacement of people thereby violating their right to life. The outcome of war is more barbarous which has challenged the human civilization. Their effects are inhumane and require a global concern. In this regard there requires a support which can protect the people interest aftermath an armed conflict. The role of ICRC is highly acknowledgeable as it works in helping the victims of armed conflict and also in developing and promoting implementation of International Humanitarian Law. This paper studies the role of ICRC an organization which has been working for the cause of protection of human rights during armed conflict and also its role as a guardian in implementing International Humanitarian Law.

Keywords: IHL, ICRC, Human Rights, Warfare

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impartiality, meaning no adverse distinction based on race, ethnic origin, religion, social class or any other factor, can and must be adopted as basic values in peacetime too. Surely respect for every human being, and compassion for those who suffer, are values on which the future of the world must be built. By defending these values even in war, the guardian of international humanitarian law is also combating the feelings of helplessness and fear that make peoples indifferent to each other and drive them into isolation. In spite of everything, and sometimes in spite of everyone, the guardian of international humanitarian law must look to the future with confidence.

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[ii] Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces intheField,12August1949,75UNTS31(enteredintoforce21October1950),Art.1

[iii] Currently 108; see the table showing the existing National IHL Committees at: https://www.icrc.org/en/document/table-national-committees-and-other-national-bodies-international-humanitarian-law.

[iv] Commission I: War Victims and Respect for International Humanitarian Law," International Review of the Red Cross, Vol. 76, No. 310, 1996, p. 37

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[vi] See ICRC, Guiding Principles Concerning the Status and Methods of Operation of National Bodies for the Implementation of International Humanitarian Law, and ICRC, Practical Advice to Facilitate the Work of National Committees on International Humanitarian Law, which supplements the Guiding Principles, both available at: www.icrc.org/en/war-and-law/strengthening-ihl/national-committees.

[vii] See Art. 5.3 Of the Statutes of the Movement. In its capacity as a specifically neutral and independent humanitarian organization, the ICRC examines whether it is better placed than other organizations to respond to the needs arising from these situations, such as visiting security detainees in cases where information or rumor indicates there may be poor detention conditions or ill-treatment.

[viii] The States parties to the Geneva Conventions normally meet representatives from the components of the Movement (the ICRC, the Federation and the National Societies) once every four years within the framework of the International Conference. The latter is competent to amend the Statutes of the Movement (which define the ICRC's role) and can assign mandates to the various components, but it cannot modify the ICRC or Federation statutes or take any decisions contrary to these statutes (Art. 11.6 of the Statutes of the Movement)

[ix] Based on the facts on the ground, the ICRC will determine the legal nature of the situation, which will define its legal frame of reference.

[x] Arts 5.2(d) and 5.3 of the Movement Statutes.

[xi] See Article 3, Article 9 of the First, Second and Third Geneva Conventions, and Article 10 of the Fourth Geneva Convention

[xii] the Draft Code of Crimes against the Peace and Security of Mankind prepared by the International Law Commission, document A/CN.4/466 of 24 March 1995; and the ICRC's statement of 1 November 1995 to the UN General Assembly, with special reference to Art. 22 of the draft.

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International Legal Instruments Relating To Prisoners Rights and Their Importance

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ABSTRACT

Peno-correctional institutions of the contemporary world have not been giving importance to rights of prisoners within their respective jurisdictions. Human rights are universally recognized rights of human beings and must be respected at all times and places even in correctional institutions of states. Human rights of prison inmates must be safeguarded throughout the world through effective legal framework. After the Second World War, significant legal initiatives have developed at global level with the active involvement of United Nations in recognizing the rights of prisoners. In this lane various international legal instruments and legal mechanism has been created and mandates the member nations of United Nations in protection of human rights as well as rights of prisoners. On the same way some laws are enacted by the countries in order to comply with requirements of international laws. In addition to international and national legal instruments, the precedents of Supreme Court help to widening scope of rights of prisoners. Still some of the members countries to UN's have failed to take positive approach even they have ratified and access to international instruments. This article will explores and enlightens on various international legal initiatives in protection of rights of prisoners.

Key Words: Peno-Correctional Institutions, Rights of Prisoners, Human rights, Prison inmates, United Nations,

INTRODUCTION

Peno-correctional institutions of the contemporary world have not been giving importance to rights of prisoners within their respective jurisdictions. After the Second World War, significant legal initiatives have developed at global level with the active involvement of United Nations in recognizing the rights of prisoners. On the same way some laws are enacted by the countries in order to comply with requirements of international laws. In addition to international and national legal instruments, the oftenjudicial precedents are widening scope of rights of prisoners. Still some of the members countries to UN's have failed to take positive approach even they have ratified and access to international instruments.The most challenging problem of Criminal Justice System of India is overcrowding in prison which affects directly on prisoners basic needs like healthcare, food and accommodation. This article will explores and enlightens on various international legal initiatives in protection of rights of prisoners.

Member states of United Nationsare required to show maximum extent of compliance to these instruments, in India, many laws are framed on the same lane.India too has adopted in various forms, mandates prescribed by these instruments.Indian Constitution too provides for implementation of international laws including treaties, agreements and conventions. According to Article 253 of the Indian Constitution: "Notwithstanding anything in the foregoing provisions of this Chapter, Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any other country or countries or any decision made at any international conference, association or other body[i].

Article 51(c) too requires State to foster respect for international law and treaty obligations in the dealings of organized peoples with one another[ii]. "The Supreme Court of India in Vishaka&Ors v. State Of RajasthanAIR 1997 SC 3011 observed "Any International Convention not inconsistent with the fundamental rights and in harmony with its spirit must be read into these provisions to enlarge the meaning and content thereof, to promote the object of the constitutional guarantee." The court held "The international conventions and norms are to be read into them in the absence of enacted domestic law occupying the fields when there is no inconsistency between them. It is now an accepted rule of judicial construction that regard must be had to international conventions and norms for construing domestic law when there is no inconsistency between them and there is a void in the domestic law.[iii]" Some of the important legal instruments are as follows:

Universal Declaration Of Human Rights–Udhr[iv]:

The Universal Declaration of Human Rights–UDHR is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly Resolution

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and protecting the rights of prisoners. The most challenging problem faced by the Indian Criminal Justice system is overcrowding in prison which affects directly on prisoners basic needs like healthcare, food and accommodation. This is in fact against the basic rights of prisoners such as adequate standard of living and such overcrowding in prison directly affects the right to the highest standard of physical and mental health of prisoners. Hence member nations of across the world including India has to take effective initiative in developing the prison infrastructure to protect the rights of prisoners as per international norms.

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[i] Article 253 of Constitution of India 1950
[ii] Article 51(c) of Constitution of India 1950
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[vii]Second Optional Protocol 1991
[viii]Article 28 of ICCPR 1976
[ix]Article 9 of ICCPR 1976
[x]Article 10 of ICCPR 1976
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Legal Regime on Violence against Doctors: Need of an Hour

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INTRODUCTION

The doctors play a vital role in save the life of human being at the time of ill health. During the course of their duty they are facing the various types of violence against them. Nowadays violence against doctors is a worldwide phenomenon. According to World health organization 8% to 38% of health workers suffer physical violence in their career. Usually surgical and emergency department they are facing the violence. Unlike the other professions the doctors are also face the human rights violation during the course of the action.

REASONS FOR VIOLENCE AGAINST DOCTORS

1. Perceived Medical Negligence: Dissatisfaction with treatment outcomes or perceived medical negligence can lead to anger and frustration, resulting in violence against doctors.
2. Communication Gaps:Poor communication gap between the doctors and patients or their family members may leads to misunderstanding between them at the level of explaining the disease course, etiology, prognosis, treatment options and investigation.
3. **Long Waiting Times**: There could be a extending waiting time in side and in other side delay in attention or admission of sick patient or perceived delay in investigation and treatment can leads to impatience and frustration.
4. Resource Constraints: Inadequate resources, including insufficient medical equipment, lack of staff, and poor infrastructure, can contribute to frustration among patients and their families, sometimes resulting in violence.
5. Cultural and Societal Factors: Cultural beliefs, societal expectations, and existing tensions can influence the likelihood of violence in healthcare settings.
6. Mental Health Stigma:Stigma associated with mental health issues may prevent individuals from seeking help, leading to increased stress and potential violence.
7. Lack of Security Measures: Inadequate security measures within healthcare facilities may expose doctors to risks of violence, especially in emotionally charged situations.
8. Workplace Stress and Burnout: Doctors experiencing high levels of stress and burnout may be more vulnerable to violent incidents.
9. Inadequate Legal Protections: Lack of legal safeguards and consequences for perpetrators may embolden individuals to engage in violence against healthcare professionals.
10. Public Health Crises: During public health crises, such as pandemics, healthcare professionals may face heightened stress, increased workloads, and public frustration, leading to a higher risk of violence.

TYPES OF VIOLENCE FACED BY THE DOCTORS

Physical Violence:

- **Assault:** Doctors may be physically attacked by patients, their relatives, or even colleagues. This can happen in hospitals, clinics, or during emergency situations.
- **Aggression:** Physical aggression, such as pushing, hitting, or even use of weapons, can pose a threat to doctors.

Verbal Abuse:

- **Insults and Threats:** Doctors may encounter verbal abuse, insults, and threats from patients, their families, or other individuals. This can happen due to dissatisfaction with treatment outcomes or other reasons.
- **Harassment:** Persistent and unwarranted verbal harassment can negatively impact the mental well-being of doctors.

Systemic Violence: Systemic issues, such as inadequate resources, poor working conditions, and lack of support, can contribute to a form of violence known as structural violence, affecting doctors and healthcare systems.

conclusive evidence to impute liability on the doctor, any subsequent liability cannot be fastened upon the medical practitioner. Further in the case *of Jacob Mathew vs. State of Punjab*[5];The late latejeevanlal Sharma father of the informant who was admitted as a patient in the private hospital for breathing problem.Informants elder brother Vijay Sharma was present there and he contacted the duty nurse of room. The elder brother of informant asked her to call doctor to attend the patient but no doctor turned up for about 20-25 min. Thereafter Doctor Jacob Mathew and Dr. Allen joseph came to the room of the patient.Oxygen cylinder was connected to the mouth of the patient but the breathing problem increase further. Jeevanlal tried to get up but the medical staff asked him to remain in the bed. It was found that the cylinder was empty and no other gas cylinder was available in the room. Vijay Sharma went to the adjoining room and brought a gas cylinder and therefrom. There was no arrangement to make the gas cylinder functional and in between five to seven minutes were wasted.By thus time and another doctor came there who declare that the patient was died. The representative of the deceased contended that the death occurred due to the carelessness of doctor and nurses and non-availability of oxygen cylinder.On the basis of statement, a case under section 304A/34 IPC was registered and after investigation charge was filed against the two doctors. The Apex court in the appeal held that, Due to hospital management gas cylinder was not available or the oxygen gas cylinder found empty. Hence, the hospital may be liable in civil law. The doctors cannot be held guilty of the offence under section 304 A of IPC.

MECHANISM TO PREVENT VIOLENCE AGAINST DOCTORS:

As per Constitutional provisions, 'Health' and 'Law & Order' are State subjects. State Governments are expected to set up mechanisms to prevent violence against doctors including imposition of penalties or setting up Helplines to extend immediate help to such Doctors who are victims of violence. Details of number of instances of attacks on doctors are not maintained centrally. Further, violence against healthcare professionals is a criminal offence and needs to be dealt suitably by the State /UT Governments under provisions in Indian Penal Code (IPC)/ Code of Criminal Procedure (CrPC) so that doctors/clinical establishments discharge their professional pursuit without fear of violence.

To prevent the violence against the doctors for discharge the duties in an effective manner the following measures to be implement.

a. Security of sensitive hospitals to be managed by a designated and trained force,
b. Installation of CCTV cameras and round the clock Quick Reaction Teams with effective communication / security gadgets particularly at Casualty, Emergency and areas having high footfalls,
c. Well-equipped centralized control room for monitoring and quick response,
d. Entry restriction for undesirable persons,
e. Institutional FIR against assaulters,
f. Display of legislation protecting doctors in every hospital and police station,
g. Appointment of Nodal Officer to monitor medical negligence,
h. Expeditious filling up of vacant posts of doctors and para-medical staff in hospitals / Primary Health Centres (PHCs) to avoid excessive burden / pressure on doctors and to maintain global doctor-patient ratio.
i. Create a legal awareness regarding the for enforcement of procedure for violence against the doctors.

CONCLUSION

Violence against doctors adversely affects their psychological and physical well-being and affects their job motivation. And this lessens the quality of care and lessens delivery of healthcare especially to the lower strata of society. Thus, a population's health and well-being is adversely affected. It also causes immense financial loss in the health sector.Violence against doctors is a global phenomenon. Incidences of violent attacks against healthcare workers are increasing exponentially. Better communication between doctors and patients and their relatives, better security system at healthcare institutions, strict laws against perpetuators of violence against doctors and swift implementation of these laws will eventually reduce the risk of violence at health care facilities considerably.

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[5] AIR2005

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Extraordinary Power of the Supreme Court: Curative Petition

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"Error is not a fault of our knowledge, but a mistake of our judgment giving assent to that which is not true"-
Locke

Abstract:
Curative Petition is viewed as the 'last remedy in the court of last resort' and the concept has been evolved following the Doctrine of Ex Debitio Justiciae,ie., the requirement of justice must be fulfilled and Actus Curiae Neminem Gravabit meaning the act of court cannot prejudice anyone. But there is a conflicting principle that restricts the application of curative petition like Interest Reipublicae Ut Sit Finis Litium that fosters the attainment of finality of judgment in order to settle the lis between the parties and manifest certainty of rights and liabilities.

INTRODUCTION:

A "curative petition" is a legal remedy available in certain jurisdictions, including India that allows for the review of a final judgment or order passed by the Supreme Court, which is otherwise considered final and conclusive. It is considered as the last judicial remedy available to a petitioner after all other legal remedies have been exhausted.

MEANING OF CURATIVE PETITION:

A Curative petition is petition which is way to request the court to review or to revise of its own judgment even after a review petition is dismissed or has been exhausted. This petition must have been filed within 30days of the judgment or order[1]. Within its extraordinary power the court has entertained this petition.

There is a Latin Maxim used by the court "*Actus Curiae Neminem Gravabit* " which means that an act of the court will be prejudiced to no one. The court should pass an order that the interest of none of the parties is harmed. The maxim becomes applicable when the court is under an obligation to undo a wrong done to a party by the act of court itself.

OBJECTIVES OF CURATIVE PETITION:

1. Avoid miscarriage of Justice: it means to avoid any injustice.
2. To prevent abuse of process: it means to intend to stop misuse of the process.

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[1] Article 137 of the Indian Constitution

EVOLUTION OF CURATIVE PETITION:

There is a lot of deliberation before the Apex court regarding the question of finality of the judgment. Is the principle of finality of decisions rendered by the Supreme Court should prevail or not .Curative petition is the last constitutional remedy available to a person whose review petition has been dismissed by the Supreme Court. Though the Constitution explicitly speaks about the review power of the Supreme Court under Article 137, it is silent about 'curative power'. The curative petition was given shape and form in the Indian Jurisprudence in the case of *Rupa Ashok Hurra v. Ashok Hurra*[2], the matrimonial dispute between Ashok Hurra and his wife. The wife filed a petition for divorce, which was granted by the court. Subsequently, Ashok Hurra filed a review petition challenging the divorce decree, which was dismissed by the Supreme Court. After the discharge of the review petition, a question arose as to whether an aggrieved party is entitled to give any relief against the concluding order of the Apex court. Further Supreme Court said that to prevent and cure a miscarriage of justice. It is necessary to reconsider its judgements in exercise of its inherent powers[3].

CONSTITUTIONAL PROVISIONS BEHIND CURATIVE PETITION

Curative Petition is also supported by Article 137 of the Indian Constitution.A curative petition is needed to provide a final recourse of correcting any errors in judgement where technical difficulties or other apprehensions over reopening a case prevents from reviewing judgements.

GROUNDS FOR FILING:

- A curative petition can be filed on limited grounds, typically including:
- Violation of principles of natural justice.
- Discovery of new and important evidence that was not available during the original proceedings.
- Allegation of bias or malafide against a judge who participated in the decision.
- Precedent error that is grave and fundamental.

CONDITIONS FOR CURATIVE PETITION:

The Supreme Court has established the following conditions to consider curative petitions:

- A curative petition may be filed after a review plea against the final conviction is dismissed.
- After a review plea against the final conviction is rejected, a curative petition may be submitted.
- If the petitioner can show that the rules of natural justice were broken and that the court failed to hear him before making a decision, the case may be considered.
- It must be unusual rather than common.
- A curative petition must first be distributed to a Bench of the three senior-most judges plus, if available, the judges who rendered the relevant ruling.
- The subject shouldn't be scheduled before the same Bench unless it requires a hearing in the opinion of the majority of the judges.
- The Bench may, at any time during its examination of the curative petition, request the services of a senior lawyer to serve as an amicus curiae.(Friend of the court).

[2] AIR 2002 SCC 388

[3] Article 142: This article in the Constitution of India states that the Supreme Court of India will have the power to pass any decree or order to get complete justice and such order will be enforceable through the territory of India

safety that helped revive the metro's operations. On appeal, a single judge of the Delhi high court upheld the arbitration award against DMRC, but a Division bench set it aside, holding that the award suffered from perversity and patent illegality. In 2021, a two judge bench of the Supreme Court restored the award, reversing the High court bench's findings in favour of the DMRC. A review petition was also rejected.

A curative petition is an extraordinary remedy, as it is filed after the apex court refuses to review its judgment. There are only two main grounds for entertaining such a petition; to prevent abuse of process and to prevent gross miscarriage of justice, although it is not possible to enumerate all the circumstances that warrant it. It is founded on the principle that the court's concern for justice is no less important than the principle of finality. Under India's arbitration law, an award can be sent aside only on limited grounds. It is normally inexpedient for arbitration issues to have many levels of litigation. In this case there was a statutory appeal to the High court, and appeals to a bench, the apex court a review petition and a curative petition. In the ultimate analysis , the DMRC case appears to have been rightly decided as the earlier two judge bench was ruled to have erred in setting aside the Delhi High court Bench's view that the CMRS certificate was a vital piece of evidence. The outcome only underscores the importance of arbitrators and judges sitting on appeal over awards getting both fact and law right, lest commercial litigants be discouraged from arbitration due to the constant stretching of the idea of finality. Not all disputants can go up to the level of a curative petition.

CONCLUSION

A curative petition is a new concept and judicial innovation in the Indian legal system. It is considered as the last and final resort. But if talking about the context of justice like in the Nirbhaya case it gives a drop back for the judges to give the judgment on time. There are so many loopholes in our legal system. It gives a way to escape a criminal from the punishment.

The hearing request is considered as uncommon instead of standard. It tends to be useful for those if the solicitor builds up that there was an infringement of standards of common equity and that he was not heard by the court prior to passing a request.

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Role of NGOs in Protecting the Rights of Indigenous under ILO

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Abstract

The indigenous and people suffer serious abuses of their human rights throughout the world. They experience heavy pressure on their lands from being logged, mining, roads, conservation, construction of dams, agribusiness etc. Many countries have worked towards protecting their rights and preventing its abuse. The laws meant for protecting their human rights are often violated and sometimes they are found to be inadequate to prevent the abuse of rights of tribes. Many countries laws are inconsistent with the international human rights law too. The International Labour Organization has developed agreements and mechanisms to address the core problems of these people. These agreements are binding on the states which ratify them. The issues of tribes and indigenous people addressed by the ILO have resulted in jurisprudence recognizing their rights. This also include the rights of indigenous and tribes on par with protection of their lands, territories, resources traditionally occupied and right to a healthy environment; protection of cultural sites of religious significance; protection of cultural and physical integrity; participation in decisions that affect them and use their own cultural, social and political institutions; to be free from discrimination and to equal protection of the law. In implementing any of such laws for protection of human rights of indigenous and tribal people the international institutions like ILO and United Nation rely on the information given by NGOs and groups. They work for protecting of their human rights and fundamental freedoms. This paper analyses the role of ILO in protecting the rights of indigenous and tribes. It summarizes the role of NGOs in international standard setting which is a prerequisite for protecting the rights of indigenous and tribes.

Introduction

The rights of tribal people have assumed an important role in international human rights law and a discrete body of law which confirms and protects the individual and the rights of tribal people has emerged since two decade. This body of law is still expanding and developing through indigenous advocacy in international arena through the decisions of international human rights bodies, through recognition and codification of their rights which is presently considered by the UNO through various conventions and treaties. Even the international bodies have contributed to progressive development of tribal rights by interpreting human rights instruments of general application to account for and protect their rights collectively. The African Commission on Human and People's Rights, UN Committee on the Elimination of Racial Discrimination, UN Human Rights Committee, the International Labour Organization Committee of Experts and Inter- American Commission on Human Rights all ensure protection of human rights of tribes and indigenous.

Despite of these advances in international law, there is still violation of tribal rights. Much of this abuse is associated with heavy pressure to exploit the natural resources in indigenous peoples' territories.

involved in human rights standard-setting that they provide ample room to NGO representatives to participate in the proceedings. In fact, NGOs themselves have progressively conquered this space. In a modest way this practice fills a democratic gap. It is suggested that the present practice should be formalized by devising new rules concerning the NGO role in international standard setting. This matter should be approached with some degree of caution, because the end result of such formalization may well have a restrictive effect on present practice Transparency and public discussion are essential elements of democratic processes. These elements are also needed in international legislation, and NGOs can play an instrumental role in this regard.

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The Sociology of Crime and Deviant Behaviour: Emerging Issues in Criminal Jurisprudence

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Abstract: *The sociology of crime presents not one but many theoretical perspectives. These will be examined in relation to the contemporary trends of crime in our society bearing in mind of the repeated caution that 'the direct transference of many criminological theories developed in the industrial nations may well be totally inappropriate in a developing country.'*

It is in the nature of man to strive for advancement. Were it not so, he would stagnate, decay and perish. Aspirations which make man unique tend to proliferate in gradually ascending levels with increasing impact of knowledge.

According to Emile Durkheim, crime was a fact of life. He argued: 'A society without criminality would necessitate a standardization of the moral conceptions of all the individuals which is neither possible nor desirable. On the other hand, if there were no system of moral repression, a system of moral heterogeneity would exist which is irreconcilable with the very existence of society.' If crime is inevitable, what then is the rationale of punishment? Punishment is also a social necessity because it is the only instrument which strengthens the value system and supports the structural stability when aspirations are pitched too high and associated with industrial societies which are in a chronic state of 'anomie'. His thesis was that if men are driven by unattainable goals, the resulting sense of frustration leads to adoption of 'illegitimate' avenues of achieving them.

Although, in the existing class structure, the lower classes are numerically very large and consequently the bulk of traditional crime is traced to them, the extensive manifestations of white collar crime and power crimes by the numerically smaller but comparatively favored section preclude generalization, the only difference being in relation to the choice of the type of 'legitimate avenues'.

The Dalits who occupy the lowest rung of the caste ladder and other economically deprived section of the society grouped generically under 'weaker' sections have been the victims of age-old socially tyranny and economic exploitation. The 'atrocities' on Dalits are typical manifestations of social disorganization. It is the overwhelming sense of social injustice which weakens legitimacy of a social order or the institutions created by it. When the feeling is widespread, it leads to revolt. On a lower scale it is diffused as traditional criminality.

The author through this article traces the concept of sociology of crime and its perspective in Indian context.

Keywords: Crime, Society, Subculture, Social disorganization, Violence

I. INTRODUCTION

The sociology of crime is the study of the making, breaking, and enforcing of criminal laws. Its aim is to understand empirically and to develop and test theories explaining criminal behavior, the formation and enforcement of laws, and the operation of criminal justice system.

The sociology of crime presents not one but many theoretical perspectives. These will be examined in relation to the contemporary trends of crime in our society bearing in mind of the repeated caution that 'the direct transference of

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economic factors. Sutherland's contention that 'the general theories of criminal behavior which take their data from poverty and the condition related to it, are inadequate and invalid' cannot be accepted without reservations.[19]

Having considered the major sociological approaches, a passing reference may be made to the more recent theories. Reckless attempted a general explanation of crime in relation to the pull and push factors to which an individual is subjected in his environment. His containment theory tries to combine the psychological and sociological view points; it facilitates an analysis of the inner personality forces that propel a person to commit crime and, at the same time, permits an examination of the socio-cultural forces that shape this personality.[20] Matza believed that delinquency is a process of drift and tried to revive classical positivism through 'soft determination.'[21]

The crime spectrum in contemporary Indian society covers a wide-range of criminal offences of varying degrees of seriousness as perceived by the dominant group. The offenders are drawn from all sections and levels of society, and their association with different forms of crime is related directly or indirectly to their class and culture, their needs and aspirations, frustrations and opportunities. To this extent the concept of a criminal sub-culture confirms that 'there are groups within society, probably much larger and more deeply affecting its well-being than the small stage army of professionals, people who are neither downright antisocial, nor altogether honest, but honest in certain situations and dishonest in others.'[22]

II. CONCLUSION

What does the sociological perspective finally reveal? It projects a composite picture of crime of varying degrees of seriousness and artificiality as a conglomeration of deviant acts of man in the social setting in which he is located. This hetero generous collection consists of crimes of violence, crimes against property, white collar and consensual crimes and a host of legal infractions. For some, the visibility level is high and for others it is extremely low. The motivational levers are many and the classifications made to describe them are labored.

Crime is an acute form of deviance which means digressing from what it is considered normal. Human behavior in any society is determined by four major external factors and these are culture, power, economy and the law.

It is basic to the sociological approach to crime that it perceives it as a phenomenon caused and determined by numerous factors; therefore, it is not a single theory but many theories which are need to explain it. The sense of frustration one glimpses in modern sociological writings is perhaps irrelevant. The inadequacy arises because sociology, being concerned primarily with the study of societies in their existential form, accepts to some extent the fundamental immutability of social structures. This is not to say that sociology does not concern itself with social change.

More than the above inhibition, the disregard of the strength and power of the economic system on criminality which emerges as the weakest feature of the sociological perspective. Although the economic aspects of crime appear to enter into it, the emphasis is superficial. When sociologists talk of alienation, and anomie, the world of economics is out of focus. Since all social structures have economic roots, the sociological perspective, with all its embellishments and attractive theoretical constructs, remains constricted, and has not been able to make any impressive impact in the area of crime control.

[19] E.H. Sutherland and D.Cressey, op.cit.
[20] Walter C.Reckless, The Crime Problem, New York, Appleton-Century Crofts, 1967.
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The Landmark Judgments of Supreme Court that Shaped Modern India

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Abstract: *On November 26, 2023, 73 years have passed since the Constitution of India came into force. In this pretext, this article is a review of the judgments given by the honourable Supreme Court of this country, which upheld the freedom of speech and expression, individual dignity, human rights and social justice in modern India*

Keywords: Constitution of India

Case Law No.1:

Bijoe Emmanuel and others Vs. State of Kerala and others (National Anthem Case)[1]

Pursuant to a circular issued by the Director of Public Instruction, Kerala, all the students of the schools in the state of Kerala were made to assemble in one place to sing the National anthem before the commencement of classes every day. Three students of the Jehovah's Witness sect however, refused to sing the national anthem as the they believed that singing the same was against the tenets of their religion. Consequently, the students were expelled from the school. This matter was brought before the apex court under Article 136 of the Constitution of India wherein the court were to decide whether the expulsion of the students from school for not singing the country's national anthem was in fact a violation of the student's right to freedom of conscience and free profession, practice and propagation of religion under Section 25(1) and the right to freedom of speech and expression under Article 19(1)(a). The court were to also decide whether the fundamental duty under Article 51A and Section 3 of the Prevention of Insults to National Honour Act, 1971 were violated by the student's conduct or not. In the current time and age where the question as to whether the singing of the national anthem in education institutions shall be made mandatory is discussed at large with varying views being presented by each the Bijoe Emmanuel case acts as landmark case with respect to the freedom of speech and expression.[2]

Brief facts of the Case

In the Instant case, three students namely, Bijou, Binu Mol, and Bindu Emmanuel belonging to the Jehovah's Witness Sect studying in a school in Kerala while attending the school assembly every day did not sing the national anthem as they bonafidely believed that singing the national anthem was not in conformity with their religious beliefs while their two elder sisters studying in the same school never objected to such practice and sung the national anthem every day. On July 1985 a member of the legislative assembly visited the school and attended the school assembly where he noticed three children standing silently while others sung the anthem, he was of the view that such callous act of the students caused grave disrespect to the national honour of the country. Thus, a commission was set up to investigate the matter at hand. The commission was of the view that the children in question were well behaved ad law abiding citizens who had not been accused of disrespecting the National Anthem earlier. Yet the head master of the school as per the instructions of the Deputy Inspector of Schools expelled the three students. The parents requested the headmistress to allow the children to attend the school until further government order on the said matter is received however, these requests were not paid heed to. As a result of which the father of the expelled students filed a writ petition in the High

[1] 1987 AIR 748, 1986 SCR (3) 518
[2] https://legalvidhiya.com/bijoe-emmanuel-v-state-of-kerala-and-ors-a-i-r-1987-sc-748/

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reservation policies have hindered me from pursuing higher education." Therefore, he had filed a case in the court asking him to give justice to get higher education in Karnataka.

A two-judge bench of Karnataka HighCourt comprising Justices KL Manjunath and BV Nagarathna opined: "The orders, policies, rules and acts enacted by the Karnataka State Government from time to time regarding reservation for Scheduled Caste, Scheduled Tribe, Backward Class, Minority, Women, Handicapped, Kannada Medium, Project Displaced Person etc., are applicable only to the students of Karnataka and not to the students of other states. In particular, the respective state governments formulate the policies for allotment of seats for professional educational courses to the students of the respective state under reservation. In this case it is more constitutional for students from other states to exercise their reservation rights in their own states. Now reservation policies are not applicable here as anyone can get general seat allotment. It is also a constitutional act of the state governments to safeguard the interest of the students of their state."

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A Critical Analysis of Reforms and Administration of Police in India

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Abstract: *The Oxford dictionary defines police as an official organization whose job is to make people obey the law and to prevent and solve crime.[1] The police is a social institution which is a responsibility of the State. The State came into existence to provide peace and security to the individual. To fulfill this purpose, the State created an administrative system, the police being an important part of it. In order to develop one's personality which is a pre-requisite for the development of a country, a free, a peaceful and orderly atmosphere is required.*

Keywords: Police

I. INTRODUCTION

The Oxford dictionary defines police as an official organization whose job is to make people obey the law and to prevent and solve crime.[2] The police is a social institution which is a responsibility of the State. The State came into existence to provide peace and security to the individual. To fulfill this purpose, the State created an administrative system, the police being an important part of it. In order to develop one's personality which is a pre-requisite for the development of a country, a free, a peaceful and orderly atmosphere is required. The police system is the main agency of the government which is responsible for providing such an atmosphere. The ideal purpose of the police in a community can be best described in the following words which spell out the duties of law enforcement officers as laid down in the International Code of Enforcement Ethics:

"As a law enforcement officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation and peaceful against violence and disorder; and to respect Constitution rights of all men to liberty, equality and justice."

The Indian Constitution, taking its inspiration from history and the free democracies of the world, envisages a representative legislature, a responsible executive and an independent judiciary, as an integral part of parliamentary system of government. The police organization, essentially constitutes the core administrative bureaucracy, is quite centrally or organically linked with all the three organs of the democratic government. The police administration being responsible to all the three organs of the government has regular contacts with them.

The long spell of British rule, established the traditions of judicial independence mid political neutrality, which has affected the police administration which has resulted in a complex and self-negating infrastructure, which further gets more complicated because of fundamental rights of the people, which has resulted to explosive dimensions to the role of police and public relations. This has created a great deal of dilemmas in police administration, which has been looked down from negative view. Perhaps the colonial legacy has a deep impact on the functioning of police administration.

Policing is a science of maintaining peace and order in an ever-changing society. The society of today naturally is not the same of yester-years. It has become more complex; its aspirations and expectations have grown enormously. Therefore, policing philosophy, policing methods and attitudes of those responsible for policing cannot remain the same. They must keep space with the changing needs. Of all the other things the most important thing is that, in a free

[1] Oxford Advanced Learner's Dictionary, p. 976.
[2] Oxford Advanced Learner's Dictionary, p. 976.

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Punishment

A person under this section shall be punished with either simple or rigorous imprisonment which may extend up to three months, or with the fine maximum five hundred rupees, or both.

The offence under this section is bailable, non-cognizable and non-compoundable, and it is triable by the Magistrate of the first class.

Making atmosphere noxious to health

Section 278 of IPC deals with the punishment for making the atmosphere noxious to health and due to such noxious atmosphere health of the general public is affected.

Section 278 applies to such trades which produce noxious and offensive smells. Trades such as making candles by boiling stinking stuff, a factory for making Sulphur spirit, vitriol etc., or a tannery where skins are steeped into water thus, making the atmosphere vitiated. Even from burning bricks lime in a kiln produces smoke which is noxious. The setting up of a noxious trade in the vicinity of a populated locality is always considered as a nuisance.

Punishment

A person under this section shall be punished with a fine extending up to five hundred rupees.

The offence under Section 278 is a bailable, non-cognizable and not compoundable, and is triable by the Magistrate. Offence and summons should ordinarily be issued in the first instance.

The provisions of Sec. 290 of the IPC (which provides punishment for public nuisance) have been invoked in the past if any act or omission of a person causes injury to another person by polluting the environment. Even cases of noise pollution can be tackled under this provision.

Similarly, sec. 426 to sec. 432 of the IPC deal with the offence of "mischief", if any pollution is caused as a result thereof, these provisions can be usefully invoked in fit cases.

II. CONCLUSION

We have more than 200 Central and State legislations which deal with environmental issues. More legislation means more difficulties in enforcement. There is a need to have a comprehensive and an integrated law on environmental protection for meaningful enforcement. It is not enough to enact the legislations. A positive attitude on the part of everyone in society is essential for effective and efficient enforcement of these legislations.

The Environment Protection Laws have failed to bring about the desired results. Consequently, for the purpose of efficient and effective enforcement of these laws, it is necessary to set up the Environment Courts; with one Judge and two technical experts from the field of Environmental Science and Ecology. These Courts should be allowed to adopt summary proceedings for speedy disposal of the cases. To begin with we may have such Courts at the State and National levels that may later be extended to district level on need-based principle. In order to discourage prolonged litigation, the provisions should be confined to single appeal.

In order to enforce the environmental laws stringently, mere mis-description and technical flaws should be disregarded by the Courts. The creative role of judiciary has been significant and laudable. The jurisdiction of the Courts has been expanded by way of Public Interest Litigation. The Supreme Court of India has played a vital role in giving directions from time to time to the administrative authorities to take necessary steps for improving the environment.

Finally, protection of the environment and keeping ecological balance unaffected is a task which not only the government but also every individual, association and corporation must undertake. It is a social obligation and fundamental duty enshrined in Article 51A(g) of the Constitution of India.

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A Study on Sources of International Law in the Light of the Article 38 of the Statute of International Court of Justice

Dr. Bore Gowda S.B., Assistant Professor, Vidyavardhaka Law College, Mysuru.

Abstract:

International law evolved as a law to deal with relations of states with each other. However, over the course of time, it developed to deal with the conduct of states and of international organizations in their international relations with one another and with private individuals, traditionally, do not fall within the ambit of international law. Generally, law is found in enactments of a legislature or pronouncements of a court. Law is always available with certainty somewhere and outreach, that is, those on whom it places legal obligations is also established with certainty. However, international law does not have a legislature, executive or judiciary in keeping with domestic systems. Neither does it perforce place legal obligations on anyone. Yet, it must stem from somewhere and place legal obligation on someone for it to be a law. International law has regulated relations among states for many centuries, one is often confronted with the question whether international law is law in the real sense. The object of this article is to find out the sources of international law and how sources are helps for development of international law and solve the international disputes.

Key Words: Conventions, Custom, General Principles, Judiciary, Justice

International law is not a new concept, but it was adopted and accepted by our people in previous period through by different practices. The word international law were used for the first time by Jeromy Bentham in 1780[1]. According to him international law is a body of rules and principles which regulate the relations among the members of international community[2]. In 1905, Prof. Oppenheim gave definition on international law. According to him international is a name for the body of customary and conventional rules which are legally binding on civilized states within the intercourse with each other. In 1992 his great followers Robbert Jennings and Arthur Watts revised the definition of Prof. Oppenheim on international law. According to them international law is a body of rules which are legally binding on all the states and states are not only

[1] M.P. Tandon, Public International law, 16th ed, 2005, Asian Offset Printers, Faridabad, p-2

[2] R.C. Hingorani, Modern International Law, 3rd ed, 1993, Oxford & IBH Publishing Co. Pvt. LTD, New Delhi, p-10.

the subjects of international law, even individuals, international institutions and certain state entities are also the subjects of international law.

Sources of International Law: according to Lawrence, if we take the sources of a law to mean its beginning as law, clothed with all the authority required to give it binding force, then regarding international affairs there is but one sources of law, and that is the consent of nations. Oppenheim also shares the opinion of Lawrence and states that a State, just as an individual, may give its consent either directly by an express declarations or tacitly by conduct which it would not follow in case it did not consent. The sources of international law are therefore two fold, namely, (1) express consent which given when states conclude a treaty stipulating certain rules for the future international conduct of the parties. (2) tacit consent, that is implied consent or consent by conduct, which is given through states having adopted the custom of submitting to certain rules of international conduct. Treaties and custom, must, according to him, be regard as the exclusive sources of the law of nations[3].

Professor Brierly ascribes the main sources of International Law to custom and reason. Westlake says that custom and reason are the two sources of international law and adds Roman law as a subsidiary source. custom being the primary evidence of what international law is, is a source of international law.

The most authoritative statement as to the sources of international law is provided for in Article 38(1) of the statute of the international court of justice. This article has an identical counterpart in the statute of the permanent court of international justice- the ICJs predecessor. Article 38 provides:

(1) The court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
   a. International Conventions, whether general or particular, establishing rules expressly recognized by the contesting states.
   b. International Custom, as evidence of general practice accepted as law.
   c. The general principles of law recognized by civilized nations.
   d. Subject to the provisions of article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determinations of rules of law.
   e. Decisions and determinations of principal organs of international institutions[4].

Article-38(2), however, adds that the aforesaid provision shall not prejudice the power of the high court to decide a case ex aeqo et bono (in justice and good faith), if the parties agrees thereto.

Besides the above, the other sources of international law which may be mentioned are international comity, states papers other than treaties, states instructions for the guidance of their own officers and tribunals, resolutions of international conferences, municipal acts of parliaments and the decisions of municipal courts

[3] M.P. Tandon, Public International law, 16th ed, 2005, Asian Offset Printers, Faridabad, p-16
[4] Fatima Mujawar, International Law, 1st ed, 2017, EBC, Lucknow, p-42.

- Customary international law
- General principles of international law recognized by civilized nations.
- Unilateral acts
- Subsidiary means for the determination of rules of law-
  - (a) Writings of highly qualified publicists
  - (b) ICJ decisions and advisory opinions
  - (c) Judgements, awards and opinions of other international tribunals and bodies
  - (d) UN general assembly resolutions
  - (e) UN security council resolutions
  - (f) International law commissions draft articles
  - (g) Resolutions, recommendations of UN organ and international bodies.

Conclusion: international law playing a very important role in universal level, because law only can control the behavior of individual, however international law controls the conduct of nations. In modern era states are not only the subjects of international law, even individuals, international institutions and certain non-state entities are also the subjects of international law. In modern era international law not only emerged from anyone sources, but there are also several sources and with the help of all these sources international law is emerged. Article 38 (1) of the statute of international court of justice explained the sources. From 1945 to till today united nations, its principal organs and its specialized agencies gave much contribution for development of international law.

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[1]. M.P. Tandon, Public International law, 16th ed, 2005, Asian Offset Printers, Faridabad.
2. R.C. Hingorani, Modern International Law, 3rd ed, 1993, Oxford & IBH Publishing Co. Pvt. LTD, New Delhi. 3. Fatima Mujawar, International Law, 1st ed, 2017, EBC, Lucknow.
4. Art-2 of the Vienna Convention on Law Making Treaties, 1969
5. C. Hingorani, Modern International Law, 3rd ed, 1993, Oxford & IBH Publishing Co. Pvt. LTD, New Delhi.
6. Dr. S.K.Kapoor, International Law & Human Rights, 22th ed, 2021, central law agency.

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Subjects of International Law: An Authority-based Analysis

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Abstract: *International law as we find today is the product of the experience of the civilized states of the world and the continuous growth of many countries. At present international law plays a very important role in universal level to control the conduct of states and to uphold the rights of individual. From the olden period to today there is a lot of controversy among the subjects of international law. When international law is developed, subjects of international law are also changed. International law is a body of rules and principles which regulate the relations among the members of international institutions. Subjects of law are those upon whom law bestows a capacity to act. Capacity implies personality. Alleged persons need not have similar capacity implies personality. Alleged persons need not have similar capacity. In municipal law, an individual is the principal subject of law and also gives capacity or legal personality to entities other than an individual. Companies, corporations, and institutions are also legal persons. They have the capacity to sue and to be sued or to hold or dispose of property. They have the capacity to sue and to be sued or to hold or dispose of property. All individuals do not have similar capacities. For instance, under the Indian law, a child is a legal person, but he has no capacity to enter into a contract. In international law, states remain the principal subject. The other subjects are international organizations and certain other entities such as the Vatican. Now individuals are also included in the realm of international law. The object of this article is to find out the subjects of international law and what is the place of individuals in international law.*

Keywords: State, Individuals, International organizations, certain non-entities, Court.

I. INTRODUCTION

The word international law was used for the first time by the eminent jurist Jeromy Bentham in 1780. According to him international law is a body of rules and principles which regulate the relations among the members of the international community. According to him states are only the subjects of international law and states are only the members of the international community.Benthem made two important assumptions about international law. First, he assumed that international law was exclusively about the rights and obligations of states *inter se* and not about rights and obligations of individuals. Second, he assumed that foreign transactions before municipal courts were always decided by internal and not international rules.According to the United Nations, International law defines the legal responsibilities of States in their conduct with each other, and their treatment of individuals within State boundaries. Its domain encompasses a wide range of issues of international concern, such as human rights, disarmament, international crime, refugees, migration, problems of nationality, the treatment of prisoners, the use of force, and the conduct of war, among others. It also regulates the global commons, such as the environment and sustainable development, international waters, outer space, global communications and world trade.

In 1905 Prof. Oppenheim define the term international law, according to him international law is a name for the body of customary and conventional rules which are legally binding by civilized states within their intercourse. But in 1992 his followers Robbert Jennings and Arthur Watts revised the definition of Prof. Oppenheim. According to them international law is a rule which is legally binding by states, states are not only the subjects of international law, even individuals, international institutions and certain non-state entities are also subjects of international law. Iinternational law is a set of rules that are made by countries and other actors in the international arena. These rules are designed to regulate the conduct of countries and other actors. It promotes cooperation and order in the international system.

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Subjects of international law

Subjects of international law can be described as those persons or entities who possess international personality. Throughout the 19th century, only states qualified as subjects of public international law, but this scenario completely changed after the conclusion of the Second World War with more and more new actors joining the international legal arena. Intergovernmental organizations created by the states; non-governmental organizations (NGOs) created by individuals; and even natural persons like individuals emerged as new actors. A subject of international law is a body or entity recognized or accepted as being capable, or as in fact being capable, of possessing and exercising international law rights and duties. The possession of international legal personality means that an entity is a subject of international law, and can possess international rights and duties, and has the capacity to maintain its rights by bringing international claims[1]. The subjects of international law can be categorized into:

States: - The moment an entity becomes a state, it becomes an international legal person and acquires an international legal personality. State as a subject of International Law is the original subject of international law, and the branch of international law was originally established to regulate relations between the states.

Non-State Actors: - There are certain non-state actors with international legal personalities that include, individuals, armed group involved in conflicts and international organizations like the EU, UN and African union who are deemed to be subjects of international law.

International organizations: - an international organization is also an important subject of international law, it is defined as an organization established by a treaty or other instrument governed by international law and possessing its own legal personality. The United Nations and World Trade Organizations are examples of international organizations.

It can be said that states have original personality and non-state actors have derived personality. This is attributed to the fact that states are international personalities the moment they are identified as a sovereign state, on the other hand, non-state actors like international organizations derived their personality through other means. For example, the rights and duties and its extent maybe described in their constitutions, charters, and treaties that establish such organizations[2].

Rights and Duties of Subjects of International Law

The rights, powers, and duties of different subjects change according to their status and functions. For example, an individual has the right of freedom from torture under international law. States have a duty under international law not to torture individuals or to send them to a country where there is a likelihood of that person being tortured. This right exists under treaty law, for example, under the International Covenant on Civil and Political Rights and under customary international law. The Convention against Torture and Cruel, Inhuman and Degrading Treatment places obligations on States not to torture and to extradite or prosecute those who commit torture.

Legal personality also includes the capacity to enforce one's own rights and to compel other subjects to perform their duties under international law. For example, this means that a subject of international law may be able to:

- Bring claims before international and national courts and tribunals to enforce their rights.
- Have the ability or power to come into agreements that are binding under international law (for example, treaties).
- Enjoy immunity from the jurisdiction of foreign courts (for example, diplomatic immunity).
- Be subject to obligations under international law (for example, obligations under international humanitarian law).

Theories regarding the subjects of International Law

There are 3 theories of subjects of public international law. They are:

- Realist Theory of International Law
- Fictional Theory of International Law
- Functional Theory of International Law

[1]Barry E. Carter, International Law, Little Brown Company, 1st ed, 1991, p.35-36
[2]K.C. Joshi, International Law Human Rights, Eastern Book Company, 4t ed, 2019, p. 61-65

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- **War criminals:** war crimes are devoted by individuals and grueling them according to the international law. To guard the war prisoners or war convicts United Nation conducted International Conference. At present the state as the right to punish the war criminals.
- **Foreign Troops:** The legal position of the crowds operating on antagonistic territory is then based on universal benevolent law, in particular the law of aggressive profession. This specific field of law does not apply between associated states rebellious a common opponent.
- **State bureaucrats:** State bureaucrats are the officers of the government. How sovereign can be protected for the territorial jurisdiction of other state, they can also excused from the authority. How a sovereign can exempt from foreign State as like even State officials can exempted from the territorial jurisdiction of another state.
- **Foreign Sovereign:** He is the highest authority of the state and international law provide lot of immunity forhead of the state.

II. CONCLUSION

No longer is international law associated with only one subject or personality; evolving since the times of Bentham, it has been able to incorporate different views and aspects to accommodate the ever-growing field of international law. Though states ultimately play the most important role in international law, the increasing prominence of individuals, international organizations and non-state entities cannot be overlooked. The modern international law as we know today has played a herculean role in the amicable settlement of issues that have affected the global stage. Intergovernmental organizations like the UN, EU, IMF, WHO, etc. Have played an economic, cultural, social and political role in managing international affairs, and have helped in the development of international law. Staying true to its name, international law has played an instrumental role in regulating the conduct of all the subjects that it encompasses and the entire international arena

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THEORIES OF PUNISHMENT AND SENTENCING GUIDELINES IN INDIA

Dr. K.L. Chandrashekhara*

ABSTRACT

The term sentence refers to response of the criminal justice system to commission of crime. The persons convicted of a particular offence are proved to have been guilty of the commission of such act that constitute the said offence. However, the character, background of the offender, socio-economic circumstances, enormity, modus operandi, motive and reasons behind commission of the same offence by different persons may vary.Therefore, the response with regard to different offenders must also vary. For instance, persons may commit an offence under social compulsions or under pressure of poverty or on account of retributive instinct or greed, lust, aggressive nature or in a sudden rage or anger, variation in all these circumstances necessitate variation in sentence. Secondly, the response of any particular system to crime depends on the purpose it seeks to achieve through such a response. The justifications for different responses may be found in the theories of punishment propounded by penologists. Thirdly, the principles governing the process of sentencing in any criminal justice system also reflect how the system strives to strike a fine balance between the conflicting rights of victim and the society on one hand and the rights of the offenders on the other. In order to ensure such balancing at the practical level, the systems vest the courts with certain degree of discretion in deciding what would be an appropriate sentence in a particular case. The punishment does not only

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in which summary trial is conducted. Cr.P.C. provides that in such cases no sentence of imprisonment for a term exceeding three months can be passed.

When a person is convicted of two or more offences in one trial then the several punishments that are imposed by the court with respect to those offences run consecutively one after the other. However, the court also has discretion to direct that such punishments would run concurrently.

The Code of Criminal Procedure also makes it mandatory for the court to give special reasons in case the offender who could be released on probation or after admonition under the law or could be dealt with under a law relating to young offenders is not dealt with under those laws.

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PROTECTION OF THE HUMAN RIGHTS OF WOMEN UNDER INTERNATIONAL LAW – AN ANALYSIS

Indumathi M.J, Research Scholar, Department of studies in law University of Mysuru, Mysuru

DR. M SURESH BENJAMIN, Professor, Guide, Department of studies in law University of Mysuru, Mysuru.

ABSTRACT:

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women. In this article researcher tries to provides an introduction to women's human rights, beginning with the main provisions in International human rights law and going on to explain particularly relevant concepts for fully understanding women's human rights.

Key words: Human Rights. Women, Empowerment, Discrimination, equality.

INRODUCTION:

Since the founding of the united nations, equality between men and women has been among the most fundamental guarantees of human rights. Adopted in 1945, the charter of the united nations sets out as one of its goals ' to reaffirm faith in fundamental human rights, in the dignity and worth of the human person in the equal rights of men and women'. Furthermore Article 1 of the chapter stipulates that one of the purposes of the united nations is to promote respect for human rights and fundamental freedoms without distinction as to

race, sex, language or religion. This prohibition of discrimination based on sex is repeated in its Articles 13 and 55. In 1948 the universal declaration of human rights was adopted it too proclaimed the equal entitlements of women and men to the rights contained in it. 'without distinction of any kind such as sex, race, language or religion. In drafting the declaration there was considerable discussion about the use of the term 'all men' rather than a gender neutral term. [1] The declaration was eventually adopted using the terms 'all human beings' and 'everyone in order to leave no doubt that the universal declaration was intended for everyone, men and women alike.

INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

After the adoption of the Universal Declaration, the commission on Human rights began drafting two human rights treaties, the International covenant on civil and Political rights and the International Covenant on Economic, social and cultural rights. Together with the Universal Declaration, these make up the International Bill of Human Rights. The provisions of the two covenants as well as other human rights treaties are legally binding on the states that ratify or accede to them. States that ratify these treaties periodically report to bodies of experts, which issue recommendations on the steps required to meet the obligations laid out in the treaties. These treaty-monitoring bodies also provide authoritative interpretations of the treaties and if states have agreed, they also consider individual complaints of alleged violations.[2]

Both covenants use the same wording to prohibit discrimination based on inter alia, sex, as well as to ensure the equal right of men and women to the enjoyment of all rights contained in them. The International covenant on civil and political rights guarantees, among other rights, the right to life, freedom from torture, freedom from slavery, the right to liberty and security of the person, rights relating to due process in criminal and legal proceedings, equality before the law, freedom of movement, freedom of thought, rights relating to family life and children, rights relating to citizenship and political participation etc.

In 1967, United Nations member states adopted the declaration on the Elimination of discrimination against Women, Which states that discrimination against women is an offence against human dignity and calls on states to abolish existing laws, customs, regulations, and practices which are discriminatory against women. The CEDAW was adopted by the general Assembly in 1979. Its preamble explains that despite the existence of other instruments women still do not enjoy equal rights with men.

The convention articulates the nature and meaning of sex-based discrimination, and lays out state obligations to eliminate discrimination and achieve substantive equality. As with all human rights treaties, only states incur obligations through ratification. However the convention articulates state obligations to address not only discriminatory laws, but also practices and customs and discrimination against women by private actors.[3] The convention also pays specific attention to particular phenomena such as trafficking to certain groups of

[1] Johannes Morsink "Women's rights in the universal Declaration", Human Rights Quarterly, vol.13,No.2 (May 1991)
[2] OHCHR, Fact Sheet No. 30, The United Nations Human Rights Treaty system, and OHCHR, Fact sheet no.7 individual complaint procedures under the United Nations Human Rights Treaties.
[3] Committee on the Elimination of Discrimination against women, communication No 17/2008, views of 25 July 2011

The European Convention on human Rights and Fundamental Freedoms prohibits discrimination on any grounds, including sex, in the enjoyment of rights contained in the convention. Since 1998 individuals can bring complaints to the European court of Human Rights based on allegations of violations of the convention. In 2011 the Council of Europe adopted a new convention on preventing and combating violence against women and Domestic violence (Istanbul Convention).

Regional political organizations, Including the association of Southeast Asian Nations, The South Asian Association for Regional cooperation, The Economic Community of west African states and the southern African Development Community, have also adopted protocols and resolution and issued declarations pertaining to women's rights.

Conclusion:

Over a long period of time, the global women's rights movement has made significant progress, but there are still many women and girls who are forced into child marriage or trafficked into forced labor or sex slavery. They are excluded from political and educational opportunities, and some are forced to fight in war zones where rape is used as a weapon of mass destruction. Pregnancy and childbirth-related mortality are much too common worldwide, and women are often denied the freedom to make extremely personal decisions for themselves. Human Rights Watch works to uphold the rights and enhance the lives of women.